DE: 4510-04

DEPARTMENT OF LABOR

Office of the Secretary of Labor

29 CFR Part 31

RIN 1291-AA49

Rescinding Portions of Department of Labor Title VI Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor ("Department") amends its regulations implementing Title VI of the Civil Rights Act of 1964 ("Title VI") to eliminate disparate-impact liability. These amendments align the Department's regulations with Title VI's original public meaning, avoid constitutional concerns, reduce compliance costs, and serve the public interest.

DATES: Effective [INSERT DATE OF DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Naomi Barry-Perez, Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210. Telephone: (202) 693–6500 (voice) (this is not a toll-free number). If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Department is rescinding portions of its regulations promulgated pursuant to Title VI, 42 U.S.C. 2000d-1, to more closely align those regulations with Title VI's original public meaning, avoid constitutional concerns, reduce compliance costs, and better serve the public interest. In addition, these revisions conform to Executive Order 14281, Restoring Equality of Opportunity and Meritocracy, 90 FR 17537 (Apr. 23, 2025), and Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 FR 8633 (Jan. 31, 2025), but

the Department adopts this rulemaking independent of Executive Order 14281 and Executive Order 14173. First, this rule rescinds the full text of 29 CFR 31.3(b)(2), which currently prohibits the utilization of "criteria or methods of administration which have the effect of subjecting individuals to discrimination because of race, color or national origin . . . ." Second, this rule removes the two uses of the phrase "or effect" from 29 CFR 31.3(b)(3). Third, this rule rescinds the full text of 29 CFR 31.3(b)(6), which requires affirmative action in certain circumstances. Fourth, this rule rescinds the full text of 29 CFR 31.3(c)(2), which addresses employment practices subject to Federal financial assistance. Fifth, this rule makes technical edits to delete references to the now-revoked Executive Order 11246, Equal Opportunity Employment, 30 FR 12319 (Sep. 28, 1965), at 29 CFR 31.12(a)(1) and 31.3(c)(3). Finally, this rule deletes 29 CFR 31.3(d) in its entirety because that section contains references to program names that are now obsolete and employment practices only covered by § 31.3(c)(2), thus rendering it confusing and unhelpful to recipients of Federal financial assistance.

This rule makes clear that the Department's Title VI regulations do not prohibit conduct or activities solely on the basis that they have an unintentional disparate impact.

II. Discussion

A. Statutory and Regulatory History

Title VI of the Civil Rights Act of 1964, as amended, provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. 2000d. Title VI also directs Federal departments and agencies that extend Federal financial assistance to "effectuate the provisions of" Title VI "by issuing rules, regulations, or orders of general applicability." 42 U.S.C. 2000d-1. The section of Title VI that sets forth the prohibited conduct, 42 U.S.C. 2000d, prohibits only intentional discrimination and makes no reference to disparate impact.

Shortly after Title VI was enacted, on December 4, 1964, the then-Department of Health, Education, and Welfare issued the initial set of model regulations for Title VI. These model regulations included a provision that recipients of Federal funds may not use "criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, or national origin." *See* 29 FR 16298, 16299 (Dec. 4, 1964).

Concurrently with the model regulations, the Department promulgated its Title VI regulations. *See* 29 FR 16284 (Dec. 4, 1964). Like the model regulations, the Department's Title VI regulations prohibited recipients of Federal financial assistance from administering programs in a manner that has the effect of subjecting individuals to discrimination based on race, color, or national origin. *See id*.

The Department of Justice ("DOJ") adopted these model regulations in 1966. 31 FR 10265, 10266 (July 29, 1966). On December 10, 2025, DOJ amended its Title VI regulations to eliminate disparate-impact liability. DOJ's rule noted that "[b]ecause of the Department's unique role in the interpretation and enforcement of Title VI . . . [DOJ] expects that this rule will cause other Federal departments and agencies to consider similarly revising their Title VI regulations." *See* Rescinding Portions of Department of Justice Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281, 90 Fed. Reg. 57141 (Dec. 10, 2025).

The Department's implementing regulations describing the scope of prohibited discriminatory conduct, 29 CFR 31.3, currently include prohibitions on conduct that has an unintentional disparate impact.

B. Relevant Supreme Court Decisions

In 1978, the Supreme Court held that Congress intended Title VI to prohibit "only those racial classifications that would violate the Equal Protection Clause" if committed by a government actor. *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 287 (1978) (Powell, J., announcing judgment); *id*. at 325, 328, 352 (Brennan, J., joined by White, Marshall, and

Blackmun, JJ., concurring in part). Just prior to *Bakke*, the Supreme Court held that the Equal Protection Clause prohibits only intentional discrimination, and that discriminatory effect or disparate impact alone does not constitute a violation of the Equal Protection Clause. *Washington v. Davis*, 426 U.S. 229, 242 (1976) (finding Equal Protection Clause requires a showing of discriminatory intent); *see also Vill. of Arlington Heights v. Metro. Hous. Dev. Corp*., 429 U.S. 252, 265 (1977) ("Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause."); *Personnel Admin. of Mass. v. Feeney*, 442 U.S. 256, 272 (1979) ("[E]ven if a neutral law has a disproportionately adverse effect upon a racial minority, it is unconstitutional under the Equal Protection Clause only if that impact can be traced to a discriminatory purpose."). Taken together, these Supreme Court cases confirm that Title VI's statutory prohibition extends only to intentional discrimination.

In 2001, the Supreme Court reaffirmed that understanding in *Alexander v. Sandoval*, 532 U.S. 275, 280-81 (2001). In *Sandoval*, the Supreme Court held that private plaintiffs could not bring a Title VI action to enforce DOJ's implementing regulation prohibiting unintentional disparate impact because the statutory provisions of Title VI prohibited only intentional discrimination. Although the Supreme Court in *Sandoval* assumed, without deciding, that DOJ's disparate-impact regulation was valid, the Court wrote that the regulation was in "considerable tension" with the Supreme Court's Title VI precedents. *Sandoval*, 532 U.S. at 281-82, 284-85.

The Supreme Court's *Sandoval* decision has led to a divergence between Title VI enforcement by private plaintiffs and Federal departments and agencies. Private plaintiffs can enforce only Title VI's statutory prohibition on intentional discrimination. Federal departments and agencies, however, can enforce both the statutory prohibition on intentional discrimination and the much broader disparate-impact regulations. The *Sandoval* decision has also sparked uncertainty as to the future of disparate-impact regulations promulgated by nearly every Federal department and agency.

The divergence between private litigation and agency enforcement is especially unsustainable after the Supreme Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc*., 467 U.S. 837 (1984). *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 409–12 (2024). In reaching that result, the Supreme Court made clear that "statutes . . . have a single, best meaning" that is "'fixed at the time of enactment.'" *Id*. at 400 (quoting *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 284 (2018)). "That is the whole point of having written statutes," the Supreme Court explained. *Id.* Thus, Title VI's bar on discrimination can have only one meaning. And under Supreme Court precedent, the single, best meaning of Title VI is that it "prohibits only intentional discrimination" and "permits" facially neutral policies that result in disparate outcomes so long as there is no discriminatory intent. *Sandoval*, 532 U.S. at 280, 286 n.6.

C. Executive Order 14281

On April 23, 2025, the President issued Executive Order 14281. This Order restated the "bedrock principle of the United States . . . that all citizens are treated equally under the law." 90 FR at 17537. The Order explained that this "principle guarantees equality of opportunity, not equal outcomes," and "promises that people are treated as individuals, not components of a particular race or group." *Id.* The Order also explained that disparate-impact liability "endangers this foundational principle" because it "all but requires individuals and businesses to consider race and engage in racial balancing to avoid potentially crippling legal liability." *Id.* As the Order explained, disparate-impact liability "not only undermines our national values, but also runs contrary to equal protection under the law and, therefore, violates our Constitution." *Id*. The Order relayed that "[i]t is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals." *Id.* Section 5 of the Order directed the Attorney General to "initiate appropriate action to repeal or amend the implementing regulations

for Title VI of the Civil Rights Act of 1964 for all agencies to the extent they contemplate disparate-impact liability." *Id.*

The Attorney General promulgated a final rule revising DOJ's Title VI regulations to remove disparate-impact liability on December 10, 2025. 90 FR 57151. The rule explained that DOJ would take this action independent of Executive Order 14281. *Id.* at 57143. In support of the rule, DOJ cited the "bedrock principles" of equality of opportunity, individual merit, and a colorblind society. The rule concluded that disparate-impact liability endangers these principles, raises constitutional concerns, conflicts with Title VI's original meaning, creates confusion, increases costs, and is not in the public interest. *Id.* at 57143-44. The rule explained that each of these reasons independently supports its elimination. *Id.* at 57143-45. DOJ considered alternatives, including a modified version of disparate-impact liability, but concluded that any version of disparate-impact liability would be inconsistent with Title VI's original public meaning. *Id.* at 57144-45. And DOJ concluded that the regulatory "extension of prohibited conduct to include conduct with an unintentional disparate impact reaches a vastly broader scope than the statute itself," that "[t]his scope is too broad to be considered a simple prophylactic measure aimed at preventing intentional discrimination," and that Title VI regulations adopting disparate-impact liability "do not 'effectuate' Title VI." 90 FR at 57143 (quoting 42 U.S.C. 2000d-1).

The Department agrees with the Attorney General's reasons,[1] and for its own independent reasons discussed below, revises its own Title VI regulations.

D. Need for Rulemaking

The Department's regulation at 29 CFR 31.3, titled "General Standards," contains several provisions that go beyond the statutory text and constitutional requirements by prohibiting facially neutral policies that have a disparate impact and in some instances encourage or even

[1] Executive Order 12250 delegates to the Attorney General authority to coordinate and ensure consistent enforcement of Federal civil rights laws across agencies administering Federally assisted programs. *See* 45 FR 72995.

require unlawful discrimination labeled as "affirmative action." Section 31.3(b)(2) is the current regulation's general disparate-impact prohibition, which states that "a recipient . . . may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin . . . ." 29 CFR 31.3(b)(2).

Beyond that general prohibition, § 31.3(b)(3) addresses a Federal funding recipient's selection of the site or location of facilities and includes two references to "effect" that extend the scope of prohibited conduct to include conduct with an unintentional disparate impact. Section 31.3(b)(6) concerns the use of "affirmative action" and provides that funding recipients may (and sometimes must) use race, color, or national origin to overcome unintentional disparate "effects." But this provision does not expressly specify that the funding recipient must narrowly tailor such use nor that this use must serve a compelling governmental interest, as is required to satisfy strict scrutiny. Section 31.3(c) addresses prohibited discriminatory employment practices and extends beyond intentional discrimination to prohibiting conduct that "tends" to have a discriminatory effect. Finally, § 31.3(d) provides illustrative examples with respect to the applicable scope of the regulations that refer to program names no longer in use. It also muddles the distinction between prohibited discrimination in employment practices where a primary objective of the Federal financial assistance is to provide employment and those practices that "tend" to have a discriminatory impact on participation in covered programs. In the interest of clarity for the regulated community, this rule deletes § 31.3(d) in its entirety.

There are serious statutory and constitutional concerns with the legality of the Department's Title VI disparate-impact regulations. The Department also has serious policy concerns with its current disparate-impact regulations because they create confusion, undermine public confidence in the nation's civil rights laws and the rule of law, and produce burdensome litigation and compliance costs.

1. Serious Legal Concerns

There are serious statutory concerns as to whether Title VI authorizes the disparate-impact provisions of the current regulations. As the Supreme Court has made clear, Title VI prohibits "only intentional discrimination" and "permits" facially neutral policies that result in disparate outcomes when there is no discriminatory intent. *Sandoval*, 532 U.S. at 280, 286 n.6. That is the "single, best meaning" of Title VI. *Loper Bright*, 603 U.S. at 400. *Sandoval* calls into serious doubt the legality of the Department's "disparate-impact regulations." *Sandoval*, 532 U.S. at 281-82, 284-85 (noting that DOJ's regulations were in "considerable tension" with the Supreme Court's Title VI precedents). Although *Sandoval* resolved only the question of private enforceability, subsequent cases such as *Loper Bright* have made clear that the Department cannot extend Title VI beyond its original public meaning. *See* 603 U.S. at 412–13 (holding that "courts must . . . ensur[e] that [an] agency acts within" its statutory authority). And even in the absence of Supreme Court precedent, the Department would have concluded that the best reading of Title VI is that it prohibits only intentional discrimination.

Title VI authorizes agencies to promulgate regulations "to effectuate" the statute's prohibition of intentional discrimination. 42 U.S.C. 2000d-1. The current regulations' extension of prohibited conduct to include conduct with an unintentional disparate impact reaches a vastly broader scope than the statute itself. This scope is too broad to be considered a simple prophylactic measure aimed at preventing intentional discrimination. *See Sandoval*, 532 U.S. at 286 n.6 ("[Title VI] permits the very behavior that the regulations forbid."). Thus, the disparate-impact regulations do not "effectuate" Title VI. 42 U.S.C. 2000d-1.

There are also serious concerns about whether the Department's Title VI regulations pass constitutional muster under the Equal Protection Clause. As the Supreme Court recently held in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023) (*SFFA*), "the Equal Protection Clause . . . applies without regard to any differences of race, of color, or of nationality—it is universal in its application" and the "guarantee of equal protection

cannot mean one thing when applied to one individual and something else when applied to a person of another color." *Id.* at 206 (internal quotation marks omitted) (first quoting *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886); and then quoting *Bakke*, 438 U.S. at 289–90 (Powell, J.)). Despite the promises of the Equal Protection Clause, a funding recipient's risk of disparate-impact liability under the Department's regulations is triggered by unintentional disparate outcomes, which the recipient may not even know about without investigation. To evaluate and avoid this risk, the funding recipient must incur investigatory costs, such as conducting an impact analysis, and is coerced to proactively consider race, color, and national origin, and potentially use it to change the unintended disparate outcomes.

In short, disparate-impact liability encourages and, in some cases, requires covered entities to engage in the intentional use of race and racial balancing to eliminate those disparate outcomes by treating certain racial groups differently from others—the exact conduct the Equal Protection Clause forbids. *See id*. The serious constitutional concerns raised by these perverse incentives further confirm that the best reading of Title VI is that it prohibits only intentional discrimination and does not authorize the Department to impose disparate-impact liability. *See Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988) ("[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress." (citing *NLRB v. Catholic Bishop of Chi.*, 440 U.S. 490, 499–501, 504 (1979))).

Further, Federal programs that are found to create racial or ethnic classifications are subject to the most searching review. In *Adarand Constructors, Inc. v. Peña*, for instance, the Supreme Court held that Federal affirmative action programs that use racial and ethnic criteria as a basis for decision-making are subject to strict scrutiny. 515 U.S. 200, 220 (1995). Such programs satisfy strict scrutiny only if they serve a "compelling interest" and are "narrowly tailored" to the achievement of that interest—a "daunting" standard to achieve. *Id.* at 235–37;

SFFA, 600 U.S. at 206; *see also Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 484 (2025) ("Strict scrutiny—which requires a restriction to be the least restrictive means of achieving a compelling governmental interest—is 'the most demanding test known to constitutional law.'" (quoting *City of Boerne v. Flores*, 521 U.S. 507, 534 (1997))). The use of race, color, or national origin necessitated by the disparate-impact provisions runs into serious issues with the requirement of narrow tailoring to achieve a compelling interest. *SFFA*, 600 U.S. at 206–07.

Similarly, the "affirmative action" provision authorizes and sometimes requires the intentional use of race without requiring that this intentional use be narrowly tailored to serve a recognized compelling interest. Instead, it encourages intentional racial balancing "to overcome the effects of" unintended racial disparities. 29 CFR 31.3(b)(6). Thus, for substantially the same reasons as above, the "affirmative action" provision raises serious constitutional concerns.

As summarized above, there are serious statutory and constitutional concerns with the Department's disparate-impact regulations. But even if the regulations were consistent with the statute, the Department finds that eliminating the potential constitutional concerns addressed above would independently justify the amendment of the regulations. *Cf. U.S. Tel. Ass'n v. FCC*, 188 F.3d 521, 528 (D.C. Cir. 1999) (concluding it was not "arbitrary and capricious" to adopt a certain policy in order to "avoid[] raising a non-trivial constitutional question"). And even if the regulations did not raise serious constitutional concerns, the Department finds that eliminating the costs and confusion caused by the mismatch between the statute and the disparate-impact regulations would independently justify the amendment of the regulations.

2. Serious Policy Concerns

The Department also has serious policy concerns with the imposition of disparate-impact liability. While the Department expresses its policy concerns with disparate-impact liability independent of Executive Order 14281, that Order sets forth many valid policy concerns with disparate-impact liability. Moreover, the legal concerns identified above have caused uncertainty and confusion for Federal funding recipients as to whether and when they need to comply with

the disparate-impact regulations and when they can or must consider race, color, and national origin. As explained above, *Sandoval* casts substantial doubt on the validity of the disparate-impact regulations that many Federal departments and agencies have promulgated pursuant to Title VI. 532 U.S. at 280–82.

Additionally in practice, and as explained above, disparate-impact liability leads covered entities to engage in racial balancing even as Title VI forbids intentional racial discrimination. This tension tends to create confusion and undermine public confidence in the nation's civil rights laws and in the rule of law itself, as the law seems to both forbid and require the same conduct.

These problems are amplified by the arbitrary nature of the racial and ethnic categories typically used to measure disparate effects, which, by virtue of their arbitrariness, typically lack a meaningful connection to a compelling interest. *See, e.g.*, *SFFA*, 600 U.S. at 216–17 (explaining that the "[racial] categories" utilized by Harvard and University of North Carolina were "themselves imprecise in many ways" and "the use of these opaque racial categories undermine[d], instead of promote[d], [their] goals"). This confusion undermines the law's ability to teach principles of nondiscrimination. The Department believes that these policy concerns independently justify repealing certain parts of its regulation to cure this confusion, remove the incentive for covered entities to engage in racial balancing, and maintain clarity and public confidence in the nation's civil rights laws.

The Department has considered the view that looking at disparate effects can sometimes be useful in uncovering or deterring subtle intentional discrimination or intentional indifference to unnecessary and arbitrary barriers. But that view's alleged benefits are outweighed by the other issues and factors the Department has considered. And in any event, the concern is mitigated by the fact that eliminating disparate-impact liability does not preclude the use of data on disparate outcomes to help prove intentional discrimination. Indeed, under the Department's Title VI regulations, which the current changes do not alter, "recipients should have available for

the department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs." 29 CFR 31.5(b). Both the Department and private litigants rely on such data as a potential indicator of intentional discrimination. This use of statistical disparity to help establish, as an evidentiary matter, liability for *intentional* discrimination materially differs from using it to impose liability for an unintentional disparate impact.

The Department also considered alternatives to eliminating the affected provisions altogether. For instance, as an alternative to deleting the text of 29 CFR 31.3(b)(6)(i), the Department considered incorporating the constitutional requirements discussed above directly into this provision. More specifically, the Department considered specifying that any affirmative action taken to overcome the effects of prior identified discrimination by the Federal government on the ground of race, color, or national origin be narrowly tailored to the achievement of that interest. *See Adarand Constructors*, 515 U.S. 200. But even if that alleviated the Department's constitutional concerns with the affirmative-action requirement, any version of imposing liability for failing to take action to remedy the effects of past discrimination is inconsistent with Title VI's original public meaning. The Department determines that any benefits from requiring affirmative action are outweighed by the Department's legal and policy concerns. And even if possible, developing such a rule would not solve the confusion or rule-of-law concerns expressed above, nor reduce the compliance and litigation costs that covered entities face. The Department believes that the better course is to avoid the complexities, costs, and litigation associated with this alternative, even if eliminating disparate-impact liability would ultimately leave some problems unaddressed and others inadequately addressed.

Overall, after considering the relevant issues and factors and weighing the relevant considerations, the Department finds that, regardless of the legality of the Department's disparate-impact regulations, the above summarized policy concerns, when viewed separately or cumulatively, independently justify the repeal of its disparate-impact regulations.

E. Executive Order 14173

On January 21, 2025, the President issued Executive Order 14173. Among other things, the Executive Order revoked Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity).

The Department's Title VI regulations currently include two references to Executive Order 11246. *See* 29 CFR 31.12(a)(1); 29 CFR 31.3(c)(3). Because these references were rendered obsolete by the revocation of Executive Order 11246, the Department now makes technical edits to delete them.

F. Regulatory Modification

The Department's current regulations expand the scope of prohibited conduct beyond what Title VI itself prohibits—namely, intentional discrimination. This rule's regulatory changes address concerns regarding the statutory authority supporting the scope of these regulations that the Supreme Court questioned in *Sandoval*, harmonize the implementing regulations with Title VI, implement changes directed by Executive Order 14281, promote consistent enforcement among private plaintiffs and Federal departments and agencies, and provide much needed clarity to the courts and Federal funding recipients and beneficiaries. For the reasons summarized above, the Department amends the following provisions in its Title VI implementing regulation that explain the particular types of discrimination prohibited. These provisions are located at 29 CFR 31.3. Additionally, as described above, the Department amends 29 CFR 31.12(a)(1) and deletes 29 CFR 31.3(c)(3) to remove now-outdated references to Executive Order 11246.

III. Changes

A. Table Summarizing Amendments

The table below indicates the exact wording changes. For each section indicated in the left column, the text shown in the middle column is removed and the text shown in the right column is added:

Section	Remove	Add

31.12(a)(1)	"10925, 11114 and 11246"	"10925 and 11114"
31.3(b)(2)	Full text of paragraph: "(2) A recipient . . . or national origin."	"[Removed]".
31.3(b)(3)	"or effect" from both places	
31.3(b)(6)	Full text of paragraph (6), subparts (i) and (ii)	
31.3(c)(1)	"(1)" from "(c) Employment practices. (1) Where a primary objective of the . . . ."	
31.3(c)(2)	Full text of paragraph: "(2) Where a primary objective of the . . . ."	
31.3(c)(3)	Full text of paragraph: "(3) The requirements applicable to construction employment . . . which supersedes it."	
31.3(d)	Full text of paragraph: "(d) In order that all parties . . ."	

B. Section-by-Section Analysis

1. Section 31.3(b)(2)

Section 31.3(b)(2) is the general prohibition of unintentional disparate impact. This paragraph expands prohibited conduct from purposeful discrimination to Federal funding recipients "utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination." Because this paragraph's only purpose is to prohibit conduct having an unintentional disparate impact, this rule deletes this paragraph and thus amends the regulations to conform more closely to Title VI. The rule replaces paragraph (b)(2) with a placeholder to maintain the numbering accuracy of previous citations and other references to other parts of this section.

2. Section 31.3(b)(3)

Section 31.3(b)(3) deals with a Federal funding recipient's or applicant's selection of sites or locations of facilities. The paragraph provides that a funding recipient may not make selections with the "purpose or effect" of discriminating, or "with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of" Title VI or the Department's implementing regulations. The paragraph's two "or effect" references extend its scope to conduct having an unintentional disparate impact, and this rule deletes both "or effect" references to conform paragraph (b)(3) more closely to Title VI.

3. Section 31.3(b)(6)

Section 31.3(b)(6) deals with "affirmative action." Paragraph (b)(6)(i) requires that a recipient "must take affirmative action to overcome the effects of prior discrimination" if, in "administering a program," the funding "recipient has previously discriminated against persons on the ground of race, color, or national origin." This provision goes beyond the Equal Protection Clause, which in limited circumstances permits, but does not mandate, the government to take narrowly tailored action to remedy the effects of its identified past discrimination. *See, e.g., Bakke,* 438 U.S. at 307 (Powell, J.). This provision also does not expressly require narrow tailoring to counter particular past discrimination.

Paragraph (b)(6)(ii) similarly requires affirmative action in programs even in the absence of prior discrimination and consequently could encourage intentional racial classifications, racial preferences, and other race-based actions without the supporting compelling interest and narrow tailoring that the Equal Protection Clause requires. As explained above, Congress intended Title VI to mirror the Equal Protection Clause.

The rule deletes paragraphs (b)(6)(i) and (b)(6)(ii) to remove their authorization of conduct not permitted by the Equal Protection Clause.

4. Section 31.3(c)

Section 31.3(c) addresses prohibited discriminatory employment practices. Paragraph (c)(1) prohibits intentionally discriminatory employment practices when a primary objective of the Federal financial assistance is to provide employment. Paragraph (c)(2) extends the prohibition to employment practices of the recipient even where "a primary objective of the Federal financial assistance is not to provide employment" if discrimination in the non-funded "employment practices of the recipient or other persons subject to the regulation tends, on the ground of race, color or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies . . . ." This paragraph's prohibition is not limited to intentional discrimination,

but rather extends to prohibiting conduct that "tends" to have a discriminatory effect on a program without the primary objective of providing employment.

Moreover, paragraph (c)(2)'s extension to employment practices where the Federal funding's primary objective is not to provide employment conflicts with the statutory limitation found in 42 U.S.C. 2000d-3. That section states that "[n]othing contained in [Title VI] shall be construed to authorize action under [Title VI] by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment." 42 U.S.C. 2000d-3; *see also Johnson* v. *Transp. Agency, Santa Clara Cnty.,* 480 U.S. 616, 627-28 n.6 (1987) (citing the statutory limitation and noting Congress's intent that Title VI not "impinge" on Title VII, which prohibits discriminatory employment practices). The rule deletes paragraph (c)(2) to amend the regulation so that it more closely adheres to the scope of conduct Congress intended Title VI to prohibit.

Finally, paragraph (c)(3) relates exclusively to Executive Order 11246 and any Executive Order superseding it. Executive Order 11246 was revoked by Executive Order 14173 on January 21, 2025, 90 FR 8633, and no Executive Order was issued to supersede it. The rule deletes paragraph (c)(3) to eliminate the outdated reference to Executive Order 11246. This rule makes no change to the current text of paragraphs (c)(1) except for a technical edit to reflect the removal of paragraphs (c)(2) and (c)(3).

5. Section 31.3(d)

Section 31.3(d) provides illustrative examples of the scope of the Department's Title VI regulations but does not itself confer any legal rights or obligations on recipients of Federal financial assistance. Several of the program names referenced in § 31.3(d) are no longer in use, either because those programs have been partially or totally subsumed by other statutes or because they have been eliminated altogether. For instance, the Manpower Development and Training Act was superseded by the Comprehensive Employment and Training Act (CETA) in

1973, and Federal workforce training is currently governed by the Workforce Innovation and Opportunity Act (WIOA) of 2014. Similarly, the Area Redevelopment Act does not exist in its original form and was terminated as of August 31, 1965. Though certain programs referenced in § 31.3(d) are currently in effect, the Department has concluded that including only some illustrative examples and not others could cause confusion among recipients of Federal financial assistance with respect to the scope of their obligations under the regulations.

Furthermore, as noted above, the Department amends § 31.3(c)(2)'s extension to employment practices where the Federal funding's primary objective is not to provide employment because it conflicts with the statutory limitation found in 42 U.S.C. 2000d-3. The examples in § 31.3(d)(2) and (d)(3) could implicate practices only covered under § 31.3(c)(2) and thus undermine the Department's conclusion that the scope of these regulations no longer applies to employment practices where the Federal financial assistance does not have employment as its primary purpose.

Because the original purpose of § 31.3(d) was to ensure that "all parties . . . have a clear understanding of the applicability of the regulations," and retaining only some of its text could have the opposite effect, this rule deletes § 31.3(d) in its entirety.

6. Section 31.12(a)(1)

Section 31.12(a) explains that nothing in the Part 31 regulations "shall be deemed to supersede any of the following," and paragraph (a)(1) lists "Executive Orders 10925, 11114 and 11246 and regulations issued thereunder." Executive Order 11246 was revoked by Executive Order 14173 on January 21, 2025, 90 FR 8633. This rule deletes the outdated reference to Executive Order 11246.

C. Consideration of Reliance Interests

The Department has also considered potential legitimate reliance interests on the disparate-impact regulations. For instance, recipients may have invested in training and other measures to comply with the Department's prohibition on disparate-impact discrimination—

including in connection with impact analyses, employee skill-building and education, and know-your-rights materials distributed to beneficiaries—on the expectation that this regulatory regime would remain intact. However, any such interests are minimal. *Sandoval* cast serious doubt on the regulations' viability more than two decades ago. Furthermore, Executive Order 14281 directed all agencies to "deprioritize enforcement of all statutes and regulations to the extent they include disparate-impact liability," including the Department's Title VI regulations. 90 FR 17538. Finally, disparate-impact regulations are not authorized by the best reading of Title VI, as the Supreme Court has affirmed that Title VI prohibits only intentional discrimination. No reliance interest can justify the maintenance of unauthorized regulations. With respect to the technical amendments deleting references to Executive Order 11246, there can be no legitimate reliance on authorities that are no longer in force. Accordingly, the Department's legal and policy concerns—whether considered separately or cumulatively—outweigh any minimal reliance interests.

IV. Severability

The Department's position is that each of the amendments serves a vital, related, but distinct purpose. The Department also confirms that each of the amendments is intended to operate independently of each other and that the potential invalidity of one amendment should not affect the other amendments. The Department would adopt any of the amendments independently of the invalidity of a separate amendment.

V. Regulatory Certifications

A. Administrative Procedure Act

The Department issues this final rule without prior public notice and comment or a delayed effective date pursuant to the Administrative Procedure Act's exception for rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. 553(a)(2).

Title VI concerns non-discrimination conditions on the receipt of Federal financial assistance, and more particularly to the receipt of Federal "[g]rants and loans," "property," "personnel" and "[a]ny Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance." 29 CFR 31.2(e); *see also* 29 CFR 31.6 (requiring funding recipient sign contractual assurance of compliance with Title VI); *Cummings v. Premier Rehab Keller, P.L.L.C.,* 596 U.S. 212, 217-18 (2022) (observing that Congress enacted Title VI "[p]ursuant to its authority to `fix the terms on which it shall disburse federal money' " (internal citation omitted)). *Cf. Education Programs or Activities Receiving or Benefitting from Federal Financial Assistance,* 82 FR 46655, 46655 (Oct. 6, 2017) (invoking the section 553(a)(2) exception to amend Title IX regulations to "promote consistency in the enforcement of Title IX for [the Department of Agriculture] financial assistance recipients"); *Preserving Community and Neighborhood Choice,* 85 FR 47899 (Aug. 7, 2020) (invoking the exception to repeal Housing and Urban Development rule regarding Federal grantees); *Participation by Minority Business Enterprise in Department of Transportation Programs,* 53 FR 18285 (May 23, 1988) (invoking the exception to expand coverage of Department of Transportation regulation regarding Federal Aviation Administration's airport financial assistance program); *Nondiscrimination on the Basis of Handicap in Federally Assisted Programs—Suspension of Guidelines with Respect to Mass Transportation,* 46 FR 40687 (Aug. 11, 1981) (invoking the exception to suspend Department of Justice guidelines regarding prohibiting disability discrimination in transportation programs and activities receiving Federal financial assistance).

Indeed, invoking 5 U.S.C. 553(a)(2) is consistent with the Office for Management and Budget's (OMB) definition for "Federal financial assistance" under 2 CFR 200.1, which defines "Federal financial assistance" according to the same categories as the Administrative Procedure Act's exception for rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts," 5 U.S.C. 553(a)(2). All the forms of Federal financial assistance set forth under 2 CFR 200.1 that are subject to this regulation [29 CFR part 31] would

fall under the "public property, loans, grants, benefits, or contracts" exception. Thus, the Department issues this final rule without prior public notice and comment or a delayed effective date under 5 U.S.C. 553(a)(2).

B. Executive Orders 12866 and 13563 (Regulatory Review)

Among other requirements, Executive Order 12866 requires agencies to submit "significant regulatory actions" to the Office of Management and Budget's ("OMB") Office of Information and Regulatory Affairs ("OIRA") for review. *See* 58 FR 51735 (Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a "significant regulatory action" as a regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OIRA has determined that this rule is a "significant regulatory action" under section 3(f) of E.O. 12866. Accordingly, this rule was submitted to OIRA for review.

Executive Order 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. *See* 76 FR 3821 (Jan. 21, 2011). E.O. 13563 recognizes that some costs and benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. *Id.*

As explained in the preamble, the regulatory modifications this rule makes are necessary to address concerns regarding the authority supporting the scope of the Department's Title VI regulation that the Supreme Court raised in *Sandoval*, harmonize the implementing regulation with Title VI, promote consistency in enforcement among private plaintiffs and Federal departments and agencies, as well as provide much needed clarity to the courts and Federal funding recipients and beneficiaries. In essence, this rule conforms the Department's regulation to existing statutory law, as interpreted by the Supreme Court. It also deletes certain outdated references to program names no longer in use and to now-revoked Executive Order 11246.

Data limitations make the costs and benefits of the rule difficult to quantify. Although it does not represent the monetary impact of the rule, the Department of Labor issued approximately 11,193 separate awards totaling approximately $65.9 billion from FY 2020–FY 2024.[2] In FY 2025 alone, the Department issued approximately 6,033 separate awards totaling $11.5 billion. The Department conducted approximately 212 Title VI-related investigations and compliance reviews regarding these funds and their recipients from FY 2020 through FY 2024.[3] This rule will allow the Department to direct its resources towards addressing allegations of intentional discrimination and managing investigations and resolutions efficiently.

The Department estimated that the number of affected entities (i.e., the recipients of Federal financial assistance under Title VI of the Civil Rights Act of 1964) that are expected to be impacted by this rule is potentially up to 15,000 based on data showing that the Department issued approximately 11,193 separate awards over the five-year period from FY2020 through FY2024. Some entities have received multiple disparate awards, and new entities are expected to receive disparate awards in the future as well. As such, the Department conservatively assumes

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[2] U.S. Department of the Treasury. "USASpending.gov." *USASpending.gov*, www.usaspending.gov. Accessed May 29, 2026.

[3] U.S. Dep't of Labor, Civil Rights Center, Complaints Tracking and Reporting System FY 2020-2024 Report (generated January 2026).

that the number of affected entities could be as high as 15,000 for the purpose of estimating rule familiarization costs.

The Department anticipates that the bulk of the workload under this final rule will be performed by employees in occupations similar to the one associated with the following Standard Occupational Classification (SOC) code: SOC 11-3121 (Human Resources Managers). The Department used the wage rate of Human Resources Managers as a proxy for the wage rate of Equal Opportunity Officers. According to the U.S. Bureau of Labor Statistics ("BLS"), the mean hourly wage rate for Human Resources Managers in May 2024 was $77.15.[4] For this analysis, the Department used a fringe benefits rate of 46 percent and an overhead rate of 17 percent, resulting in a fully loaded hourly compensation rate for Human Resources Managers of $125.75 [= $77.15 + ($77.15 × 0.46) + ($77.15 × 0.17)].

Rule familiarization costs represent direct costs to the recipients of Federal financial assistance under Title VI of the Civil Rights Act of 1964 to read and familiarize themselves with the provisions of this final rule. The Department calculated this cost by multiplying the number of recipients of financial assistance by the estimated time to review the rule and by the hourly compensation of a Human Resources Manager. The Department estimates that rule familiarization will take an average of 1 hour by a Human Resources Manager who is paid a fully loaded wage of $125.75. Therefore, the one-time rule familiarization cost for the recipients of financial assistance under Title VI of the Civil Rights Act of 1964 is estimated to be $1,886,250 (= 15,000 recipients × 1 hour × $125.75 per hour).

The Department is unable to quantify how funding recipients will respond to the regulatory changes. We anticipate this action will result in greater flexibility and lower compliance costs for recipients.

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[4] Bureau of Labor Statistics, Occupational Employment and Wage Statistics program, "Occupational Employment and Wages -- May 2024," https://www.bls.gov/news.release/archives/ocwage_04022025.htm.

This final rule to eliminate disparate-impact liability under the Department's Title VI regulations is expected to generate cost savings and operational efficiencies for Federal funding recipients primarily by narrowing the scope of prohibited conduct to intentional discrimination. By rescinding provisions that previously prohibited practices with an unintentional disparate impact, the rule reduces legal ambiguity and the need for extensive preventative compliance efforts. Disparate-impact guidelines promulgated in the Title VII context illustrate the kinds of steps recipients might take to avoid disparate-impact liability, including ongoing recordkeeping, adverse-impact monitoring, validation studies, and review of alternatives, frequently involving legal consultation and statistical analysis to ensure that facially neutral policies would not inadvertently trigger liability.[5] Removing the relevant provisions will allow organizations to focus their compliance resources on preventing intentional discrimination, which is more clearly defined and easier to avoid.

Relatedly, this final rule also meaningfully decreases investigation-related costs. Again, as other disparate-impact regulations illustrate, avoiding disparate-impact liability can be a complex and costly affair, potentially involving, among other things, internal disparate-impact analyses to assess whether policies such as hiring criteria, program-eligibility rules, or resource-allocation decisions might yield statistically uneven outcomes across protected groups.[6] Because disparate-impact liability could arise even in the absence of complaints, organizations were incentivized to proactively audit their operations, sometimes repeatedly, to mitigate risk. Eliminating this requirement reduces the need for such ongoing internal investigations and the infrastructure that supports them.

Compliance costs are likewise expected to decline. These compliance costs could include, *e.g.*, developing and detailing compliance programs specifically aimed at avoiding disparate impacts, including revising standard operating procedures, and modifying selection

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[5] *See, e.g.*, 29 CFR 1607.4 (guidelines requiring collection and maintenance of impact data); *id.* 1607.5 (validity studies); *id.* 1607.3(B) (consideration of alternatives with less adverse impact).
[6] *See* 29 CFR 1607.4(D).

criteria or program rules to achieve more balanced outcomes.[7] In some cases, entities may have felt compelled to adopt race-conscious measures or engage in racial balancing to avoid enforcement actions even though doing so was legally prohibited. This introduced additional legal complexity and operational challenges. The final rule removes the regulatory pressure to engage in these practices, allowing organizations to streamline compliance programs and reduce expenditures on training, policy redesign, and external advisory services.

Another benefit is increased regulatory clarity and predictability. Disparate-impact standards often lack clear thresholds, making it difficult for recipients to determine in advance whether a given policy is compliant. This uncertainty can lead to overcompliance—where organizations expend resources to mitigate hypothetical risks—or undercompliance due to a misunderstanding of obligations. By focusing solely on intentional discrimination, the rule provides a clearer, more objective standard, enabling recipients to allocate resources more efficiently and make decisions with greater confidence. This clarity can also improve program delivery by reducing delays associated with legal review and compliance checks.

Finally, the regulatory changes are expected to yield broader institutional benefits, including improved allocation of public and private resources. Funds that would have been spent on compliance infrastructure or statistical monitoring can instead be redirected toward core programmatic activities, such as workforce development, training services, or community outreach. For smaller recipients, particularly those that may lack in-house legal or compliance departments, the reduction in regulatory burden can be especially significant. These changes are expected to lower barriers to participation in Federally funded programs and enhance overall program accessibility and effectiveness.

In sum, by eliminating disparate-impact liability, the final rule reduces the need for extensive internal investigations and complex compliance systems. It advances a more

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[7] *See* 29 CFR 1607.3(B).

straightforward standard centered on intentional discrimination, thereby generating tangible cost savings and operational efficiencies for recipients of Federal funding.

The Department recognizes that a funding recipient may receive Federal funds from sources other than the Department. Because of E.O. 14281 and DOJ's recent amendments to its own Title VI regulations, however, the Department expects that other Federal departments and agencies will similarly revise their Title VI regulations. Importantly, pursuant to Executive Order 12250, "[t]he Attorney General shall coordinate the implementation and enforcement by Executive agencies of . . . Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*)." 45 FR 72995, 72995 (Nov. 2, 1980). Accordingly, DOJ acts as the lead Federal agency responsible for defining the nature and scope of Title VI's prohibition of discrimination on the basis of race, color, and national origin in programs or activities receiving Federal financial assistance.

Regardless, the Department does not envision that this rule will appreciably increase administrative or compliance costs for funding recipients who must also adhere to the regulations of another department or agency. This deregulatory action does not create any new obligations for funding recipients. On the contrary, by eliminating disparate-impact liability from the regulation, it eliminates a source of regulatory confusion, narrows the conduct prohibited, and thus lessens the costs of compliance and potential liability. Moreover, recipients who receive funds for the same program or activity from more than one Federal entity already enter into separate contractual assurances with each funding entity, *see, e.g.,* 29 CFR 31.6. These contractual assurances already impose varying requirements that each Federal funding source deems necessary. Funding recipients will continue to be held to the most stringent contractual assurance and regulation.

Based on the analysis of the practical qualitative costs and benefits noted above, the Department believes that this rule is consistent with the principles of Executive Orders 12866 and 13563, including the requirements that, to the extent permitted by law, the Department adopt

a regulation only upon a reasoned determination that its benefits justify its costs and choose a regulatory approach that maximizes net benefits. *See* 58 FR at 51735; 76 FR at 3821.

C. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

Executive Order 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. 90 FR 9065, 9065 (Jan. 31, 2025). In furtherance of this requirement, section 3(c) of the Order requires that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." *Id.* This rule eliminates unnecessary regulation by revising the Department's current Title VI regulations, which extend prohibited conduct to include conduct having an unintentional disparate impact and thus expand the scope of those regulations to a broader range of conduct than the statute prohibits. Accordingly, the Department expects this rule to be a deregulatory action under Executive Order 14192.

D. Executive Order 14294 (Fighting Overcriminalization in Federal Regulations)

Executive Order 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to "explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to" each element of those offenses. 90 FR 20363, 20363 (May 9, 2025). This rule does not impose a criminal regulatory penalty and is thus exempt from Executive Order 14294 requirements.

E. Executive Order 13132 (Federalism)

This rule will not have a substantial, direct effect on the relationship between the national government and the states, on distribution of power and responsibilities among various levels of government, or on states' policymaking discretion. States that choose to receive Federal financial assistance from the Department do so voluntarily and agree to comply with relevant statutory

requirements as a condition of receiving such funding. This rule does not subject states or any other funding recipients or beneficiaries to new obligations. This rule amends and clarifies existing regulations that are required by statute. Therefore, in accordance with section 6 of Executive Order 13132, 64 FR 43255, 43257-58 (Aug. 4, 1999), the Department has determined that these amendments do not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and (b)(2) of Executive Order 12988 to specify provisions in clear language. *See* 61 FR 4729, 4731-32 (Feb. 5, 1996). Pursuant to section 3(b)(1)(I) of the Executive Order, *id.* at 4731, nothing in this proposed or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the Program that is the subject of this proposed rule is intended to create any legal or procedural rights enforceable against the United States.

G. Executive Order 12250

Pursuant to section 1-202 of Executive Order 12250, DOJ has the responsibility to "review . . . proposed rules . . . of the Executive agencies" implementing nondiscrimination statutes such as Title VI in order to identify those which are inadequate, unclear or unnecessarily inconsistent." Additionally, section 1-101 of Executive Order 12250 delegated the President's responsibility to approve Title VI regulations to the Attorney General. *See* 42 U.S.C. 2000d-1. DOJ has reviewed and approved this rule.

H. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies engaged in rulemaking to consider the impact of their rules on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small

entities, including small businesses, not-for profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603. This rule does not require a regulatory flexibility analysis under the RFA because, for the reasons described above, no notice of proposed rulemaking is required under 5 U.S.C. 553(a)(2). *See Or. Trollers Ass'n* v. *Gutierrez,* 452 F.3d 1104, 1123-24 (9th Cir. 2006) (noting that the RFA does not apply when an agency validly invokes an exception to the public comment requirements of 5 U.S.C. 553). Further, the Department, in accordance with 5 U.S.C. 605(b), has reviewed these regulations and certifies that the rule's changes will not have a significant economic impact on a substantial number of small entities, in large part because these regulatory changes do not impose any new substantive obligations on Federal funding recipients. The rule amends and clarifies existing regulations that are required by Title VI. The rule merely harmonizes the scope of the regulations to conform with the scope of Title VI, which does not prohibit conduct having an unintentional disparate impact. All Federal funding recipients have been bound by the existing standards that will remain in place after this rule since their initial promulgation.

I. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 ("UMRA") requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately $206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. The UMRA also, however, excludes from its coverage any proposed or final Federal regulation that "establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability." 2 U.S.C. 1503(2). Accordingly, this rulemaking is not subject to the provisions of the UMRA.

J. Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this rule is not a "major rule" as defined by the Congressional Review Act, 5 U.S.C. 804(2).

K. Paperwork Reduction Act of 1995

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects for 29 CFR Part 31

Administrative practice and procedure, Civil rights, Equal employment opportunity, Grant programs

For the reasons set forth in the preamble, the Department of Labor amends 29 CFR part 31 as follows:

PART 31—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF LABOR—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.

1. The authority citation for part 31 is revised to read as follows:

Authority: 42 U.S.C. 2000d et seq., 42 U.S.C. 501, 29 U.S.C. 49k, 5 U.S.C. 301; E.O. 14281, 90 FR 17537.

2. Amend § 31.3 by:

a. Removing and reserving paragraph (b)(2);

b. Revising paragraph (b)(3);

c. Removing and reserving paragraph (b)(6);

d. Revising paragraph (c); and

e. Removing paragraph (d).

The revisions read as follows:

§ 31.3 General standards.

* * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the ground of race, color or national origin; or with the purpose of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

* * * * *

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program to which this regulation applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program including recruitment, examination, appointment, training, promotion, retention or any other personnel action.

3. Revise § 31.12(a)(1) to read as follows:

§ 31.12 Effect on other regulations; supervision and coordination.

(a) * * *

(1) Executive Orders 10925 and 11114 and regulations issued thereunder,

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Dean Heyl,
Assistant Secretary of the Office of Administration and Management.

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