

**Decennial Census of the Population of Americans;
Proposed Residence Criteria and Proposed
Regulations for Demographic Questions**

Docket No. 260903-0005

Preliminary Regulatory Impact Analysis

Table of Contents

I. Introduction	4
II. Economic Analysis of Impacts.....	5
A. Background.....	5
B. Need for Federal Regulatory Action.....	5
C. Purpose of the Proposed Rule	6
D. Analytical Framework	6
D.1 Identifying Incremental Impacts.....	7
D.2 Analytical Time Frame	7
E. Baseline Conditions.....	8
F. Summary of Expected Costs	10
F.1 Residency Criteria	11
F.2 Demographic Questions	13
G. Summary of Expected Benefits	16
G.1 Residency Criteria.....	Error! Bookmark not defined.
G.2 Demographic Questions.....	Error! Bookmark not defined.
H. Regulatory Alternatives	16
H.1 No-action alternative to the purposed rule.....	16
I. Distributional Effects	17

J. Assumptions and Limitations.....	17
K. Initial Small Entity Analysis	Error! Bookmark not defined.

I. INTRODUCTION

In this analysis, the Census Bureau (Census) examines the expected impacts of this rulemaking as required under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The proposed rule has been determined to be significant, but not economically significant as defined by Executive Order 12866 at section 3(f)(1).

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule, if adopted, would have no direct impact on any entity other than the Census Bureau, the Deputy General Counsel for Economic, Statistical, and Regulatory Affairs certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (Section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current threshold after adjustment for inflation is approximately \$193 million, using the annual 2025 Implicit Price Deflator for

Gross Domestic Product from the U.S. Department of Commerce Bureau of Economic Analysis. This rule would not result in an expenditure in any year that meets or exceeds this amount.

II. ECONOMIC ANALYSIS OF IMPACTS

A. BACKGROUND

As discussed in the proposed rule, the Census Bureau is proposing to add two new parts to the Code of Federal Regulations governing the decennial census of population and housing. First, the Census Bureau is proposing to add a part outlining the residence criteria used for identifying each person’s “usual residence,” as needed to determine whether and where to count them in the decennial census throughout the United States. Second, the Census Bureau is proposing to add a part establishing restrictions on the inclusion of demographic questions in the decennial census questionnaire, in order to properly prioritize the Constitutional task (i.e., the population count) and to protect it from any distortions created by the inclusion of unnecessary demographic questions, such as questions about race and ethnicity or sexual orientation. Census assesses that the proposed rule is necessary to address these issues.

B. NEED FOR FEDERAL REGULATORY ACTION

As indicated in EO 12866, when an agency determines that a rule is necessary due to compelling public need, it must identify whether that need flows from market failures, institutional failures, regulatory failures, or some combination of these. In this case, Census assesses that the proposed rule is necessary to address a regulatory failure—specifically, a failure that the current regulations governing the decennial census did not properly prioritize the population count and did not adequately protect it from potential distortions, including from both the application of

disclosure avoidance methods (which are necessitated by additional questions) and from reduced response rates, created by inclusion of unnecessary demographic questions.

C. PURPOSE OF THE PROPOSED RULE

The purpose of the proposed rule detailed in 91 FR 57524 is to better fulfill the Constitutional mandate to count the “whole number of persons in each State,” which is based on concept of “usual residence,” by proposing new Residence Criteria and streamlining the short-form decennial questionnaire by removing demographic questions that do not contribute to the enumeration of the population for purposes of apportionment. Although these two parts are related and complementary, each is being proposed independently. Census assesses that the proposed rule is necessary to address these issues.

D. ANALYTICAL FRAMEWORK

Census uses benefit-cost analysis (BCA), a well-established analytical approach that OMB identifies as the preferred method for evaluating the impacts of regulatory actions.¹ BCA provides a systematic way to compare regulatory alternatives by assessing their expected benefits and costs using a common metric—typically dollars—whenever feasible. This common metric enables decisionmakers and the public to understand the net effects of different options. In practice, however, data limitations often prevent certain benefits or costs from being fully quantified or monetized. When monetization is not possible, those impacts remain important and

¹ See, OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, CIRCULAR A-4, REGULATORY ANALYSIS (2003), <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>.

should be clearly described and considered alongside monetized effects to ensure a comprehensive and transparent evaluation.²

D.1 Identifying Incremental Impacts

This analysis focuses on the incremental impacts of the proposed rule and its alternatives. The goal of incremental analysis is to identify the expected costs and benefits that arise because of the current action, separate from impacts already occurring due to existing Federal, State, or local requirements or voluntary practices. Incremental impacts may include both direct effects and indirect consequences that result from changes introduced by the regulatory action.

D.2 Analytical Time Frame

This rule affects the scope of the decennial census. The decennial census counts each resident of the country, every ten years ending in zero. The decennial census is typically conducted in the months leading up to, and after, April of that year, with a reference date of April 1. The next decennial census will be conducted in 2030 with a reference date of April 1, 2030.

Importantly, data from the decennial census is generally not available immediately after the data is collected. The Census Bureau is required to report the state population totals used for congressional apportionment to the President within nine months of Census Day. For the Census conducted in 2020 (2020 Census), the first data was released in April 2021, which was delayed due to the impact of COVID-19 on census operations and other factors. The first data released

² *See, Id.*

contained information on the population of U.S. States. Additional data from the 2020 Census continued to be released over several years.

For businesses and individuals, the effects of this rule would stem from the change in information available from the short-form decennial census questionnaire. Therefore, the analytical time frame for these effects would begin when the first data is expected to be released, December 2030, roughly four and a half years from when the proposed rule may be finalized.

Although not a focus of this analysis, for the Federal Government, the benefits and potential costs begin with preparing for the potential changes outlined above. The effects would continue during the data collection, data processing, and analysis phases, to the extent that modifications must be made. Therefore, the analytical time for these effects would begin when any final rule becomes effective.

E. BASELINE CONDITIONS

The baseline describes the state of the world absent the rule making, and it is used to describe the incremental benefits and costs of the rule over the time horizon of the analysis. The baseline considers both the regulatory environment and other context for the state of the world absent the rule making.

For regulatory context, the best available forecast for the state of the world is the current regulatory context, as well as existing procedures. In this analysis, the baseline includes the

recent Department of Commerce, Department Administrative Order 216-26, prohibiting the use of noise infusion as a method for addressing disclosure avoidance.³

Other context begins with the short-form decennial census questionnaire as an important current data source for individuals and businesses within the United States. As noted above, the decennial census collects information on residents within the United States every 10 years. Unlike a survey, which collects information on a sample of the population, the short-form decennial census questionnaire collects information for each resident. In addition to its use to determine the number of seats each state has in the U.S. House of Representatives (apportionment), Census data also informs decisions about allocating trillions of dollars in federal funding to communities across the country—for hospitals, fire departments, schools, roads, and other critical programs and services. That, in turn, informs tribal, state, and local government planning decisions.⁴ Businesses also make use of data from the decennial census to inform decisions on site location, as well as other purposes. Census seeks public comment on all aspects of this rulemaking, including the various ways in which Census data is utilized across the country, to better understand and potentially qualify impacts.

However, alternatives exist for some of the data collected in the short-form decennial census questionnaire. Most important is a supplemental statistical program from Census, the American Community Survey (ACS). The ACS contains much of the same information that is collected in the Census, with considerably more detail. The ACS was created to replace the

³ [Disclosure Avoidance for Statistical Products | U.S. Department of Commerce](#)

⁴ [2030 Census](#)

detailed socioeconomic information that had previously been asked on the long-form version of the decennial census questionnaire. Unlike the decennial census, which is conducted only once every 10 years, the ACS provides data each year.⁵ As noted on page 14 of the draft PRIA, the American Community Survey (ACS) may be an appropriate substitute for the decennial census for some of these purposes. However, the ACS may not be a suitable substitute for all federally recognized tribes or state-recognized tribes, some of which have small population sizes for which the ACS does not provide accurate estimates. The U.S. Census Bureau plan to formally notify federally recognized and state-recognized tribes and conduct a tribal consultation regarding the proposed regulations.

Finally, our baseline for the state of the world absent the proposed rule should reflect that there are increasingly alternative sources of information available about the population of the United States. These include both surveys, and non-survey or administrative data. Census has active research on leveraging the use of administrative data.⁶

The Census Bureau seeks comment on this preliminary analysis of the baseline conditions.

F. SUMMARY OF EXPECTED COSTS

For this preliminary regulatory analysis, please refer to 91 FR 57524 (September 10, 2026) for a detailed discussion of the proposed rule. As required by OMB guidance, our analysis focuses on benefits and costs that accrue to citizens and residents of the United States. For purposes of this

⁵ [American Community Survey History](#)

⁶ [Combining Data – A General Overview](#)

analysis, consistent with the language of the rule, residents of the United States excludes those present in the United States illegally, although they may be “living in” the United States as based on pre-existing Census criteria.⁷

With the currently available information, Census cannot quantify or provide a dollar value for the expected benefits or costs of the proposed rule. In the remainder of this section, Census provides a summary qualitative discussion of the expected costs of the proposed rule.

The Census Bureau seeks comment on this preliminary analysis of the costs related to the purposed rule.

F.1 Residency Criteria

F.1.a Businesses and Individuals

For businesses and individuals, Census expects that the potential costs of the purposed rule arise from the absence of certain information that had previously been available from the decennial census. As noted above, the decennial census is a count of the population conducted every 10 years. In 2020, for example, the decennial census included illegal aliens in its count of the population.

As outlined above in Section C, application of this rule would exclude illegal aliens and other groups of foreign citizens from the population count for congressional apportionment. To some extent, business and individuals may have the need to obtain population counts that include

⁷ See Final 2020 Census Residence Criteria and Residence Situations (83 FR 5525), Criterion 3, <https://www.federalregister.gov/documents/2018/02/08/2018-02370/final-2020-census-residence-criteria-and-residence-situations>.

certain of these groups. For example, investment decisions regarding the potential site for a new supermarket, for example, may hinge on the counts for these groups in the local area.

The ACS may be an appropriate substitute for the decennial census for these types of purposes. The ACS was developed to replace the long form questionnaire, which was intended to (1) simplify the short form census to increase response rates and (2) provide more timely information throughout the decade. The ACS contains information on the population which includes illegal aliens. Notably, the ACS (in conjunction with administrative data) has been used by prominent researchers to obtain estimates of the number of illegal aliens currently living in the United States.⁸

However, the ACS has several limitations compared with the decennial census. The decennial census provides very detailed data for small geographic areas. By contrast, ACS one-year estimates are available only for those areas with populations of at least 65,000. There are also differences in coverage: the decennial census includes all 50 states, Puerto Rico, the District of Columbia, and the U.S. Island Areas.⁹ The ACS includes the 50 states, the District of Columbia, and Puerto Rico, and is used to conduct the decennial census in the Island Areas.¹⁰

The accuracy of ACS total-population estimates may decline because the ACS will not have an updated full count of the U.S. population. Between censuses, the Census Bureau creates intercensal population estimates and revises them when new decennial census data become

⁸ [RE 2025.08.21 Unauthorized-Immigrants REPORT.pdf](#)

⁹ The U.S. Census Bureau conducts the Island Areas Censuses in partnership with the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands to comply with the legal requirements set forth in Title 13 of the United States Code.

¹⁰ [2020 Island Areas Censuses Data on Demographic, Social, Economic and Housing Characteristics Now Available for American Samoa](#)

available. The ACS relies on those intercensal estimates to generate its sampling weights. Without new decennial census data to recalibrate those estimates, the ACS sampling weights, and therefore its population estimates, will become less reliable.¹¹

F.2 Demographic Questions

F.2.a Businesses and Individuals

For businesses and individuals, Census expects that the potential costs of the proposed rule arise from the absence of certain information that had previously been available from the decennial census. As noted above, the decennial census is a count of the population conducted every 10 years. In 2020, for example, the decennial census included demographic information including race and ethnicity.

The ACS may be an appropriate substitute for the decennial census for some of these purposes. The ACS contains information on demographic characteristics including race and ethnicity, although it does not ask about sexual orientation. However, the power of the ACS is the ability to provide characteristics for race and ethnicity groups; whereas population totals for race and ethnicity groups from the decennial census and population estimates are more reliable.

The ACS has several limitations compared with the decennial census. The decennial census provides very detailed data for small geographic areas. By contrast, ACS one-year estimates are available only for those areas with populations of at least 65,000. There are also

differences in coverage: the decennial census includes all 50 states, Puerto Rico¹², the District of Columbia, and the U.S. Island Areas.¹³ The ACS includes the 50 states, the District of Columbia, and Puerto Rico, but does not cover the Island Areas.¹⁴

F.2.b State, Local and Tribal Authorities

For State, Local and Tribal Authorities, Census expects that the potential costs of the proposed rule arise from the absence of certain information that had previously been available from the decennial census. Specifically, as outlined above, application of this rule would have the effect of excluding race, ethnicity, and sexual orientation data reported in the decennial census. To some extent, State, Local and Tribal authorities may have needs to obtain demographic data. The U.S. Census Bureau plans to formally notify federally recognized and state-recognized tribes and conduct a tribal consultation regarding the proposed regulations. For example, public health authorities may require race and ethnicity estimates for public health monitoring¹⁵ and federal agencies like HUD use data on counts for American Indian and Alaska Native tribes and villages to make determinations of the Indian Housing Block Grant.

As above, the ACS may be an appropriate substitute for the decennial census for some of these purposes. However, the ACS may not be a suitable substitute for all federally recognized

¹¹ For an example of how the intercensal weights are used, see [Population Controls for the 2020 ACS](#).

¹² Although Puerto Rico is considered an Island Area under 13 U.S.C. § 191, the Census Bureau conducts the decennial census in Puerto Rico operationally the same as the stateside decennial census

¹³ The U.S. Census Bureau conducts the Island Areas Censuses in partnership with the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands to comply with the legal requirements set forth in Title 13 of the United States Code.

¹⁴ [2020 Island Areas Censuses Data on Demographic, Social, Economic and Housing Characteristics Now Available for American Samoa](#)

¹⁵ See, for example [Non-Medical Factors | PLACES | CDC](#) for the inclusion of race and ethnicity information.

tribes, some of which have small population sizes for which the ACS does not provide accurate estimates.¹⁶

The ACS, and other surveys that use intercensal estimates as population controls, would have the same limitations relative to the decennial census noted above. In addition, the quality of the estimates for the ACS and other federal surveys may deteriorate after the release of the 2030 decennial census data. Numerous key dependencies have been structured around the reliable annual release of intercensal estimates for race and ethnicity, such as population controls for major federal surveys; denominators for crucial social and economic indicators (e.g., fertility/mortality rates, cancer rates, poverty rates, unemployment rates, labor force participation, etc.); required information for state and federal grants and other funding formulas; foundational data to support planning at the local level (infrastructure, real estate, and other investments); and essential inputs for countless research projects across academia, government, and the private sector. To produce and release these data, the decennial census counts of the population by race and ethnicity are relied upon, as there are no other comparably accurate, comprehensive, and reliable sources of this information. Omitting race and ethnicity from the 2030 Census questionnaire would require the development of estimates from a base population derived from outdated and/or less accurate data and would deteriorate the accuracy of the estimation method itself.

¹⁶ To address these concerns following the introduction of the ACS, a 5-year product ([ACS American Indian and Alaska Native Tables](#)) was developed to provide characteristics for tribes. However, not all tribes meet the population threshold to be included in this product or have accurate estimates due to sample size.

G. SUMMARY OF EXPECTED BENEFITS

For this preliminary regulatory analysis, please refer to 91 FR 57524 (September 10, 2026) for a detailed discussion of the proposed rule. As required by OMB guidance, our analysis focuses on benefits and costs that accrue to citizens and residents of the United States. For purposes of this analysis, consistent with the language of the rule, residents of the United States does not include those present in the United States illegally, although they may be “living in” the United States as based on pre-existing Census criteria.

With the currently available information, Census cannot quantify or provide a dollar value for the expected benefits of the proposed rule. In the remainder of this section, Census provides a summary discussion of the expected benefits of the proposed rule and its regulatory alternatives. The core expected benefits of the purposed rule are related to properly counting the United States population for apportionment purposes and reducing the risk of disclosure and/or the need to introduce uncertainty via disclosure avoidance methods. Additionally, this proposed rule will reduce respondent burden while still meeting the mandates associated with the collection of data to complete the 2030 Census.

The Census Bureau seeks comment on this preliminary analysis of the benefits related to the purposed rule.

H. REGULATORY ALTERNATIVES

H.1 No-action alternative to the purposed rule

The Census Bureau is considering a no-action alternative that provides no expected benefits beyond the baseline. The no-action alternative includes a count of illegal aliens (among others)

for purposes of apportionment and data disclosure risks related to collection of demographic data. The Census Bureau seeks comment on this no-action alternative.

I. DISTRIBUTIONAL EFFECTS

As noted above, the effects of this proposed regulation may fall disproportionately on areas which lack alternative data – such as the ACS – to meet the required purpose. One such area are the Island Areas, where the ACS is not administered on an ongoing basis.

J. ASSUMPTIONS AND LIMITATIONS

While this analysis provides a qualitative description of benefits and costs, it does not attempt to quantify benefits and costs. This analysis cannot provide a monetary value of the proposed regulation.