within the comment period, the regulation would become effective on December 17, 2009. No adverse comments were received, and thus this notice confirms that effective date.

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Issued in College Park, Georgia, on December 17, 2009.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9–30855 Filed 12–31–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 90

[Docket Number 0908171239–91412–02]

RIN 0607–AA49

Temporary Suspension of the Population Estimates and Income Estimates Challenge Programs

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of the Census (Census Bureau) publishes this final rule to announce to state and local governments and to federal agencies that, beginning on February 3, 2010, the Census Bureau will temporarily suspend the Population Estimates Challenge Program during both the decennial census year and the following year, and will indefinitely suspend the Per Capita Income Estimates Challenge Program (also known as Procedure for Challenging Certain Population and Income Estimates) to accommodate the taking of the 2010 Census. During this time, the Census Bureau will not provide the operations necessary to review the July 1, 2009, population or per capita income estimates for state, and other general-purpose governments, such as cities, towns, and villages. The Population Estimates Challenge Program will resume in 2012 as the program begins operations based upon the results of the 2010 Census. The Per Capita Income Estimates Challenge Program will be suspended until a rulemaking is initiated to remove those regulations from the Code of Federal Regulations. This rule also summarizes the comments received on the October 7, 2009 proposed rule requesting comments on the proposed temporary suspension of the Population Estimates and Income Estimates Challenge Programs.

DATES: This rule is effective on February 3, 2010.

ADDRESSES: Correspondence concerning this final rule may be submitted to Dr. Enrique Lamas, Chief of the Population Division, through any of the following methods:

- *Fax:* Correspondence may be faxed to: (301) 763–2516.
- *E–Mail:* Correspondence may be e-mailed to: *Enrique.Lamas@census.gov.*
- *Mail:* Correspondence may be mailed to: Dr. Enrique Lamas, Chief, Population Division, U.S. Census Bureau, H.Q. 5H174, 4600 Silver Hill Road, Washington, DC 20233.

Electronic availability: This final rule is available on the Internet from the Census Bureau's Web site at *http://www.census.gov/popest/archives/challenges.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Rodger Johnson, Chief, Local Government Estimates and Migration Processing Branch, Population Division, Bureau of the Census, Washington, DC 20233, telephone (301) 763–2461, e-mail at *rodger.v.johnson@census.gov.*

SUPPLEMENTARY INFORMATION: The Census Bureau first adopted procedures for initiating informal challenges to certain population or per capita income estimates prepared by the Census Bureau in 1979 by amending Title 15 of the Code of Federal Regulations (CFR) to provide for a new Part 90 (44 FR 20646). These regulations were needed to standardize and codify procedures, and to extend to the state or local government the right to a hearing prior to a final determination of the challenged estimate by the Director of the Census Bureau. Legal authority for the challenge procedures remains 13 U.S.C. 4, which provides in pertinent part, that the Secretary may issue rules and regulations, as he deems necessary to carry out his functions and duties under Title 13.

The Census Bureau prepares estimates of total population and per capita income for states and units of local government for the period between decennial censuses. States, counties, and other units of general-purpose government may initiate informal challenges to population and per capita income estimates under the procedures set forth in 15 CFR Part 90. Under the regulations, a challenge is defined as ''the process of objecting to or calling into question the Census Bureau's population or per capita income estimates of a state or unit of local government by that state or unit of local government.'' Government entities are given 180 days after the release of the population or per capita income estimates to initiate an informal challenge. If the challenge cannot be resolved informally, the government submitting the challenge can choose to file a formal challenge (15 CFR 90.9), which is resolved in a hearing that is held at the Census Bureau Headquarters, and presided over by a hearing officer that is appointed by the Census Bureau Director.

Summary of Comments and Responses

On October 7, 2009, the Census Bureau published a proposed rule in the **Federal Register** (74 FR 51526) requesting comments on the proposed temporary suspension of the Population Estimates and Income Estimates Challenge Programs. Five sets of comments were received during the comment period. A summary of the public comments and the response of the Census Bureau are provided below:

Commenter 1. The commenter suggested that the Census Bureau produce accurate estimates initially and not allow any challenges to the population estimates. The commenter also suggested that the challenge program is an expensive and unnecessary program.

Response 1. The Census Bureau did not accept this suggestion. The challenge program is an essential and historical part of the estimates program, and it enables eligible general-purpose governmental units to comment upon population estimates of concern, and to provide alternative or supplemental data to the Census Bureau to evaluate for use in revising the original estimate. The Census Bureau will continue to work with state, county, and local governments to efficiently administer a program that focuses on improving the accuracy of the estimates.

Commenter 2. The commenter wrote in support of the temporary suspension, deeming that it would be both confusing and pointless for the Census Bureau to administer a challenge process where the challenge decisions and responses would overlap with the first release of Census 2010 population counts to the President and Congress.

Response 2. The Census Bureau acknowledges the comment and concurs.

Commenter 3. The commenter had a number of questions or comments regarding the notice. The commenter wanted to know if it was a normal practice to suspend the population estimates challenge during decennial years, if the suspension covered the informal and formal phases of the process, if it was a cost-effective use of resources, and if there might be localities concerned about suspension of

the program. The commenter also was interested in future plans to revise the procedures following the 2010 Census.

Response 3. This instance is the first time that the Census Bureau has temporarily suspended the Population Estimates and the Per Capita Income Estimates Challenge Programs. Suspending the challenge programs is consistent with the practice applied to two other post-census population programs. Specifically, the Census Bureau has suspended the Special Census and the Geographically Updated Population Certification Program for the duration of the decennial census activities and resumed these programs afterwards. The suspension will apply to the entire scope of the program, including both informal and formal challenge procedures. The suspension is an appropriate cost-effective means to ensure the allocation of sufficient resources for the demographic analysis of the 2010 Census. In addition, the suspension will allow the Census Bureau to better integrate the data from the 2010 Census into the estimates program. Suspension of the program also reduces the risk of confusion resulting from the close timing between the release of the 2010 Census counts and the release of revised estimates as part of administering challenges to the 2009 estimates. During the comment period the Census Bureau received no responses from eligible governmental units that opposed this proposal. In response to concerns about the redesign of the challenge program after the 2010 Census, the Census Bureau will await the assessment of the 2010 Census compared to the estimates. In proposing any redesign of the challenge program, the Census Bureau will strive to capture the most accurate demographic components that are consistent with the estimates program methodologies, and reduce the need for a post-estimates review process.

Commenter 4. The commenter voiced support for the Census Bureau decision to temporarily suspend the Population Estimates Challenge Program and to resume it for the 2011 estimates. The commenter also supported the Census Bureau's stated intent to evaluate the results of the 2010 Census in comparison to the population estimates, conduct research to enhance the estimates and challenge programs, and to integrate the updates from the 2010 Census into the estimates program. The commenter also strongly recommended that the Census Bureau gather perspectives from a wide variety of stakeholders reliant on population estimates. The commenter also concurred with the Census Bureau intent to indefinitely suspend the income estimates challenge program until a rulemaking can be initiated to remove the regulations from the Code of Federal Regulations.

Response 4. The Census Bureau concurs with the comments and suggestion of this commenter. We agree that little disruption will occur with the suspension of the program, due to the proximate release of the 2010 Census counts to all stakeholders in early 2011. In considering any revisions to the challenge program, the Census Bureau will, in a reasonable period and through appropriate venues, consult a variety of stakeholders on the elements of the program. Any proposal to revise the program will allow for a comment period to ensure that the needs of the user community are included before any revisions are implemented.

Commenter 5. The commenter stated that the public should be able to challenge any estimate by opening the process to groups or individuals.

Response 5. The Census Bureau did not accept this suggestion. Opening the challenge program to groups or individuals that do not officially represent states, counties, or local governments would increase the administrative and evaluative complexity of this program for the Census Bureau. The potential for multiple, inconsistent challenges from individuals or other groups would result in an inefficient use of limited resources. States, counties, and local governments have a vested interest in securing the most accurate population estimates possible, and would have the best information and resources to challenge the population estimate. Thus, we have determined to retain the current requirements of the challenge program codified in Title 15, Part 90 of the CFR, which allow only eligible general-purpose governmental units to submit population estimates challenges.

Suspension of the Population Estimates and Per Capita Income Estimates Challenge Program

As is done for other intercensal programs, the Census Bureau hereby notifies the public that it will suspend the Population Estimates Challenge Program after the resolution of all challenges to the 2008 population estimates, which should occur by February 3, 2010. The Census Bureau will release the 2009 population estimates in 2010 and the Census Bureau will not accept challenges to the 2009 estimates.

The Population Estimates Challenge Program will resume in 2012 for the 2011 estimates after the Census Bureau concludes its responsibilities in the conduct of the decennial census. During the period when the program is suspended, the Census Bureau will be conducting demographic analysis of the 2010 Census, evaluating the results of the 2010 Census in comparison with the population estimates, conducting research to enhance the estimates and challenge programs and integrating the updates from the 2010 Census into the estimates program after the 2010 Census.

After the conduct of the decennial census, the Census Bureau will resume accepting challenges to the population estimates by publishing a notice in the **Federal Register** that will announce the date when it will begin to accept challenges. The Census Bureau will accept challenges beginning with the 2011 population estimates. The 2011 population estimates are based upon the 2010 Census and are scheduled for release in 2012.

Suspending the Population Estimates Challenge Program is a necessary action to ensure that sufficient resources are allocated to the conduct of the decennial census and to allow the Census Bureau's Population Division staff to effectively evaluate the 2010 Census results.

In addition, the Census Bureau notifies the public that it also will suspend the Per Capita Income Estimates Challenge Program, which are codified in the same part as the Population Estimates Challenge Program. This program has not been active since the general revenue sharing program ended in 1986, along with its requirement for per capita income estimates, and thus the Census Bureau has determined to suspend the program indefinitely. The Census Bureau will undertake a rulemaking action in the near future to remove these regulations from the CFR.

Classification

Executive Order (EO) 12866: It has been determined that this notice is not significant for purposes of EO 12866.

Executive Order 13132: It has been determined that this notice does not contain policies with Federalism implications as that term is defined in EO 13132.

Regulatory Flexibility Act: The Chief Counsel for Regulations certified to the Chief Counsel for Advocacy that this rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule and is not repeated here. No comments were received regarding the economic

impact of this final rule. As a result, no final regulatory flexibility analysis was prepared.

List of Subjects in 15 CFR Part 90

Administrative practice and procedure; Census data; State and local governments.

■ For reasons discussed in the preamble, the Census Bureau is amending 15 CFR Part 90 as follows:

PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES

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

Authority: 13 U.S.C. 4.

■ 2. Effective February 3, 2010, PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES is stayed indefinitely.

Dated: December 22, 2009.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. E9–31171 Filed 12–31–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. FHWA–2009–0029]

RIN 2125–AF31

Discontinuance of Form FHWA–47

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This final rule eliminates regulations which require contractors on National Highway System (NHS) projects of $1 million or more to submit Form FHWA–47. Since the FHWA no longer uses this information, the FHWA is eliminating this reporting requirement.

DATES: This rule is effective February 3, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Wright, Office of Program Administration, (202) 366–4630; or Mr. Michael Harkins, Office of the Chief Counsel (202) 366–4928, Federal Highway Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may retrieve a copy of the notice of proposed rulemaking (NPRM), comments submitted to the docket, and a copy of this final rule online through the Federal Rulemaking portal at: *http://www.regulations.gov*. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document also may be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara.*

Background

During a 2003 Government Accountability Office (GAO) review of the States' highway construction costs, the GAO reviewed the FHWA's bid price data collection requirements. In a November 2003 report, GAO made recommendations to FHWA to review the usefulness and accuracy and/or under reporting of the bid price data collected.[1] In response to GAO's review the FHWA Office of Infrastructure, Office of Program Administration, in collaboration with the Office of Transportation Policy Studies, hired a consultant to review the need, quality, and value of the current data collections system in partnership with the American Association of State Highway and Transportation Officials. This review also included data collected for material and labor prices and bid tabulation. As a result, FHWA has decided to discontinue the reporting requirements for the Form FHWA–45, Bid Price Data; Form FHWA–47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds; and Form FHWA–810, Bid Tabulation Data. This decision is documented in a May 22, 2007, policy memorandum (see *http://www.fhwa.dot.gov/federalaid/052207.cfm*) as well as in a change to the Federal-Aid Policy Guide through Transmittal 38, dated July 3, 2007 (see *http://www.fhwa.dot.gov/legsregs/directives/fapg/1trans38.htm*).

Form FHWA–45, Bid Price Data, was collected on NHS projects over $500,000. Form FHWA–45 served as a means to compute the highway construction bid price index, which is published in the document ''Price Trends for Federal-aid Highway Construction.''[2] The data were used in our ''Highway Statistics''[3] publication and by other outside sources. With the discontinuance of the Form FHWA–45, the future of FHWA's construction price trends reporting has been temporarily suspended. Currently, the FHWA has a contract for the development of a new highway construction cost indexing system, which will involve the use of the Oman System Bid Tabs data. This system utilizes construction price data extracted directly from State DOT data bases. Targeted completion for the new system is early in calendar year 2010.

Form FHWA–810, Bid Tabulation Data, was collected on all NHS projects. The data from the Form FHWA–810 have been used to compute national summaries on the largest contract awards and contract size statistics. The data were also used to produce State-by-State summaries on contracts awards, number of bids, and average number of bids.

Section 635.126 of title 23, Code of Federal Regulations, requires Form FHWA–47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds, which is the subject of this final rule, to be collected on all NHS projects over $1,000,000. Form FHWA–47 served as a means to collect data related to the quantities of materials, supplies, and labor used for various types of highway construction. The data reported on this form were used primarily to compute usage factors for these various materials, supplies, and labor. These factors were used to determine the economic impacts of cuts or increases in the cost of Federal-aid highway construction.

On June 23, 2009, FHWA published in the **Federal Register** at 74 FR 29634 a NPRM proposing to delete section 635.126 of title 23, Code of Federal Regulations, since the FHWA no longer intends to use the information submitted through Form FHWA–47. The FHWA received one comment to the docket from a member of the public in response to the NPRM. This commenter was against the discontinuance of Form FHWA–47 because the commenter believes it would hold contractors accountable for their work, the timeline of their work, the products and materials that go into their work for safety reasons, and the cost of their work. The FHWA disagrees. While FHWA does not disagree that all contractors should be held accountable

[1] See GAO–04–113R. (*http://www.gao.gov/new.items/d04113r.pdf*)

[2] See Price Trends for Federal-aid Highway Construction (*http://www.fhwa.dot.gov/programadmin/pricetrends.cfm*).

[3] See Highway Statistics (*http://www.fhwa.dot.gov/policy/ohpi/hss/hsspubs.cfm*).