Rules and Regulations

Federal Register

Vol. 78, No. 2

Thursday, January 3, 2013

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DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 90

[Docket Number 111215758–2650–04]

RIN 0607–AA51

Resumption of the Population Estimates Challenge Program

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of the Census (Census Bureau) is resuming the Population Estimates Challenge Program to provide eligible governmental units the opportunity to file requests for the review of population estimates for 2011 and subsequent years. The Census Bureau is amending its regulations to: Update references to the method by which population estimates are officially released; clarify when a challenge of a population estimate can be requested; specify who may file a request for a population estimate challenge; remove all references to the per capita income estimates program and the Office of General Revenue Sharing; change the regulation title of a current program from ''Procedure for Challenging Certain Population and Income Estimates'' to ''Procedure for Challenging Population Estimates'' to reflect the removal of the per capita income estimates program; revise the requirements of the challenge process; and remove all references to a formal challenge process. The changes to the procedure for the Population Estimates Challenge Program clarify and streamline the procedures for local units of general-purpose government. The Census Bureau is removing the references for the per capita income estimates changes because the Census Bureau no longer produces per capita income estimates. The program that used those estimates, the General Revenue Sharing program, was eliminated for the States in 1980 and was not reauthorized for local governments after fiscal year 2000.

DATES: This Final Rule is effective on February 4, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Rodger V. Johnson, Chief, Local Government Estimates and Migration Processing Branch, Population Division, U.S. Census Bureau, Room 6H480, Mail Stop 8800, Washington, DC 20233–8800, by telephone on (301) 763–2461, by FAX (301) 763–2516, or by email at *rodger.v.johnson@census.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau is mandated to release population estimates annually in accordance with Title 13 of the United States Code (U.S.C.). These estimates are based upon the most recent Decennial Census of Population and Housing and compiled from the most current administrative and survey data available for that purpose. As part of its authorization, the Census Bureau offers an opportunity for local units of general-purpose government (hereinafter collectively ''governmental unit'') to challenge these official estimates through its Population Estimates Challenge Program. Under this program, a sub-state governmental unit may challenge their population estimate by submitting additional data to the Census Bureau for evaluation. If the additional data are accepted during the review period by the Census Bureau, resulting in an updated population estimate, the Census Bureau will provide a written notification to the governmental unit and publish the revised estimate at *www.census.gov.* If the additional data are not accepted for a revised estimate, the Census Bureau will notify the governmental unit. In those instances where a non-functioning county-level government or statistical equivalent exists, the State member agencies of the Federal-State Cooperative for Population Estimates (FSCPE) program may represent the area.

Changes to the challenge process for this decade are based on results of evaluations of the accuracy of the Census Bureau's current methodology for producing population estimates compared with the accuracy of alternative approaches. In the previous decade, the Census Bureau modified the standard methodology to accommodate challenges by allowing housing unit based estimates to supplant cohort-component based estimates at the county level, and eliminating key sets of population controls generally imposed on county and subcounty estimates. The evaluations show that the challenge procedure used in the previous decade resulted in less accurate estimates of the population of governmental units. This has led the Census Bureau to revise the challenge process to no longer accept estimates developed from methods different from those used by the Census Bureau. In the revised challenge process, the Census Bureau will only accept a challenge when the evidence provided identifies the use of incorrect data, processes, or calculations in the estimates.

The Census Bureau is resuming the Population Estimates Challenge Program to provide eligible governmental units the opportunity to challenge population estimates for 2011 and subsequent years. Previously, the Census Bureau published a final rule on January 4, 2010, in the **Federal Register** (75 FR 44) to announce that beginning on February 3, 2010, the Census Bureau would temporarily suspend the Population Estimates Challenge Program during the decennial census year and the following year to accommodate the taking of the 2010 Census, and indefinitely suspend the Per Capita Income Estimates Challenge Program. The suspension of the program was followed up on August 10, 2012, by the Census Bureau with a Notice of Proposed Rulemaking and Request for Comments in the **Federal Register** (77 FR 47783) for its program, entitled ''Resumption of the Population Estimates Challenge Program and Proposed Changes to the Program.'' In that announcement, the Census Bureau proposed resuming the Population Estimates Challenge Program in 2012 to provide eligible entities the opportunity to file requests for the review of population estimates for 2011 and subsequent years. The proposal was available for comment during a 30-day period that ended on September 10, 2012. The Census Bureau has now reviewed these comments and responded to them below in this final rule.

Summary of Comments and Responses

The Census Bureau received eight sets of comments during the comment period. A summary of these comments and the detailed responses by the Census Bureau are provided below:

Commenter 1. The commenter stated that the Census Bureau's proposal greatly reduces the opportunities for localities to challenge county-level population estimates that the Census Bureau initially produces through the cohort-component or Administrative Records (ADREC) method. The commenter agreed that this method overall produced the most accurate county-level estimates, as compared to the 2010 Census counts, nevertheless, the commenter pointed out that there were exceptions in which a housing unit based method did produce an estimate closer to the 2010 Census results. The commenter also suggested that the Census Bureau continue to pursue research on alternate methods of population estimation in the event that these methods that were proven to be less useful at one point in time, may be more useful in the future. More specifically, the commenter suggested that the Census Bureau consider a pilot program in which a small cross-section of jurisdictions, with participation through the FSCPE member agencies, provide information towards the next round of evaluative studies.

Response 1. The Census Bureau acknowledges that a variant of the housing unit based method did produce more accurate results in some instances, as compared to the 2010 Census. However, the ADREC method consistently produced county-level estimates closer to the 2010 Census results, whereas the housing unit based population estimates were upwardly biased. The program changes will enable eligible governmental units to focus their comments upon the data used to produce population estimates and to provide alternative or supplemental data to the Census Bureau to evaluate for use in revising the original estimate under the existing methodology. Incorporating this challenge-based data systematically each year will improve the credibility and accuracy of the subsequent estimates and contribute to a longer-term goal of continuous improvement in the estimation process. The Census Bureau accepts the suggestion to continue to work with the FSCPE member agencies, county, and local governments to maintain a research agenda that addresses alternate methods of estimation, not as official estimates, but to help inform a population estimates program that focuses upon improving the accuracy of the estimates.

Commenter 2. The commenter wrote in with concern towards one part of the notice that stated that "sub-state governmental units be the sole entity to request a challenge * * * for their respective jurisdictions." The commenter noted that in states of the Northeast, counties exist that do not serve legally as functioning general-purpose governmental units. In such instances, there would be no functioning governmental body to represent the area. In these states or in certain counties within them, often the only governmental units in place are minor civil divisions in the form of towns or equivalent areas that are subdivisions of their respective counties. The commenter requested that the Census Bureau reconsider this rule and provide for some flexibility in the rule in order to allow State level representation of these non-functioning counties should the state representative find issues with regard to the population estimates and the components.

Response 2. The Census Bureau acknowledges the issue and concurs that it is necessary to implement appropriate wording changes to define a role for States to represent these non-functioning governmental units for the purposes of the challenge program. None of the counties in Connecticut or Rhode Island are classified by the Census Bureau as active functioning general-purpose governmental units; in Massachusetts, nine of its fourteen counties are not classified as active functioning general-purpose governmental units. In Maine, New Hampshire, and Vermont, the Census Bureau classifies all counties as active functioning general-purpose governmental units. In Alaska, the county-equivalent Census Areas are statistical units and therefore may need representation by the State government should an issue arise with regard to their estimates and component data. The Census Bureau has amended the regulations in this final rule to recognize the FSCPE member agencies in the challenge program in order to present appropriate data on behalf of these non-functioning entities. The Census Bureau will continue to monitor legal status changes in the future that may result in one or more counties changing from active, general-purpose governmental units into non-functioning governmental entities to ensure coverage by the FSCPE member agencies.

Commenter 3. The commenter stated that the proposal would make the challenge program essentially meaningless by cutting off any options for localities to offer an alternative approach for county-level population estimates; the commenter offered several comments to support this viewpoint. The commenter stated that "no one estimates methodology has proven itself to be accurate for all types of areas in the country" and that "reliance on a single Administrative Records (ADREC) method for production of county population estimates and a variation of the housing unit method for subcounty estimates simply ignores the fact that alternative methods and data sources can produce quality estimates at any given point in time and for any given area." The commenter argued that the proposal not to allow alternative estimates was to some degree influenced by potential difficulty that the Census Bureau would experience in incorporating alternate challenges into the existing production environment that the Census Bureau uses to produce the estimates in the first place. The commenter stated that the Census Bureau should allow alternative based estimates that meet certain tests of the accuracy of these methods against established decennial census results. Finally, the commenter suggested noting the FSCPE member agencies as a potential technical resource available to sub-state governmental units.

Response 3. During the temporary suspension the Population Estimates and the Per Capita Income Estimates Challenge Programs attendant to the 2010 Census, the Census Bureau evaluated the 2010 population estimates and the methods used to create them. These evaluations also were meant to inform the redesign of the challenge program. As part of this process, the Census Bureau assessed the county-level population estimates produced with the ADREC and housing unit methods against 2010 Census results. (These results were publicly released on the Census Bureau's Web site).

It was clear that the best overall and defensible approach to estimation of county-level governmental units was through the ADREC method. In addition, it also became clear that the employment of a variation on the housing unit based method generally produced estimates that were more biased than the ADREC method when compared to the 2010 Census results. The evaluations also did not identify a clear-cut means to determine for any given county or equivalent when a housing unit based method would yield a more accurate estimate than that produced by the ADREC method. Given these factors, it became evident that in

redesigning the challenge program, the Census Bureau needed to build a process that would capture the most accurate demographic components that were consistent and complementary with the existing estimates program methodologies. The Census Bureau did not accept the assertion from the commenter that the Census Bureau should accept alternative methods with a provision for testing against decennial census results. However, the Census Bureau has indicated its willingness to work with localities through the FSCPE member agencies to provide information towards the next round of evaluative studies. Please see Response to Commenter 1.

Commenter 4. The commenter provided essentially the same observation as the second commenter with regard to the representation for non-functioning counties or statistical equivalents.

Response 4. The Census Bureau concurs with the fourth commenter. Please see Response to Commenter 2.

Commenter 5. The commenter supports the rule change from reliance upon alternative estimates to a process whereby governmental units provide evidence of the use of incorrect data, processes, or calculations in the estimates and not necessarily alternative estimates. The commenter expressed concern for the potential of a challenge to be denied because a full explication of the criteria, standards, and regular processes the Census Bureau employs to generate the population estimates was not available in the notice. Therefore, the commenter requested that the Census Bureau recognize an advisory role to the Census Bureau by the FSCPE member agencies to "to gauge how well the challenge and estimates program complement each other." The commenter also requested that outside experts like the FSCPE member agencies be provided with all communications between the Census Bureau and the challenging governmental unit, suggested that the FSCPE member agencies could advise the Census Bureau on changes in either the Estimates or the Challenge program, as they have excellent knowledge of the estimates process and can represent the interests of local governmental units.

Response 5. The Census Bureau appreciates the expression of support for the new challenge program. As stated in the responses to other comments, the Census Bureau will appropriately consult with the FSCPE member agencies during the course of the program.

Commenter 6. The commenter was concerned about the lack of representation for non-functioning county-level entities. The commenter also requested that we continue to accept housing conversion data for non-residential to residential use and accept locally documented data on demolitions.

Response 6. The Census Bureau concurs with the sixth commenter on the issue of non-functioning county-level entities. Please see Response to Commenter 2. In response to the second concern about conversions of non-residential to residential units and demolitions, the Census Bureau will continue to accept properly documented data, including basic street address and unit (apartment, etc.) designations of the converted units. Data that are to substitute or replace the Census Bureau estimated housing loss figures must include residential housing condemnations, demolitions, and/or units that are uninhabitable, in order to be as comprehensive in scope as the original survey data used to estimate housing loss.

Commenter 7. The commenter is opposed to the exclusion of housing based methods to estimate county-level governmental units. The commenter would like the Census Bureau to continue to leave open the option for a challenging county-level governmental unit to provide a housing based alternative as opposed to providing updated data for the Census Bureau's cohort component (ADREC) based estimate. The writer also expressed the view "that the proposed policy flies in the face of all available scientific evidence as well as good judgment."

Response 7. The Census Bureau consulted a variety of stakeholders on the elements of the proposal in order to design a program based upon the evaluation research conducted during the 2010 Census. The research conducted jointly by the Census Bureau and its partners in the FSCPE pointed to the overall accuracy of the ADREC method when compared to the 2010 Census results. However, as stated in the third response, the research evaluations also did not identify a clear-cut means to determine for any given county or equivalent when a housing based method would yield a more accurate estimate than that produced by the ADREC method. The Census Bureau has designed a program with guiding principles to govern outcomes more consistent with the current evaluation results. The Census Bureau also will continue to conduct research work with the FSCPE and others towards the next evaluation period to improve upon the challenge and estimates programs and, if possible, to determine means to identify alternate approaches to the current estimates that are based upon systematically identifiable and unbiased criteria.

Commenter 8. The eighth commenter suggested that the Census Bureau clarify in its challenge program documentation that the FSCPE member agencies be specified as a potential technical resource to localities that are contemplating challenging a population estimate. The second point from this commenter was that the challenge program from the previous decade added approximately 770,000 people to the national estimate. In addition, the commenter suggested that the Bureau look at a threshold based on the estimates evaluation research that would allow an estimate challenge using other data and methods, specifically the housing estimate, if the difference between the two estimates exceeded that threshold. Finally, the commenter suggested that the Census Bureau engage the FSCPE member agencies as technical experts in reviewing a challenge and/or another state agency that may have expertise to help review the alternative estimate.

Response 8. The Census Bureau concurs with the first suggestion that we incorporate into the program documentation that FSCPE member agencies could assist a locality in mounting a challenge. In regard to the second point, we note that the additional population incorporated into the national total did not systematically address the error of closure between the 2000 and the 2010 Census nor did it address shortfalls in the identification of immigration, therefore, it cannot be judged as a positive aspect of the former challenge program to emulate. The third suggestion is one that we will consider as part of the ongoing research agenda with the FSCPE member agencies and others, but not to produce an official revised estimate to replace the ADREC method results. The Census Bureau also accepts the suggestion that the FSCPE member agencies also be consulted to assist in evaluating challenges from their respective sub-state governments. This is substantially the same response as that to the fifth commenter.

Changes From Proposed Rule

As commenters noted in their comments, the proposed rule made no provision for representation of counties in selected states of the Northeast that do not serve legally as functioning general-purpose governmental units. In such instances, no functioning county-level governmental body exists to represent the area. The commenters requested that the Census Bureau

provide for some flexibility in the rule in order to allow State-level representation of these non-functioning counties with regard to the population estimates and the components. The Census Bureau acknowledged the issue, noted that it also existed for some parts of Alaska, and agreed to implement appropriate wording changes to define a role for States to represent these non-functioning governmental units in the challenge program. Specifically, the Census Bureau added a new definition for the term non-functioning governmental units at paragraph (f) to Section § 90.3, and re-designated the language formerly at paragraph (f) in new paragraph (g). Paragraph (g) also acknowledges non-functioning governmental units as an eligible governmental unit for the purposes of the challenge program. The Census Bureau also revised Section § 90.5 to acknowledge non-functioning governmental units.

Summary of Provisions Implemented by This Final Rule

The Census Bureau is resuming the Population Estimates Challenge Program to provide governmental units the opportunity to challenge population estimates for 2011 and subsequent years. The Census Bureau is amending its regulations to: (1) Update references to the method by which population estimates are officially released; (2) clarify when a challenge of a population estimate can be requested; (3) specify who may file a request for a population estimate challenge; (4) remove all references to per capita income estimates and the Office of General Revenue Sharing; (5) change the regulation title of a current program from ''Procedure for Challenging Certain Population and Income Estimates'' to ''Procedure for Challenging Population Estimates'' to reflect the removal of the per capita income estimates program; (6) revise the requirements of the challenge process; and (7) remove all references to a formal challenge process.

These changes to the regulations clarify the procedure for seeking a population estimate challenge by a governmental unit and to make the regulations clearer by eliminating out-of-date provisions. The Census Bureau in § 90.6 is updating references to the method by which population estimates are officially released to reflect widespread use of the Internet (rather than the **Federal Register**) for disseminating official demographic data. For example, governmental units may initiate the challenge process after the population estimates are posted on the Census Bureau's Internet site (rather than published in the **Federal Register**).

Section 90.6 reduces the time period when a challenge to a population estimate may be filed from 180 days to 90 days after the release of the estimates by the Census Bureau. In the Census Bureau's judgment, 90 days are sufficient for an applicant to review the population estimate and to submit additional data to update the population estimate. This change ensures that, in most instances, the Census Bureau reviews and incorporates accepted data into subsequent estimates releases in a timely manner.

Section 90.8 specifies that the types of data that are submitted must be consistent with the criteria, standards, and regular processes the Census Bureau employs to generate the population estimate. The Census Bureau will provide additional Web-based information describing the data that are required and how the governmental unit may contact the Census Bureau. Section § 90.8 specifies what methods can be used in the challenge process.

Section 90.9 specifies that the Census Bureau will work with the governmental unit to verify the data that it has submitted, evaluate the data submitted, and render its decision in writing to the governmental unit. The Census Bureau will also post the revised population estimate at *www.census.gov.*

Furthermore, new § 90.5 specifies who may file a request for a challenge to a population estimate. Under the revised regulations, the chief executive officer or highest elected official of the requesting governmental unit is the only individual authorized to submit such requests. This change ensures that persons authorized by law to commit the governmental unit to a particular course of action have approved the request for a challenge prior to submission to the Census Bureau. The Census Bureau revises all applicable sections of the Population Estimates Challenge Program regulations to specify that the sub-state governmental units be the sole entity to request a challenge for the population estimates for their respective jurisdictions. In the event that a county-level governmental unit or statistical equivalent is not an active general-purpose government, the FSCPE member agency may serve as sponsor of the challenge and the governor will serve as the highest elected official. Additional detail on this exception is noted in the following paragraph.

Under the method employed by the Census Bureau, state-level population estimates are a summary of the estimates for each county or statistical equivalent that comprise each state. Therefore, sub-state governmental units are the most appropriate level to request a challenge of the population estimates for their respective jurisdictions. In addition, the Census Bureau and the state governments have formally established and have maintained a long-term working relationship through the Federal-State Cooperative for Population Estimates (FSCPE). State agencies, designated by their respective governors, work in cooperation with the Census Bureau to produce population estimates. The Census Bureau initiates the process of preparing population estimates by updating population information from the most recent decennial census with information found in the annual administrative records of Federal and state agencies. The Federal agencies provide tax records, Medicare records, and some vital statistics and group quarters information. The FSCPE member agencies supply vital statistics and information about group quarters like college dorms or prisons. The Census Bureau combines census base data, administrative records, and selected survey data to produce current population estimates consistent with the last decennial census results. Moreover, the Census Bureau provides preliminary governmental unit estimates to the FSCPE member agencies for review and comment to resolve data processing issues identified during that period. Under the challenge program, the FSCPE member agencies, appointed by their respective governors, will be eligible to represent counties or statistical equivalents that do not function as active general-purpose governmental units. This situation exists in Connecticut, Rhode Island, for selected counties in Massachusetts, and for the Census Areas in Alaska. For the purposes of this program, the District of Columbia is treated as a statistical equivalent of a county and, therefore, also eligible to participate.

Existing §§ 90.9 through 90.18 are deleted. In the Census Bureau's judgment, these sections are unnecessary, as the Population Estimates Challenge Program does not include a formal challenge process. This change is consistent with the procedures advanced in § 90.8 and § 90.9 to specify the required data and to verify that data are accurate and complete before the Census Bureau reviews the data and renders its decision on whether or not to update the population estimate. Ending the formal process removes a redundant procedure and, therefore, enables the

Census Bureau to render a more timely decision during the review and update process. The Census Bureau is eliminating all references to the per capita income estimates program and the General Revenue Sharing Program from its regulations at 15 CFR part 90 because the Census Bureau no longer produces per capita income estimates. The Census Bureau generated the per capita income estimates for the General Revenue Sharing Program, pursuant to Section 109(a) of the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512, section 109(a), 86 Stat. 919, 929 (1972)). The General Revenue Sharing Program was eliminated for the States in 1980 under the State and Local Fiscal Assistance Act Amendments of 1980 (Pub. L. 96–604, section 2, 94 Stat. 3516 (1980)), and was not reauthorized for local governments after fiscal year 2000 (See Pub. L. 103–322, section 31001, 108 Stat. 1796, 1859 (1994)). Due to the discontinuation of the General Revenue Sharing Program, the Census Bureau no longer needs to generate and publish per capita income estimates. In order to avoid any confusion regarding the status of the per capita income estimates program, the Census Bureau is eliminating all references to per capita income from the regulations. The Census Bureau is changing the titling of the program to reflect the fact that the Census Bureau no longer generates per capita income estimates previously mandated by law.

The Census Bureau is making minor technical changes to the regulations, such as renumbering sections and heading titles to reconcile the changes proposed in this rule. The following chart reflects the renumbering of sections and revisions to heading titles, with new and revised sections noted in parentheses, for the public's convenience:

Former	Effective February 4, 2013
PART 90 PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES.	PART 90 PROCEDURE FOR CHALLENGING POPULATION ESTIMATES
90.1 Scope and applicability	90.1 Scope and applicability.
90.2 Policy of the Census Bureau	90.2 Policy of the Census Bureau.
90.3 Definitions	90.3 Definitions.
90.4 General	90.4 General.
	(New) 90.5 Who may file a challenge.
90.5 When an informal challenge may be filed	90.6 When a challenge may be filed.
90.6 Where to file challenge	(Revised) 90.7 Where to file a challenge.
90.7 Evidence required	(Revised) 90.8 Evidence required.
90.8 Review of challenge	(Revised) 90.9 Review of challenge.
90.9 When formal procedure may be invoked	(Deleted).
90.10 Form of formal challenge and time limit for filing	(Deleted).
90.11 Appointment of hearing officer	(Deleted).
90.12 Qualifications of hearing officer	(Deleted).
90.13 Offer of hearing	(Deleted).
90.14 Hearing	(Deleted).
90.15 Decision by Director	(Deleted).
90.16 Notification of adjustment	(Deleted).
90.17 Timing for hearing and decision	(Deleted).
90.18 Representation	(Deleted).

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 during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments were received regarding the certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Paperwork Reduction Act

This notice of final rulemaking does not contain a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C., Chapter 35. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 15 CFR part 90

Administrative practice and procedure, Census data, Population census, Statistics.

For the reasons stated in the preamble, the Census Bureau is amending 15 CFR part 90 to read as follows:

PART 90—[AMENDED]

■ 1. The authority citation for part 90 continues to read as follows:

Authority: 13 U.S.C. 4 and 181.

■ 2. Lift the stay on part 90 published at 75 FR 46, Jan. 4, 2010.

■ 3. Revise 15 CFR part 90 to read as follows:

PART 90—PROCEDURE FOR CHALLENGING POPULATION ESTIMATES

Sec.
90.1 Scope and applicability.
90.2 Policy of the Census Bureau.
90.3 Definitions.
90.4 General.
90.5 Who may file a challenge.
90.6 When a challenge may be filed.
90.7 Where to file a challenge.
90.8 Evidence required.
90.9 Review of challenge.

Authority: 13 U.S.C. 4 and 181.

§ 90.1 Scope and applicability.

Between decennial censuses, the Census Bureau annually prepares statistical estimates of the number of people residing in states and their governmental units. In general, these estimates are developed by updating the population counts produced in the most recent decennial census with demographic components of change data and/or other indicators of

population change. These rules prescribe the administrative procedure available to governmental units to request a challenge to the most current of these estimates.

§ 90.2 Policy of the Census Bureau.

It is the policy of the Census Bureau to provide the most accurate population estimates possible given the constraints of time, money, and available statistical techniques. It is also the policy of the Census Bureau to provide governmental units the opportunity to seek a review and provide additional data to these estimates and to present evidence relating to the accuracy of the estimates.

§ 90.3 Definitions.

As used in this part (except where the context clearly indicates otherwise) the following definitions shall apply:

(a) *Census Bureau* means the U.S. Census Bureau, Department of Commerce.

(b) *Population Estimates Challenge* means, in accordance with this part, the process a governmental unit may use to provide additional input data for the Census Bureau's population estimate and the submission of substantive documentation in support thereof.

(c) *Director* means Director of the Census Bureau, or an individual designated by the Director to perform under this part.

(d) *Population estimate* means a statistically developed calculation of the number of people living in a governmental unit to update the preceding census or earlier estimate.

(e) A *governmental unit* means the government of a county, municipality, township, incorporated place, or other minor civil division, which is a unit of general-purpose government below the State.

(f) A *non-functioning county or statistical equivalent* means a sub-state entity that does not function as an active general-purpose governmental unit. This situation exists in Connecticut, Rhode Island, for selected counties in Massachusetts, and for the Census Areas in Alaska.

(g) For the purposes of this program, an *eligible governmental unit* also includes the District of Columbia and non-functioning counties or statistical equivalents represented by a FSCPE member agency.

§ 90.4 General.

This part provides a procedure for a governmental unit to request a challenge of a population estimate of the Census Bureau. The Census Bureau, upon receipt of the appropriate documentation, will attempt to resolve the estimate with the governmental unit.

§ 90.5 Who may file a challenge.

A request for a challenge of a population estimate generated by the Census Bureau may be filed only by the chief executive officer or highest elected official of a governmental unit. In those instances where the FSCPE member agency represents a non-functioning county or statistical equivalent, the governor will serve as the chief executive officer or highest elected official.

§ 90.6 When a challenge may be filed.

(a) A request for a challenge to a population estimate may be filed any time up to 90 days after the release of the estimate by the Census Bureau. Publication by the Census Bureau on its Web site (*www.census.gov*) shall constitute release. Documentation requesting a challenge of any estimate may also be filed any time up to 90 days after the date the Census Bureau, on its own initiative, revises that estimate.

(b) If, however, a governmental unit has a sufficiently meritorious reason for not filing in a timely manner, the Census Bureau has the discretion to accept the late request.

§ 90.7 Where to file a challenge.

A request for a population estimate challenge must be prepared in writing by the governmental unit and filed with the Chief, Population Division, Census Bureau, Room 5H174, Mail Stop 8800, Washington, DC 20233. The governmental unit must designate a contact person who can be reached by telephone during normal business hours should questions arise with regard to the submitted materials.

§ 90.8 Evidence required.

(a) The governmental unit shall provide whatever evidence it has relevant to the request at the time of filing. The Census Bureau may request further evidence when necessary. The evidence submitted must be consistent with the criteria, standards, and regular processes the Census Bureau employs to generate the population estimate. The Census Bureau has revised the challenge process to no longer accept estimates developed from methods different from those used by the Census Bureau. In the revised challenge process, the Census Bureau will only accept a challenge when the evidence provided identifies the use of incorrect data, processes, or calculations in the estimates.

(b) For counties and statistical equivalents, the Census Bureau uses a cohort-component of change method to produce population estimates. Each year, the components of change are updated. These components include births, deaths, migration, and change in the group quarters population. The Census Bureau will consider a challenge based on additional information on one or more of the components of change or about the group quarters population in a locality.

(c) For minor civil divisions and incorporated places, the Census Bureau uses a housing unit method to distribute the county population. The components in this method include housing units, occupancy rates, and persons per household plus an estimate of the population in group quarters. The Census Bureau will consider a challenge based on data related to changes in an area's housing stock, such as data on demolitions, condemned units, uninhabitable units, building permits, or mobile home placements or other comparable housing inventory based data. The Census Bureau will also consider a challenge based on additional information about the group quarters population in a locality.

(d) The Census Bureau will also provide a guide on its Web site as a reference for governmental units to use in developing their data as evidence to support a challenge to the population estimate. In addition, a governmental unit may address any additional questions by contacting the Census Bureau at the address provided in § 90.7.

§ 90.9 Review of challenge.

The Chief, Population Division, Census Bureau, or the Chief's designee shall review the evidence provided with the request for the population estimate challenge, shall work with the governmental unit to verify the data provided by the governmental unit, and evaluate the data to resolve the issues raised by the governmental unit. Thereafter, the Census Bureau shall respond in writing with a decision to accept or deny the challenge. In the event that the Census Bureau finds that the population estimate should be updated, it will also post the revised estimate on the Census Bureau's Web site (*www.census.gov*).

Dated: December 26, 2012.

Thomas L. Mesenbourg, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 2012–31598 Filed 1–2–13; 8:45 am]

BILLING CODE 3510–07–P