patient and equipment supports, component parts, and accessories.

(ii) A detailed description of the device outputs.

(iii) User qualifications and/or clinical training needed for the safe use of the device.

(iv) A detailed summary of the objective task-based diagnostic accuracy assessment, including test methods, dataset characteristics, results, and a summary of sub-analyses on case distributions stratified by relevant confounders.

(v) A detailed summary of bench testing results, including graphs or tables as appropriate.

(vi) A detailed summary of the clinical image evaluation performed with the device.

(vii) A description of quality control testing, including detailed procedures for performing these tests, if applicable, and the frequency of testing.

(viii) Validated methods and instructions for cleaning and disinfection of any reusable patient-contacting components.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–16209 Filed 8–7–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1

[Docket No. FR–6540–P–02]

RIN 2529–AB09

HUD's Implementation of the Fair Housing Act's Disparate Impact Standard; Amendments to HUD's Title VI Regulations

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development (HUD).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: HUD published a notice of proposed rulemaking in January of 2026 that proposed to remove HUD's disparate-impact regulations and leave interpretation of disparate-impact liability under the Fair Housing Act to the courts. This supplemental notice of proposed rulemaking continues HUD's efforts to remove or revise regulations that prohibit conduct having a disparate impact without evidence of discriminatory intent. Through this rule, HUD is proposing to remove provisions in HUD's Title VI implementing regulations that impose disparate-impact liability on recipients of HUD Federal financial assistance. If finalized, this rule would improve consistency within HUD's own regulations and between HUD's regulations and the Title VI regulations recently revised by the Department of Justice (DOJ). This rule reopens the public comment period of HUD's January 2026 proposed rule on disparate-impact liability; HUD will only consider comments on topics related to this supplemental notice of proposed rulemaking during the reopened comment period.

DATES: Comments are due by October 9, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this supplemental notice of proposed rulemaking. All submissions must refer to the docket number and title. There are two methods for submitting public comments.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *https://www.regulations.gov.*

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

In accordance with 5 U.S.C. 553(b)(4), a summary of this supplemental proposal may be found at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Scott Knittle, Principal Deputy General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number (202) 402–2244 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 14, 2026, HUD issued a notice of proposed rulemaking, *HUD's Implementation of the Fair Housing Act's Disparate Impact Standard,* 91 FR 1475 (HUD's 2026 proposed rule). HUD's 2026 proposed rule would remove HUD's disparate-impact regulations at 24 CFR part 100 subpart G, consisting of § 100.500, and make a corresponding technical revision to 24 CFR 100.5(b).

HUD's regulations at 24 CFR part 1 (HUD's Title VI regulations) implement nondiscrimination requirements under Title VI of the Civil Rights Act of 1964. Public Law 88–352, 78 Stat. 252 (Title VI). Section 601 of Title VI prohibits any person in the United States, on the ground of race, color, or national origin, from being excluded from participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. 2000d. Section 602 of Title VI directs Federal departments and agencies that provide Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, to implement section 601 by, among other things, issuing rules and regulations. 42 U.S.C. 2000d–1. HUD provides Federal financial assistance of the types described by Title VI; therefore, Title VI's nondiscrimination prohibition applies to certain programs and activities for which Federal financial assistance is administered by HUD. *See* 24 CFR 1.1–1.3.

HUD's Title VI regulations implement the prohibition against discrimination on the basis of race, color, or national origin, which includes exclusion from participation in, denial of benefits of, or discrimination under any HUD program or activity to which 24 CFR part 1 applies. 24 CFR 1.4(a); *see also* 24 CFR 1.3. HUD's Title VI regulations were last substantively amended in 1973, consistent with uniform amendments adopted by Federal agencies at that time. 38 FR 17949 (July 5, 1973). HUD and DOJ collaborated on this rulemaking, and both agencies reviewed public comments provided in response to HUD's proposed rule for that rulemaking. *Id.* Since then, HUD has made minor or technical amendments to sections in 24 CFR part 1 through other rulemakings to remove outdated regulations and reduce regulatory burden,[1] to update nomenclature in response to statutory changes,[2] and to remove obsolete provisions on nondiscrimination hearing procedures and instead cross-reference updated and

[1] 83 FR 26360, June 7, 2018 (amended language in 24 CFR 1.3 to remove outdated cross references to appendix A to 24 CFR part 1); 60 FR 47260, September 11, 1995 (removed appendix A to 24 CFR part 1).

[2] 50 FR 9268, March 7, 1985 (amended language in 24 CFR 1.5 to change the phrase "Health, Education and Welfare" to "Health and Human Services").

consolidated procedures in 24 CFR part 180.[3]

On December 10, 2025, DOJ issued a final rule, *Rescinding Portions of Department of Justice Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281,* 90 FR 57141 (DOJ's 2025 final rule), which amended DOJ's Title VI regulations to remove disparate-impact liability consistent with changes directed by Executive Order 14281. *See id.* at 57141–45. HUD agrees with and adopts the rationale provided in DOJ's rule. HUD's Title VI regulations that are the subject of this proposed rulemaking closely follow DOJ's rule.

II. Justification for Rulemaking

HUD's regulation at 24 CFR 1.4, entitled ''Discrimination Prohibited,'' contains several provisions that go beyond the statute and the Constitution by prohibiting conduct or activities causing an unintentional disparate impact. And in some instances, these provisions may encourage or even require unlawful discrimination labeled as ''affirmative action.'' Section 1.4(b)(2)(i) is the general disparate-impact prohibition, which states that a ''recipient . . . may not . . . utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin.'' Beyond that general prohibition, § 1.4(b)(3) addresses a Federal-funding recipient's selection of the site or location of facilities and includes two references to ''effect'' that extend to conduct with an unintentional disparate impact. Section 1.4(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 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. Finally, § 1.4(c) addresses prohibited discriminatory employment practices and extends beyond intentional discrimination to conduct that ''tends'' to have a discriminatory effect.

There are serious statutory and constitutional concerns associated with § 1.4's prohibition on discrimination because that prohibition encompasses disparate-impact liability. HUD 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 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. *Alexander* v. *Sandoval,* 532 U.S. 275, 280, 286 n.6 (2001). That is the ''single, best meaning'' of Title VI. *See Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369, 400 (2024). *Sandoval* calls into serious doubt the legality of HUD's ''disparate-impact regulations.'' *See* 532 U.S. at 281–82, 284–85 (noting that DOJ's then-existing regulations, which HUD's current regulations mirror, were in ''considerable tension'' with the Supreme Court's Title VI precedents); *see also id.* at 286 n.6 (''[Title VI] permits the very behavior that the regulations forbid.'').

Although *Sandoval* resolved only the question of private enforceability of Title VI, subsequent cases such as *Loper Bright* have made clear that HUD cannot extend Title VI beyond its best 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, HUD 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 prohibition of conduct having 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 HUD'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 College,* ''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.'' 600 U.S. 206 (2023) (*SFFA*) (internal quotation marks omitted) (first quoting *Yick Wo* v. *Hopkins,* 118 U.S. 356, 369 (1886); and then quoting *Regents of Univ. of California* v. *Bakke,* 438 U.S. 265, 289–90 (1978) (Powell, J.)). Despite the promises of the Equal Protection Clause, a funding recipient's risk of disparate-impact liability under HUD's Title VI 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 HUD to impose disparate-impact liability under that statute. *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)).

This encouraged or coerced use of race, color, or national origin violates the Equal Protection Clause unless it survives review under the ''daunting'' strict-scrutiny standard. *SFFA,* 600 U.S. at 206; *see also Free Speech Coal., Inc.* v. *Paxton,* 145 S. Ct. 2291, 2310 (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

[3] 61 FR 52216, October 4, 1996 (amended 24 CFR 1.9 and redesignated then-existing 1.12 as now-existing 1.10).

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. 24 CFR 1.4(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 HUD's disparate-impact regulations under Title VI. But even if the regulations were legal, HUD 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, HUD finds that eliminating the costs and confusion caused by the mismatch between the statute and the Title VI disparate-impact regulations would independently justify the repeal of the regulations.

2. Serious Policy Concerns

HUD also has serious policy concerns with the imposition of disparate-impact liability. Although HUD 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. As noted in section 1 of the Order, ''[o]n a practical level, disparate-impact liability has hindered businesses from making hiring and other employment decisions based on merit and skill, their needs, or the needs of their customers because of the specter that such a process might lead to disparate outcomes, and thus disparate-impact lawsuits. This has made it difficult, and in some cases impossible, for employers to use bona fide job-oriented evaluations when recruiting, which prevents job seekers from being paired with jobs to which their skills are most suited—in other words, it deprives them of opportunities for success.'' 90 FR at 17537. 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, including HUD, have promulgated pursuant to Title VI. 532 U.S. at 280–82.

Additionally in practice, disparate-impact liability may lead covered entities to engage in racial balancing even as Title VI forbids intentional racial discrimination. This tension tends to create confusion as well as 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 the programs at issue 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 and is evident in, among other things, many of the grant proposals that HUD awarded funds to in past years.

HUD further notes that *Sandoval* has also led to a divergence between Title VI enforcement by private plaintiffs and enforcement by Federal departments and agencies. After *Sandoval,* private plaintiffs can enforce only Title VI's statutory prohibition on intentional discrimination, while HUD could continue to pursue disparate-impact liability. Repealing the disparate-impact regulations would eliminate this incongruent enforcement.

Accordingly, through this supplemental notice of proposed rulemaking, HUD is continuing its fulfillment of directives under Executive Order 14281. As discussed below, HUD's Title VI regulations include provisions that directly implement or allude to discriminatory effects and disparate-impact liability. HUD accordingly proposes to revise or remove those provisions for the reasons set forth above.

HUD is also seeking to make its Title VI regulations consistent with regulatory changes to 24 CFR 100.5 and 100.500 proposed by HUD's 2026 proposed rule. The changes proposed in this supplemental notice of proposed rulemaking would also align with DOJ's 2025 final rule. HUD's Title VI regulations resulted from uniform amendments adopted by Federal agencies and use the same or similar language as DOJ's former Title VI regulations. The proposed changes would revise or remove those provisions and improve consistency between DOJ and HUD regulations that implement Title VI's nondiscrimination requirements. This rule's proposed changes would also further the Administration's regulatory reform efforts by promoting the rule of law through consistency in the Federal government's interpretation of Title VI.

III. This Supplemental Notice of Proposed Rulemaking

This supplemental notice of proposed rulemaking proposes revisions to 24 CFR 1.4 and reopens the public comment period on HUD's 2026 proposed rule. New comments received during this re-opened period will only be considered if they concern changes proposed in this supplemental notice of proposed rulemaking. For an explanation of HUD's extensive solicitation and review of public comment on prior disparate-impact and discriminatory-effects rulemakings, see HUD's 2026 proposed rule at 91 FR 1476–77. HUD is proposing the following changes to § 1.4:

§ 1.4(b)(2)

Section 1.4 implements Title VI's prohibition against intentional discrimination on the grounds of race, color, or national origin, in the participation in, denial of benefits of, or other subjection to discrimination. *See also* 24 CFR 1.3. Paragraph (b) of § 1.4 describes discriminatory actions specifically prohibited by HUD's Title VI regulations, and existing paragraph (b)(2)(i) incorporates a general prohibition on Federal financial assistance recipients using criteria or methods of administration that have the effect of ''subjecting persons to discrimination because of their race, color or national origin,'' or ''defeating or substantially impairing accomplishment of the objectives of the program or activity as respect to persons of a particular race, color, or national origin.'' Because this paragraph incorporates a general prohibition on conduct producing unintended discriminatory effects, HUD is proposing to remove paragraph (b)(2)(i) in its entirety and redesignate existing paragraphs (b)(2)(ii) and (iii) as (b)(2)(i) and (ii).

§ 1.4(b)(3)

Paragraph (b)(3) of § 1.4 addresses a Federal-funding recipient's or applicant's selection of the site or location of facilities. It prohibits applicants and recipients from discriminating, through purpose ''or effect,'' on the grounds of race, color, or national origin in determining the site or location of housing, accommodations, or facilities, or in making related selections. Paragraph (b)(3) also prohibits selections made with the purpose ''or effect'' of ''defeating or substantially impairing the accomplishment of the objectives of the [Title VI]'' or 24 CFR part 1. HUD is proposing to remove both instances of the phrase ''or effect,'' because they extend to unintentional discriminatory effects.

§ 1.4(b)(6)

Existing paragraph (b)(6)(i) of § 1.4 requires recipients to take ''affirmative action to overcome the effects of prior discrimination'' by the recipient against persons on the ground of race, color, or national origin. This provision goes beyond the Equal Protection Clause, which permits, but does not mandate, a 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.). Moreover, even putting aside the mandatory language, this provision does not expressly require narrow tailoring to counter particular past discrimination, but rather simply ''affirmative action to overcome the effects of prior discrimination.'' 24 CFR 1.4(b)(6)(i). This provision accordingly promotes potentially illegal race, color, and national origin discrimination. Moreover, in some instances, it may even coerce recipients to consider and use race preferences when the recipient may not want to. This is contrary to HUD's goal of promoting and defending a culture of nondiscrimination and is destructive to the public's understanding of and faith in the nation's civil rights laws.

Existing paragraph (b)(6)(ii) requires recipients to take affirmative action even in the absence of prior discrimination to ''overcome the effects of conditions'' that resulted in limiting the participation of persons of a particular race, color, or national origin in an applicable HUD program. This provision points not to intentional discrimination, but rather to the unintentional ''effects of conditions.'' It consequently encourages intentional racial classifications, racial preferences, and other race-based actions without requiring the compelling governmental interest and narrow tailoring that the Equal Protection Clause demands. This section is unlawful under the Equal Protection Clause. This rule, therefore, proposes to remove paragraph (b)(6).

§ 1.4(c)(2)

Existing paragraph (c)(2) extends the prohibition on discrimination to employment practices of the funding recipient even ''[w]here a primary objective of the Federal financial assistance is not to provide employment'' if discrimination in the non-funded employment practices ''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 part 1 applies.'' This paragraph prohibits not only intentional discrimination but also conduct that ''tends'' to have a discriminatory effect.

Moreover, HUD notes that paragraph (c)(2)'s extension to employment practices where the Federal funding's primary objective is not to provide employment conflicts with 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).

Because paragraph (c)(2) applies to employment practices that unintentionally produce discriminatory effects and conflicts with the statutory limitation in 42 U.S.C. 2000d–3, HUD is proposing to remove paragraph (c)(2) in its entirety. HUD is proposing to redesignate paragraph (c)(1) as paragraph (c) and to make a technical edit to the last sentence of that paragraph, which cross-references part III of Executive Order 11246, *Equal Employment Opportunity,* (Sept. 24, 1965). Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (Jan. 21, 2025), revoked Executive Order 11246. Therefore, HUD is proposing to revise the last sentence of newly redesignated paragraph (c) to state, ''The requirements applicable to construction employment under such program or activity are those specified in or pursuant to Executive Order 14173 or any executive order which supersedes or amends it.'' Section 3(b) of Executive Order 14173 specifies new requirements for the Federal contracting process and for Federal contractors and subcontractors.

IV. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866, *Regulatory Planning and Review,* a determination must be made regarding whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget in accordance with the requirements of the order. 58 FR 51735, 51738 (Sep. 30, 1993). This supplemental notice of proposed rulemaking was determined to be a significant regulatory action under section 3(f) of Executive Order 12866, but not economically significant under section 3(f)(1).

Executive Order 13563, *Improving Regulation and Regulatory Review* directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' 76 FR 3821, 3821 (Jan. 18, 2011). Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. As previously discussed, this supplemental notice of proposed rulemaking removes unnecessary regulations and is consistent with Executive Order 13563.

Data limitations make the costs and benefits of the rule difficult to quantify. Although it does not represent the monetary impact of the rule, HUD issued approximately 4,412 separate grants and 5,393 separate subsidies totaling approximately $170,153,001,187 (approximately $56,530,401,288 in grants and $113,622,599,899 in subsidies) over the past 3 calendar years (CYs) (CY23–CY25). HUD's Title VI-related, active investigations and compliance reviews regarding these funds and their recipients totaled 500 over a 3-year period (CY23–CY25), and HUD's Title VI-related, closed investigations and compliance reviews totaled 585 over those same 3 years (CY23–CY25).

HUD does not track which of its investigations and compliance reviews involve solely allegations of disparate-impact discrimination. For enforcement actions that relate to both intentional discrimination and conduct having an unintentional disparate impact, HUD does not track and cannot reliably quantify the costs attributable to the disparate-impact portions of enforcement actions. That the existence of a disparate impact is sometimes a factor that may be considered in evaluating intentional discrimination further impedes monetizing costs and benefits. Therefore, the overall cost effect on HUD is difficult to quantify. The deregulatory action should decrease HUD's enforcement costs by allowing HUD to focus enforcement procedures and resources on intentional discrimination cases. It should also produce a qualitative benefit by aligning HUD's Title VI regulations with the best reading of Title VI and DOJ's revised Title VI regulations. It should also have the benefit, albeit difficult to quantify, of bringing HUD's conduct in line with the law. Similarly, HUD is unable to quantify how funding recipients will respond to the regulatory changes. However, HUD anticipates that the proposed deregulatory action should result in greater flexibility and lower compliance costs for recipients.

Ultimately, HUD does not envision that this proposed rule will appreciably increase administrative costs or compliance costs for funding recipients who must also adhere to the regulations of another department or agency. This proposed 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.,* 24 CFR 1.5. These contractual assurances impose varying requirements that each Federal funding source deems necessary. Recipients receiving funds from more than one Federal agency will remain responsible for complying with all applicable assurances and regulatory requirements. And in any event, HUD notes that other agencies are currently amending their regulations to align with the changes made in this rule, so HUD anticipates that there will be little, if any, disparity in federal requirements regarding disparate-impact liability going forward.

Based on the analysis of the practical qualitative costs and benefits noted above, HUD believes that this proposed rule is consistent with the principles of Executive Orders 12866 and 13563, including the requirements that, to the extent permitted by law, HUD adopt a regulation only upon a reasoned determination that its benefits justify its costs.

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 proposed rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This supplemental notice of proposed rulemaking would not impose new compliance obligations on small entities. To the extent that it has any economic effect, HUD expects the effect to be deregulatory because the proposal would remove effects-based provisions from HUD's Title VI regulations. As such, there is no change in burden for those involved in a challenged practice. Accordingly, the undersigned certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 14192—Unleashing Prosperity Through Deregulation

Executive Order 14192 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. This supplemental notice of proposed rulemaking proposes to remove unnecessary existing regulations and will impose no regulatory costs.

Executive Order 13132—Federalism

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either: (i) imposes substantial direct compliance costs on State and local governments and is not required by statute, or (ii) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This supplemental notice of proposed rulemaking does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Environmental Impact

This supplemental notice of proposed rulemaking is a policy document that sets out nondiscrimination standards. Accordingly, under 24 CFR 50.19(c)(3), this rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This supplemental notice of proposed rulemaking does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 1

Administrative practice and procedure, Civil rights, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 1 as follows:

PART 1—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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

Authority: 42 U.S.C. 2000d–1 and 3535(d).

■ 2. Amend § 1.4 by:
■ a. Revising paragraphs (b)(2) and (3);
■ b. Removing paragraph (b)(6); and
■ c. Revising paragraph (c).

The revisions read as follows:

§ 1.4 Discrimination Prohibited.

* * * * *

(b) * * *

(2)(i) A recipient, in operating low-rent housing with Federal financial assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1401 *et seq.*), shall assign eligible applicants to dwelling units in accordance with a plan, duly adopted by the recipient and approved by the responsible Department official, providing for assignment on a community-wide basis in sequence based upon the date and time the application is received, the size or type of unit suitable, and factors affecting preference or priority established by the recipient's regulations, which are not inconsistent with the objectives of title VI of the Civil Rights Act of 1964 and this part 1. The plan may allow an applicant to refuse a tendered vacancy for good cause without losing his standing on the list but shall limit the number of refusals without cause as prescribed by the responsible Department official.

(ii) The responsible Department official is authorized to prescribe and promulgate plans, exceptions, procedures, and requirements for the assignment and reassignment of eligible applicants and tenants consistent with the purpose of paragraph (b)(2)(i) of this section, this part 1, and title VI of the Civil Rights Act of 1964, in order to effectuate and ensure compliance with the requirements imposed thereunder.

(3) In determining the site or location of housing, accommodations, or facilities, an applicant or recipient 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 part 1 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 part 1.

* * * * *

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program or activity to which this part 1 applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program or activity (including recruitment or recruitment advertising, employment, layoff, termination, upgrading, demotion, transfer, rates of pay or other forms of compensation and use of facilities). The requirements applicable to construction employment under such program or activity are those specified in or pursuant to Executive Order 14173 or any executive order which supersedes or amends it.

Scott Turner,

Secretary.

[FR Doc. 2026–16228 Filed 8–7–26; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 26–196; RM–12024; DA 26–806; FR ID 360896]

Television Broadcasting Services Elko, Nevada

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Table of TV Allotments (Table) of the Federal Communications Commission's (Commission) rules in response to a petition for rulemaking filed by Reno (KENV–TV) Licensee, Inc. (Licensee), the Licensee of full service television station KENV–DT (KENV–DT or Station), Elko, Nevada (Elko). The Licensee holds a construction permit (CP) to construct a facility on UHF channel 20 at Elko, and now requests that the Bureau substitute VHF channel 10 for UHF channel 20 in the Table with technical parameters set forth in KENV–DT's current license. In support of its channel substitution request, the Petitioner asserts that substitution of VHF channel 10 for UHF channel 20 in the Table will allow the Station to remain on the air and continue to provide service to viewers within its service area. Given that the Licensee proposes to utilize its currently licensed parameters, we believe VHF channel 10 can be substituted for UHF channel 20 at Elko as proposed, in compliance with the principal community coverage requirements of § 73.618(a) of the Commission's rules.

DATES: Comments must be filed on or before September 9, 2026 and reply comments on or before September 24, 2026.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Scott R. Flick, Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Emily Harrison at *Emily.Harrison@fcc.gov,* (202) 418–1665 or Mark Colombo at *Mark.Colombo@fcc.gov,* (202) 418–7611.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 26–196; RM–12024; DA 26–806, adopted July 31, 2026, and released July 31, 2026. The full text of this document is available online at *https://www.fcc.gov/edocs.*

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a notice of proposed rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See §§ 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

Providing Accountability Through Transparency Act: The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this notice of proposed rulemaking is available at *https://www.fcc.gov/proposed-rulemakings.*

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.