



DEPARTMENT OF COMMERCE

Census Bureau

15 CFR Part 101

[Docket No. 260108-0016]

RIN 0607-AA69

Eliminating Unnecessary and Overly-Restrictive Regulations Related to the Release of Decennial Census Population Information

AGENCY: Census Bureau, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Census Bureau (Bureau) is removing its regulations related to the release of decennial census population information. Such regulations are obsolete and have not applied to the determination of methodology for calculating the tabulations of total population reported to states and localities under 13 U.S.C. 141(c) since the decennial census in 2000. This action is necessary to remove obsolete regulatory language, keep the Bureau's regulations current, and ensure that the Secretary of Commerce (Secretary) is able to fulfill his statutory obligations without being hindered by an unnecessary administrative process.

DATES: The rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Daniel Sweeney, Senior Counsel, Office of the General Counsel, at (202) 482-1395.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Bureau is removing 15 CFR part 101, "Release of Decennial Census Population Information," in its entirety. The Bureau is removing this language to ensure conformity with the primary underlying statutory authority—13 U.S.C. 141(c)—and to ensure that the Secretary

is able to fulfill his mandate thereunder without being hindered by any overly-prescriptive and outdated regulatory restrictions and requirements. This removal is intended to promote flexibility and efficiency—within lawful limits and subject to democratic accountability—and to reduce regulatory complexity and bloat.

II. Background

A. Statutory and Regulatory Context

As previewed, the Bureau is removing 15 CFR part 101, which governs the release of decennial census population information. The cited statutory authorities for 15 CFR part 101 consist of 5 U.S.C. 301; 13 U.S.C. 4, 141, 195; and 15 U.S.C. 1512; with the most pertinent statutory authority being 13 U.S.C. 141(c).

Under 13 U.S.C. 141(c), the Secretary is required to establish, and to furnish to “[t]he officers or public bodies having initial responsibility for the legislative apportionment or districting of each State,” criteria governing State plans “identifying the geographic areas for which specific tabulations or population are desired.” The Secretary is also required to complete tabulations of populations for the areas identified in any plan that he approved “as expeditiously as possible after the decennial census date” and to report such tabulations to the Governors of the States involved and to the relevant officers or public bodies. *See* 13 U.S.C. 141(c).

On October 6, 2000, the Department issued a final rule that set forth the process by which the Bureau would release data to the States and that delegated to the Director of the Census (Director) the Secretary’s authority to make determinations regarding the methodology to be used in calculating the tabulations of population to be reported (65 FR 59712). Less than a year later, on February 23, 2001, the Department issued a final rule revoking the described delegation to the Director and establishing the decision-making process currently outlined in part 101 (66 FR 11232). Both of these rules were issued against the backdrop of the proposed use of statistically-adjusted populations counts for non-apportionment purposes following the 2000 Census, which use did not occur.

B. Description of the Regulation

Part 101 consists of a single regulatory section (§ 101.1), which itself consists of multiple paragraphs.

Paragraph (a)(1) provides that “[t]he Secretary of Commerce shall make the final determination regarding the methodology to be used in calculating the tabulations of population reported to States and localities pursuant to 13 U.S.C. 141(c).” 15 CFR 101.1(a)(1). It further provides that “[t]he determination of the Secretary will be published in the FEDERAL REGISTER.” *Id.*

Paragraph (a)(2) restricts the Secretary from making the determination specified in paragraph (a)(1) “until after he or she receives the recommendation of the Director of the Census, together with the report of the Executive Steering Committee for A.C.E. Policy, in accordance with paragraph (b)(1).” 15 CFR 101.1(a)(2).

Paragraph (b)(1), in turn, provides that the Executive Steering Committee for A.C.E. Policy (the Committee) “shall prepare a written report to the Director of the Census analyzing the methodologies that may be used in making the tabulations of population reported to States and localities pursuant to 13 U.S.C. 141(c), and the factors relevant to the possible choices of methodology.” 15 CFR 101.1(b)(1). It further provides that the Director will forward the Committee’s report, along with his or her recommendation—if he or she has any—to the Secretary. *Id.*

Paragraph (b)(2) imposes a requirement that the Director’s recommendation and the Committee’s report be both posted on the Bureau’s website and published in the Federal Register “at the same time” they are delivered to the Secretary. 15 CFR 101.1(b)(2).

Lastly, paragraph (b)(3) requires that the Committee be composed of the following employees of the Bureau: (i) the Deputy Director and Chief Operating Officer; (ii) the Principal Associate Director and Chief Financial Officer; (iii) the Principal Associate Director for Programs; (iv) the Associate Director for Decennial Census (Chair); (v) the Assistant Director

for Decennial Census; (vi) the Associate Director for Demographic Programs; (vii) the Associate Director for Methodology and Standards; (viii) the Chief of the Planning, Research, and Evaluation Division; (ix) the Chief of the Decennial Management Division; (x) the Chief of the Decennial Statistical Studies Division; (xi) the Chief of the Population Division; and (xii) the Senior Mathematical Statistician.

III. Discussion

The Bureau is removing 15 CFR part 101 in its entirety and will instead allow the primary underlying statutory authority, 13 U.S.C. 141(c), to speak for itself. The Bureau is doing so for the following reasons.

As an initial matter, no statutory authority requires the promulgation of the regulatory requirements and restrictions set forth in part 101. The framework established by part 101 is a pure creature of regulation and was drawn up and defined at the discretion of the Department against the unique backdrop of the 2000 Census. That background context, alone, warrants reconsideration of the propriety and continued value of part 101 pursuant to the Department's broader deregulatory approach.

Upon further review, the Bureau has determined that the requirements and restrictions set forth in part 101 are not only statutorily unnecessary—they actively hinder the Secretary's ability to fulfill his express statutory obligations. For example, by restricting the Secretary from making a methodology determination until after he receives the specified formal input from both the Director and the Committee of the twelve specified officials, without exception, § 101.1(a)(2), (b)(1), and (b)(3) subject the Secretary to an administrative process (involving several other actors) that necessarily carries *some* risk of undue delay and breakdown. Similarly, by requiring that the Director and the Committee always publicly disseminate their recommendation and report, respectively, upon delivery to the Secretary, § 101.1(b)(2) potentially restricts or otherwise distorts the deliberative process within the Department and the Secretary's access to full and frank advice from the leadership of the Bureau. The publication requirement also

creates an opportunity for publicized conflict within the Department, which is not necessarily conducive to optimal decision making.

Additionally, with respect to composition of the Committee, it bears noting that several of the specified positions have been either abolished or restructured through reorganization. Namely, the Bureau currently has no Principal Associate Director for Programs or Chief of the Planning, Research, and Evaluation Division. The Bureau considers the list set forth in § 101.1(b)(3) to be plainly outdated and unduly prescriptive.

Finally, to be clear, the removal of part 101 will not prevent the Secretary from soliciting and considering input from the leadership of the Bureau; nor will it prevent the Department from posting and publishing the Bureau's formal recommendations and reports. Rather, the Secretary remains entirely able to follow these practices; he simply will also be free to depart from these practices when, in his determination, the particular circumstances render it appropriate. Pursuant to 13 U.S.C. 4, the Secretary has the statutory authority to delegate the duties assigned to him under Title 13, United States Code, and to promulgate regulations to aid in carrying out these duties. Returning such discretion and authority to the Secretary will therefore promote flexibility and allow for greater efficiency—subject, as always, to democratic accountability and the limits of the law. The Bureau has determined that part 101 is outdated. Further, in the absence of part 101, the Secretary will be better positioned to faithfully and effectively carry out the requirements of 13 U.S.C. 141(c).

In sum, the Bureau is eliminating part 101 in its entirety to remove obsolete and unnecessary hinderances on the Secretary's ability to fulfill his statutory obligations and to enable a more optimal degree of administrative flexibility and efficiency.

IV. Regulatory Classifications

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Commerce finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for

this final rule. Commerce has determined that prior notice and opportunity for public participation is unnecessary because this rule only removes regulatory language that is currently obsolete and not required by any statute; the obsolete and unnecessary nature of this regulatory language will not be cured by any public comment. Commerce has also determined that delaying the removal of this regulatory language for the sake of carrying out the notice and comment process would be contrary to the public interest, as the language no longer serves any meaningful function but does pose a risk of confusion and distraction. Commerce therefore finds good cause to waive the public notice and comment period under 553(b)(B) and, for the same reason, to waive the 30-day delay in effectiveness under 553(d).

B. Executive Orders 12866, 14192, 13132

The Office of Management and Budget has determined this rule is not significant pursuant to E.O. 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act (RFA)

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule contains no new information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects for 15 CFR Part 101

Administrative practice and procedure, Census data.

Dated: January 20, 2026.

George Cook,

*Chief of Staff to the Under Secretary for Economic Affairs
performing the non-exclusive functions and duties of
the Director of the Census Bureau.*

PART 101 – [REMOVED AND RESERVED]

For the reasons set forth in the preamble and under the authority of 13 U.S.C. 141(c), 13 U.S.C. 4, and 5 U.S.C. 301, the Census Bureau removes and reserves 15 CFR part 101.

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