DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 187

[Docket No. FAA–00–7018; Amendment No. 187–11]

RIN 2120–AG17

Fees for FAA Services for Certain Flights; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Interim final rule; extension of comment period.

SUMMARY: On June 6, 2000, the FAA published an Interim Final Rule (IFR) establishing fees for FAA air traffic and related services for certain aircraft that transit U.S.-controlled airspace but neither take off from, nor land in, the United States and invited comments for a 120-day period. The IFR went into effect on August 1, 2000, and the comment period was originally scheduled to close on October 4, 2000. However, the FAA is extending the comment period to October 27, 2000, to ensure that affected entities(mostly foreign) have sufficient time to comment on the contents of the docket.

DATES: Comments must be received on or before October 27, 2000.

ADDRESSES: Address your comments to the Docket Management System (DMS), U.S. Department of Transportation, Room Plaza Level 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number ''FAA–00–7018'' at the beginning of your comments, and you should submit two copies of your comments.

You may also submit comments through the Internet to http://dms.dot.gov.

You may review the public docket containing comments to this interim rule in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Randall Fiertz, Office of Performance Management, (APF–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, 20591; telephone (202) 267–7140; fax (202) 493–4191.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the interim rule submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the interim rule are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this interim rule will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

The Administrator will consider all comments received on or before the closing date. Late-filed comments will be considered to the extent practicable. The Interim Final Rule, as well as the Final Rule, may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments must include a pre-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–00–7018.'' The postcard will be date-stamped and mailed to the commenter.

Availability of Interim Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number of this rulemaking.

Extension of Comment Period

On June 6, 2000, the FAA published Amendment No. 187–11, Fees for FAA Services for Certain Flights (65 FR 36002). The FAA requested that comments to that document be submitted on or before October 4, 2000. The FAA has received and reviewed approximately 70 comments. In response to the extreme significance and international implications of this IFR, as expressed in the comments, FAA is extending the comment period to give affected entities (mostly foreign) additional time to comment on the contents of the docket. Also, the first billing under this rule has recently occurred and entities that may not have commented to date may desire to comment. This action provides the opportunity.

The FAA determines that extending the comment period is in the public interest and that good cause exists for taking this action. Accordingly, the comment period for Amendment No. 187–11 is extended until October 27, 2000. If possible, any comments received after this date will be considered by the FAA prior to any further action in this rulemaking.

Issued in Washington, DC, September 29, 2000.

Donna McLean,

Assistant Administrator for Financial Services.

[FR Doc. 00–25633 Filed 10–3–00; 2:42 pm]

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DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 101

[Docket No.: 000609172–0268–02]

RIN: 0607–AA33

Report of Tabulations of Population to States and Localities Pursuant to 13 U.S.C. 141(c) and Availability of Other Population Information

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is issuing a final rule setting forth how the Bureau of the Census will carry out its responsibilities to report tabulations of population to States and localities pursuant to 13 U.S.C. 141(c) and in making available certain other population information.

DATES: This rule is effective November 6, 2000.

FOR FURTHER INFORMATION CONTACT: John H. Thompson, (301) 457–3946.

SUPPLEMENTARY INFORMATION: Through the Census Act, which is codified in title 13 of the United States Code, Congress has delegated to the Secretary of Commerce its broad constitutional authority over the decennial census (see U.S. Constitution Art. I, Sec. 2, Cl.3). On June 13, the Commerce Department issued a proposed rule that would set forth how the Bureau of the Census will carry out its responsibilities to report tabulations of population to States and localities pursuant to the Census Act. *See* 65 FR 38370 (June 20, 2000). The proposed rule would establish a process for the release of data to the States and codify the process by which a committee of senior career officials of the Census Bureau would advise the Director of the Census. In addition, the proposed rule contained a delegation of authority from the Secretary to the Director of the Census to make a determination regarding the methodology to be used in calculating the tabulations of population to be reported to States and localities pursuant to 13 U.S.C. 141(c). While the background and basis for the entire proposal were included in the June 20 publication and are not repeated here, this delegation of authority to the Director, in particular, was included in the proposed rule because the decision turns entirely on operational and methodological implementation within the scientific expertise of the Bureau of the Census, and it is important to avoid even the appearance that considerations other than those relating to statistical science are being taken into account.

Comments and Responses

Comments in Support of the Proposed Rule

The Department received 17 letters in support of the proposed rule. There were a total of 243 signatories to these letters. Comments included one letter signed by four former Directors of the Census Bureau; five letters with six signatories from statistical, social science, and survey research organizations; three letters with six signatories from universities or university-based research institutions; two letters signed by 69 Members of Congress; three letters with 15 signatories from national associations and organizations; two letters with two signatories from state or local government officials; and one letter with 141 signatories from a public interest organization.

Comment

Common to the letters in support of the proposed rule were the following two comments: (1) The decision on the use of statistically corrected redistricting and other non-apportionment data from Census 2000 is a technical/scientific decision that should be made by the Director of the Census upon the recommendation of his or her professional staff, and (2) the rule ensures that other, irrelevant considerations, especially those that are political in nature, do not affect the decision-making process. A number of comments stated agreement with the intent to ensure that politics do not dictate what should be a scientific decision. Others said the proposed rule sets forth a fair and unbiased procedure for making a vital decision on the release of statistically corrected redistricting and other non-apportionment data. Others viewed the release of the recommendation of the Executive Steering Committee for Accuracy and Coverage Evaluation (A.C.E.) Policy (ESCAP) to the public at the same time that it is delivered to the Director as helpful in ensuring that the proposed decision-making process is an open and transparent one.

Response

The Department notes the support for the proposal stated in these comments.

Comments in Opposition to the Proposed Rule

The Department received seven letters in opposition to the proposed rule. There were a total of 12 signatories to these letters. Two of these letters were signed by university officials; one letter was signed by six Members of Congress; two letters with two signatories from state government officials; one letter with one signatory from a non-profit legal organization; and one letter from a private individual.

Comment

Several of those commenting viewed the contents of the ''Accuracy and Coverage Evaluation—Statement on the Feasibility of Using Statistical Methods to Improve the Accuracy of Census 2000,'' 65 FR 38373–38398 (hereinafter, the Feasibility Statement), as evidence that the Census Bureau pre-judged the superior accuracy of the sampling-based counts.

Response

We regret this concern. To date, no decision has been reached. The Census Bureau has stated that it expects the statistically corrected data to be more accurate for non-apportionment uses of the data, including redistricting and for this reason it is implementing the Accuracy and Coverage Evaluation (A.C.E.) (see the Feasibility Statement). However, the Census Bureau will not determine whether it is appropriate to release statistically corrected redistricting data until it has brought its technical judgment to bear in assessing the available data to verify that its expectations have been met. The Census Bureau will consider operational data to validate the successful conduct of the A.C.E., assess whether the A.C.E. measurements of undercount are consistent with historical patterns of undercount and independent Demographic Analysis benchmarks, and review measures of quality. If the Census Bureau determines that incorporating the results of the survey would not improve the accuracy of the initial census counts, then the data without statistical correction would be released to meet the requirements of Pub.L. 94–171.

Comment

Several letters raised technical concerns regarding the use of statistical methods to correct the census and challenged the arguments set forth in the Feasibility Statement.

Response

These concerns or issues are beyond the scope of the rulemaking and will not be addressed specifically. However, as part of the evaluation process described in the proposed rule, these and other technical issues will be considered. Also, this fall, at a public meeting with outside statistical experts and other interested parties, the Census Bureau will provide additional information regarding the detailed analyses it plans to conduct as part of its decision-making process.

Comment

Two letters questioned the expertise of the National Academy of Sciences (NAS) panels that have been convened over this decade to review the planning and conduct of Census 2000. One questioned the expertise of the Secretary of Commerce's and the Census Bureau's advisory committees in their work relating to Census 2000.

Response

The NAS panels and the various advisory committees are composed of professionals with excellent credentials to review and provide advice on the planning and conduct of the decennial census. In particular, the NAS panel members are carefully selected from among the country's leading experts in

a wide variety of research fields, including statistical and survey methodology. The NAS has a long and distinguished history of advising the federal government on scientific and technical matters. With regard to the selection of advisory committee members, both the Secretary of Commerce and the Census Bureau went to great lengths to ensure that the committees possess well-documented expertise in a wide range of areas relating to the conduct of the decennial census, including, but not limited to, statistical and survey methodology.

Comment

Several letters indicated that the Census Bureau professional staff have a vested interest in the acceptance and use of the statistically derived counts. One stated that past Census Bureau judgments on adjustment issues lead one to question the agency's ability to reach the correct decision. In addition, one letter stated that the lack of review or input from independent scientific experts biases the decision making process.

Response

The senior professional officials who serve on the Executive Steering Committee for A.C.E. Policy (ESCAP) are distinguished, objective, career civil servants whose only interest is in producing the most reliable and accurate census data possible. Many of these individuals have been recognized by leading statistical organizations for their significant contributions in the areas of survey methodology and statistics in general. Based on their years of experience and expertise, these officials are best suited to bring their professional judgment and integrity to bear in reviewing all the available data and directing a comprehensive, scientifically-defensible analysis in making a recommendation on their findings to the Director regarding the use of the statistically corrected census data. The ESCAP's recommendation will be released publicly, at the same time that it is delivered to the Director, to demonstrate the thoroughness and integrity of the process for all interested parties.

Comment

One comment acknowledged that the Census Bureau committed itself to achieving an open and transparent planning and decision process, however, the writer considered Census Bureau reports and documentation, including the A.C.E. documentation, on statistical adjustment to be difficult to access because they were not catalogued to facilitate external access.

Response

The Census 2000 A.C.E. methodology has been pre-specified and documentation regarding the methodology has been disseminated through a variety of forums including the Census Bureau's website, public meetings, two public workshops sponsored by the National Academy of Sciences (October 6, 1999, and February 2–3, 2000), and at a May 19, 2000, hearing before the House Subcommittee on the Census. The Census Bureau will continue to make documentation relating to Census 2000 publicly available and available upon request.

Comment

One comment questioned whether the Secretary's proposed delegation of authority to the Director of the Census for making certain determinations concerning the census amounted to a divestiture of obligations vested in the Secretary by the Congress. The comment expressed three key concerns: (1) That the delegation of authority is, in fact, a ''divestiture'' of authority because the Secretary is seeking to escape responsibility for the decision of the Census Director by stating that the Secretary will not review or reverse that decision, (2) that by issuing a regulation that allegedly divests the Secretary of his statutory responsibility, the Secretary is attempting to supersede the statutory scheme passed by the Congress, and (3) that if ''the Commerce Secretary believes he cannot, or should not, be responsible for the final release of adjusted numbers, then he should ask that Congress remove the Census Bureau entirely from the Commerce Department and make it a separate agency.''

Response

The Department of Commerce considers Section 4 of Title 13, United States Code to clearly provide the Secretary authority to issue the proposed rule and to include in that proposal the delegation of authority at issue. That section provides that:

> The Secretary shall perform the functions and duties imposed upon him by this title, *may issue such rules and regulations as he deems necessary* to carry out such functions and duties, and *may delegate the performance of such functions and duties* and the authority to issue such rules and regulations to such officers and employees of the Department of Commerce as he may designate. (Emphasis added.)

This statutory language provides the Secretary with broad authority to take the steps he deems appropriate to carry out his responsibilities under the law, and that language does not establish limitations on the Secretary's ability to delegate the performance of his functions and duties under the Census Act. As such, the Secretary may delegate the authority to determine the methodology to be used in calculating the tabulations of population reported to States and localities pursuant to 13 U.S.C. 141(c).

The delegation of authority contained in the Department's proposed rule is not an unlawful divestiture of the Secretary's statutory responsibility or authority because the delegation, if adopted in a final rule, would not be irrevocable. Thus, the current or any future Secretary of Commerce could revoke that delegation by issuing another final rule doing so. It is unassailable that a rule revoking the delegation would be effective, if it satisfied the requirements of the Administrative Procedure Act and other applicable legal standards. Further, the fact that the rule seeks to authorize the Director of the Census to make a determination under the Census Act, and states that the Director's decision would not be subject to review or reconsideration by the Secretary, does not mean the Secretary would escape responsibility for that determination. By establishing this delegation of authority by regulation, the Secretary is merely creating a transparent process for allowing a scientific determination to be made by scientists. However, the decision is being made on behalf of the Secretary. Inherent in the delegation of authority is the notion that the Secretary is responsible for the determination made by the head of the scientific bureau in which the particular knowledge and experience for making that determination lies. Nevertheless, in order to erase any doubt that the delegation of authority is not a divestiture of obligations or responsibility by the Secretary, text has been added to 15 CFR 101.1(a) that explicitly states that nothing in the rule diminishes the authority of the Secretary of Commerce to revoke this delegation of authority or relieves the Secretary of Commerce of responsibility for any decision made by the Director of the Census pursuant to this delegation, and that this rule shall remain in effect unless or until amended or revoked by the Secretary of Commerce.

Comment

One letter provided the Memorandum of Law in a case currently proceeding in the U.S. District Court for the District of Columbia (*Commonwealth of Virginia* v. *United States of America,* Case No.

1:00CV00751) stating that the memorandum demonstrates the rulemaking provides no real opportunity to provide meaningful comments.

Response

The Department considers the notice and comment associated with this rulemaking to be an appropriate venue for meaningful comment. With respect to the Memorandum of Law, the Department is not party to the case and, therefore, does not believe it appropriate to make any statement on the arguments presented.

Administrative Law Requirements

Executive Order 12866

This final rule has been determined to be not significant under section 3(f) of Executive Order 12866.

Paperwork Reduction Act

This final rule contains no new information collection requests subject to the Paperwork Reduction Act.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. Thus, the factual basis for the certification has not changed. As such, a final regulatory flexibility analysis is not required, and none has been prepared.

Unfunded Mandate Reform Act of 1995

This rule contains no Federal mandates, as that term is defined in the Unfunded Mandates Reform Act, on State, local and tribal governments or the private sector.

Executive Order 12630

This rule does not contain policies that have takings implications.

List of Subjects in 15 CFR Part 101

Administrative practice and procedure, Census data.

Dated: September 28, 2000.

Norman Y. Mineta,

Secretary of Commerce.

For the reasons set out in the preamble, 15 CFR Part 101 is added to read as follows:

PART 101—RELEASE OF DECENNIAL CENSUS POPULATION INFORMATION

101.1 Report of tabulations of population to states and localities pursuant to 13 U.S.C. 141(c).
101.2 Availability of other population information.

Authority: 5 U.S.C. 301; 13 U.S.C. 4, 141, 195; 15 U.S.C. 1512.

PART 101—RELEASE OF DECENNIAL CENSUS POPULATION INFORMATION

§ 101.1 Report of tabulations of population to states and localities pursuant to 13 U.S.C. 141(c).

(a)(1) The Director of the Census 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). The determination of the Director will be published in the **Federal Register**.

(2) All relevant authority of the Secretary of Commerce under 13 U.S.C. 141(c) and other applicable provisions of title 13 of the U.S. Code with respect to the decision to be made pursuant to paragraph (a)(1) of this section is hereby conferred upon the Director of the Census.

(3) The Director of the Census shall not make the determination specified in paragraph (a)(1) of this section until after he or she receives the recommendation of the Executive Steering Committee for A.C.E. Policy (ESCAP) in accordance with paragraph (b)(1) of this section.

(4) The determination of the Director of the Census shall not be subject to review, reconsideration, or reversal by the Secretary of Commerce.

(5) Nothing in this section diminishes the authority of the Secretary of Commerce to revoke or amend this delegation of authority or relieves the Secretary of Commerce of responsibility for any decision made by the Director of the Census pursuant to this delegation. This section shall remain in effect unless or until amended or revoked by the Secretary of Commerce.

(b)(1) The Executive Steering Committee for A.C.E. Policy shall prepare a written report to the Director of the Census recommending the methodology to be used in making the tabulations of population reported to States and localities pursuant to 13 U.S.C. 141(c).

(2) The report of the Executive Steering Committee for A.C.E. Policy described in paragraph (b)(1) of this section shall be released to the public at the same time it is delivered to the Director of the Census. This release to the public shall include, but is not limited to, posting of the report on the Bureau of the Census website and publication of the report in the **Federal Register**.

(3) The ''Executive Steering Committee for A.C.E. Policy'' (ESCAP) is composed of the following employees of the Bureau of the Census:

(i) Deputy Director and Chief Operating Officer;

(ii) Principal Associate Director and Chief Financial Officer;

(iii) Principal Associate Director for Programs;

(iv) Associate Director for Decennial Census (Chair);

(v) Assistant Director for Decennial Census;

(vi) Associate Director for Demographic Programs;

(vii) Associate Director for Methodology and Standards;

(viii) Chief; Planning, Research, and Evaluation Division;

(ix) Chief; Decennial Management Division;

(x) Chief; Decennial Statistical Studies Division;

(xi) Chief; Population Division; and

(xii) Senior Mathematical Statistician.

§ 101.2 Availability of Other Population Information.

(a) When the Director of the Census determines pursuant to § 101.1(a)(1) of this part to use methodologies including the statistical method known as ''sampling'' to produce the tabulations of population to report to States and localities pursuant to 13 U.S.C. 141(c), data prepared without the use of such statistical method shall be made available to the public in accordance with the standards set forth in section 209(j) of Public Law 105–119, 111 Stat. 2440, simultaneously with the issuance of the report to States.

(b) When the Director of the Census determines pursuant to § 101.1(a)(1) of this part to produce tabulations of population without the use of methodologies including the statistical method known as sampling, for reporting to States and localities pursuant to 13 U.S.C. 141(c) notwithstanding a recommendation by the Executive Steering Committee for A.C.E. Policy to use sampling, data prepared with the use of such statistical method shall be made available to the public in accordance with the standards set forth in section 209(j) of Public Law 105–119, 111 Stat. 2440, for the release of data prepared without the use of such statistical method, simultaneously with the issuance of the report to States.

[FR Doc. 00–25501 Filed 10–5–00; 8:45 am]

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