(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2024–09–02, Amendment 39–22744 (89 FR 44547, May 21, 2024); and

■ b. Adding the following new airworthiness directive:

Leonardo S.p.a.: Docket No. FAA–2025–1348; Project Identifier MCAI–2025–00159–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 15, 2025.

(b) Affected ADs

This AD replaces AD 2024–09–02, Amendment 39–22744 (89 FR 44547, May 21, 2024).

(c) Applicability

This AD applies to Leonardo S.p.a. Model AW169 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2560, Emergency Equipment; and 2564, Life Raft.

(e) Unsafe Condition

This AD was prompted by manufacturing defects in certain forward and aft float assemblies. The FAA is issuing this AD to address non-conforming float assemblies. The unsafe condition, if not addressed, could result in failure of a float assembly during an emergency landing on water and could prevent a timely egress from the helicopter, which could result in injury to helicopter occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) Emergency AD 2023–0188–E, dated October 30, 2023 (EASA AD 2023–0188–E).

(h) Exceptions to EASA AD 2023–0188–E

(1) Where EASA AD 2023–0188–E requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2023–0188–E refers to its effective date, this AD requires using the effective date of this AD, except for Group 1 helicopters.

(3) Where Table 1 of EASA AD 2023–0188–E refers to its effective date, for Group 1 helicopters, this AD requires using the effective date of June 5, 2024 (the effective date of AD 2024–09–02).

(4) Where Table 1 of EASA AD 2023–0188–E refers to ''Leonardo Aircraft Maintenance Manual Data Module (DM) 69–A–05–21–00–00A–028A–A'', this AD requires replacing that text with ''Leonardo air vehicle maintenance planning information 69–B–05–21–00–00A–028A–A''.

(5) Where the service information referenced in paragraph (1) of EASA AD 2023–0188–E specifies sending a removed float assembly to Leonardo, this AD does not require that action.

(6) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0188–E.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0188–E specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: *AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Yves Petiote, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (202) 975–4867; email *yves.petiote@faa.gov*.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following material was approved for IBR on June 5, 2024 (89 FR 44547, May 21, 2024).

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2023–0188–E, dated October 30, 2023.

(ii) [Reserved]

(4) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.

(5) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(6) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locationsoremailfr.inspection@nara.gov*.

Issued on June 25, 2025.

Steven W. Thompson,

Acting Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2025–12137 Filed 6–30–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 652

[Docket ETA–2025–0005]

RIN 1205–AC22

Wagner-Peyser Act Employment Service Staffing

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; request for comment.

SUMMARY: The Department of Labor (Department) is proposing to remove the requirement that States use State merit staff to provide Wagner-Peyser Employment Service (ES) services. This deregulatory action would allow States to use the staffing model that provides the required services with the most efficient model for their State. This summary can be found at *www.regulations.gov* by searching by the RIN: 1205–AC22.

DATES: Comments must be received on or before September 2, 2025.

ADDRESSES: You may send comments, identified by Docket No. ETA–2025–

0005 and Regulatory Identification Number (RIN) 1205–AC22, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Search for the above-referenced RIN, open the proposed rule, and follow the on-screen instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking or ''RIN 1205–AC22.''

Please be advised that the Department will post comments received that relate to this proposed rule to *https://www.regulations.gov,* including any personal information provided. The *https://www.regulations.gov* website is the Federal e-Rulemaking Portal and all comments posted there are available and accessible to the public. Please do not submit comments containing trade secrets, confidential or proprietary commercial or financial information, personal health information, sensitive personally identifiable information (for example, social security numbers, driver's license or state identification numbers, passport numbers, or financial account numbers), or other information that you do not want to be made available to the public. Should the agency become aware of such information, the agency reserves the right to redact or refrain from posting sensitive information, libelous, or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; or that contain hate speech. Please note that depending on how information is submitted, the agency may not be able to redact the information, and instead reserves the right to refrain from posting the information or comment in such situations.

Docket: For access to the docket to read background documents, a plain-language summary of the proposed rule of not more than 100 words, or comments received, go to *https://www.regulations.gov* (search using RIN 1205–AC22 or Docket No. ETA–2025–0005). If you need assistance to review the comments, contact the Office of Policy Development and Research at 202–693–3700 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Kimberly Vitelli, Administrator, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room C–4526, Washington, DC 20210, Email: *vitelli.kimberly@dol.gov,* Telephone: (202) 693–3980 (voice) (this is not a toll-free number). For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background

The Wagner-Peyser Act of 1933 [1] established the ES program, which is a nationwide program of labor-exchange services. The ES program seeks to improve the functioning of the nation's labor markets by matching job seekers with employers that are seeking workers. Section 3(a) of the Wagner-Peyser Act directs the Secretary of Labor (Secretary) to assist States in coordinating the State public service employment offices throughout the country by developing and prescribing minimum standards of efficiency and promoting uniformity in the operation of the system of public employment offices. The Department has historically relied on the Secretary's authority in section 3(a) and 5(b) to require States to provide labor exchange services with State ''merit staff,'' meaning government employees hired and managed under a merit-based personnel system described in 5 CFR 900, subpart F.

Beginning in the early 1990s, the Department provided Colorado and Massachusetts with limited flexibility to set their own staffing requirements for the provision of ES services. In 1998, the Department permitted Michigan to use State and local merit staff to deliver ES services, pursuant to a settlement agreement arising out of *Michigan* v. *Herman.*[2]

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA) [3] to modernize the nation's workforce development system. WIOA did not include an ES merit-staffing requirement. Regulations implementing WIOA were published in the **Federal Register** [4] on August 19, 2016, and were effective on October 18, 2016. Among the provisions codified in the 2016 WIOA regulations was § 652.215, which continued to require the use of State merit-staffing for the delivery of ES services, except for the three States that were previously granted exemptions: Colorado, Massachusetts, and Michigan.

Through rulemaking effective February 5, 2020, the Department removed the requirement that ES services be provided only by State merit staff,[5] hereafter referred to as the 2020 Final Rule. In the preamble to the 2020 Final Rule, the Department explained that it sought to allow States maximum flexibility in staffing arrangements to allow them to better align WIOA and ES staffing. Following the 2020 Final Rule, several States were approved to use a variety of staffing models to provide their ES services, as described in their approved WIOA State plans.

In 2023, the Department again changed the requirements in § 652.215 through notice-and-comment rulemaking to reinstate the requirement that States use State merit staff to deliver ES services and reinstated the exemptions for Massachusetts, Michigan, and Colorado. These regulations were published in the **Federal Register** on November 24, 2023,[6] and became effective on January 23, 2024. The Department also provided 24 months for States to comply with the State merit-staffing requirements in § 652.215. This meant that States would have to comply with the provisions in § 652.215 by January 22, 2026.

II. Discussion

The Department is proposing to remove the requirement that ES services must be delivered by State merit staff, and reestablish the flexibility permitted under the 2020 Final Rule, because the best reading of the Wagner-Peyser Act is that there is no statutory basis for the Department to require States to deliver ES services using only State merit staff. Instead, sec. 3(a) of the Wagner-Peyser Act requires the Department to assist in coordinating State ES offices in developing and prescribing ''minimum standards of efficiency'' in the provision of ES programs but notably does not explicitly require the use of State merit staff. While the Department has previously suggested that sec. 5(b) also supports a State merit-staffing requirement, that section does not impose such a requirement, but rather simply requires the Department to make certifications to the Department of the Treasury regarding the coordination of ES and Unemployment Insurance (UI).

Under *Chevron, U.S.A.* v. *Natural Resources Defense Council,*[7] courts previously deferred to permissible agency interpretations of statutes that were silent or ambiguous with respect to a specific issue; however, in 2024, the U.S. Supreme Court decided *Loper Bright Enterprises* v. *Raimondo,*[8] which

[1] 29 U.S.C. 49 *et seq.*

[2] 81 F. Supp. 2d 840 (W.D. Mich. 1998).

[3] Public Law 113–128

[4] Workforce Innovation and Opportunity Act, Department of Labor, Final Rule 81 FR 56072 (Aug. 19, 2016).

[5] Wagner-Peyser Staffing Flexibility, 85 FR 592.

[6] Wagner-Peyser Act Staffing, 88 FR 82658.

[7] 467 U.S. 837 (1984).

[8] 603 U.S. 369 (2024).

overruled *Chevron.* Recognizing that for all statutes there is a single, best reading, the Court in *Loper Bright* held that under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.,* courts must exercise independent judgment to determine if an agency has acted within its statutory authority and may not defer to the agency's interpretation simply because a statute is ambiguous. In light of the *Loper Bright* decision, the Department has tentatively reassessed the State merit-staffing requirement in the ES program and has determined that the State merit-staffing requirement does not comport with the best reading of the statute. The best reading of the Wagner-Peyser Act is that the Department does not have authority to impose a State merit-staffing requirement for all State staff in the ES. Section 3(a) of the Act only authorizes the Department to establish ''minimum standards of efficiency''—it strains this limited statutory authorization beyond its breaking point to read into it the authority to mandate the use of State merit staff, especially when it is compared with section 303(a)(1) of the Social Security Act which was enacted contemporaneously with the Wagner-Peyser Act and explicitly requires State merit-staffing.

The Department is therefore proposing to remove this requirement, consistent with the directives in Executive Order 14129, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' dated February 19, 2025, the Presidential Memorandum titled ''Directing the Repeal of Unlawful Regulations,'' dated April 9, 2025, and OMB Memorandum M–25–28, ''Guidance Implementing the President's Memorandum Directing the Repeal of Unlawful Regulations,'' dated May 7, 2025.

In the notice of proposed rulemaking (NPRM) for the 2020 Final Rule, the Department received comments suggesting that there was a statutory requirement for ES services to be provided by State merit staff. Commenters claimed that the Intergovernmental Personnel Act (IPA) [9] named the Wagner-Peyser Act as one of the two acts administered by the Department that had a statutory requirement to provide services through merit-staffing. The Department disagreed with this claim and refuted the existence of statutory requirement for merit-staffing ES services. The Office of Personnel Management (OPM) regulations implementing the IPA provided a list of programs with a statutory or regulatory requirement for merit staff. The Wagner-Peyser Act is listed as having a statutory requirement for merit staff.[10] However, there is no indication that Congress, in including the Wagner-Peyser Act in sec. 208 of the IPA, intended to impose a merit-staffing requirement not found in the Act itself, or to impliedly amend the Act itself to include such a requirement. Rather, this appears to reflect the existing merit-system functions being carried out by the Department at that time. Additionally, the question of Congress' intent in enacting the IPA was considered by the court in *Michigan* v. *Herman.* After reviewing the text and legislative history of the Wagner-Peyser Act and the IPA, the court concluded that the Wagner-Peyser Act ''does not explicitly require merit-staffing.'' [11]

Currently, Appendix A of OMB's regulations at 5 CFR 900 continues to describe a statutory requirement for the ES, citing sec. 5(b) of the Wagner-Peyser Act, 29 U.S.C. 49d(b). However, section 5(b) does not impose any statutory requirement for merit-staffing ES services. Rather, as noted above, it merely requires the Secretary to certify that States are complying with section 303 of the Social Security Act, 42 U.S.C. 503(a)(1) (which requires the use of merit staff by States in administering their Unemployment Insurance programs), and that States are coordinating ES activities with the provision of UI claimant services. Neither the IPA nor the OPM regulations contain an independent legal requirement for merit-staffing in the ES.

The best reading of the Wagner-Peyser Act is that it does not authorize the Department to require the use of State merit staff to provide ES services, and given that the regulated community needs to efficiently administer workforce programs with limited resources, the Department determined it would hinder efficiency to mandate that States use a particular staffing model.

The Department is proposing to eliminate the State merit-staffing requirement by removing § 652.215 from the Wagner-Peyser Act regulations. In addition to the merit-staffing requirement in paragraph (a), § 652.215 includes an exception for Colorado, Massachusetts, and Michigan to continue to use staffing flexibilities in paragraph (b), a requirement for these three States to participate in an evaluation concerning their delivery of ES services in paragraph (c), and a date by which all States must comply with the requirements of the section in paragraph (d). Without a State merit-staffing requirement in paragraph (a), the remaining paragraphs are no longer necessary. As such, the Department is proposing to remove all paragraphs of § 652.215 from the Code of Federal Regulations.

As a result of this rulemaking, States would be able to use whichever staffing method they choose. Regardless of the staffing method employed, States still must provide services required under the Wagner-Peyser Act. These services include job search and placement assistance for jobseekers, recruitment services and special technical services for employers, re-employment services for UI claimants, labor exchange services for workers who have received notice of permanent or impending layoff, referrals and financial aid application assistance for training and educational resources and programs, and the development and provision of labor market and occupational information. These services help the labor market to function more efficiently by matching employers with available workers.

III. Rulemaking Analyses and Notices

A. Review Under Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)

Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing

[9] 42 U.S.C. 4728.

[10] 5 CFR part 900, subpart F, Appendix A.

[11] *Michigan* v. *Herman,* 81 F. Supp. 2d at 847–848.

information upon which choices can be made by the public.

Under section 6(a) of E.O. 12866, the Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB), determines whether a regulatory action is significant and, therefore, subject to OMB review. E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed rule is a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this proposed rule was submitted to OIRA for review under E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it 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.

a. Statement of Need

The Department proposes to rescind its requirement that services in the Employment Service (ES) be delivered exclusively by State merit staff because, upon reexamination, that mandate lacks a sound statutory foundation and exceeds the Department's authority under the Wagner-Peyser Act. Section 3(a) of the Act empowers the Department to assist States in prescribing ''minimum standards of efficiency'' for ES programs, but it nowhere compels the use of State merit-system employees. Reading the provision as authorizing a blanket merit-staffing rule distorts the Act's plain text and legislative design and imposes undue burden upon States' limited State ES resources. This burden falls disproportionately on States that made changes to their ES staffing models in response to the 2020 Final Rule. Further, this proposed rule offers to reduce the burden on States in advance of the required 2026 WIOA State Plan modification.

b. Alternatives Considered

OMB Circular A–4, which outlines best practices in regulatory analysis, directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. The Department considered alternatives as part of determining whether to issue this NPRM. These alternatives included delaying the compliance date of the merit staffing requirement in 20 CFR 652.215 by one year or delaying the compliance date by two years. Ultimately, the Department decided that removing 20 CFR 652.215 in its entirety would be the least burdensome for the States, as the status quo is unacceptable.

The Department considered delaying the compliance date in 20 CFR 652.215 by one year to allow additional time for the Department to review the 2023 Wagner-Peyser Staffing Final Rule. However, this would have placed additional cost burdens on the States, as this delay would have changed staffing requirements in the middle of the State planning cycle. With a one-year delay to the compliance date, States changing staffing systems would have to submit a modification to their State plan in 2027, along with a new State plan in 2028. The Department also considered a two-year delay to the compliance date, which would have aligned the change in staffing models to align with the 2028 submission of a required 4-year State Plan. While this alternative was deemed less burdensome to the States in terms of reporting requirements to the Department, ultimately, it was determined that the Department did not require additional time to review the 2023 Wagner-Peyser Staffing Final Rule, and that the removal of the merit-staffing requirement in its entirety would be the least burdensome to the States.

c. Economic Analysis

This proposed rule eliminates a requirement rather than imposing a new one. The Department anticipates that the rule will result in costs related to rule familiarization. Any voluntary changes to staffing models may incur transfer costs during a transition phase. In addition to monetized cost savings, this rule will likely provide non-quantifiable benefits to States and to society. For example, the added staffing flexibility this rule gives to States will allow them to identify and achieve administrative efficiencies. The Department seeks comments on these anticipated costs, benefits, and transfers, including overlooked studies and data.

i. Rule Familiarization Costs

Regulatory familiarization costs represent direct costs to States associated with reviewing the new regulation. The Department anticipates that the changes proposed by the rule will be reviewed by Human Resources Managers (SOC code [12] 11–3121) employed by State Workforce Agencies (SWAs). The Department anticipates that it will take one Human Resources Manager an average of 1 hour to review the proposed rule.

The U.S. Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics data show that the median hourly wage of State government Human Resources Managers is $51.90.[13] The Department assumes a 62% benefits rate [14] and a 17% overhead rate,[15] so the full loaded hourly wage is $92.90 [= $51.90 + ($51.90 × 62%) + ($51.90 × 17%)]. Therefore, the one-time rule familiarization cost for all 54 jurisdictions (the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands) is estimated to be $5,017 (= $92.90 × 1 hour × 54 jurisdictions).

ii. Transition Costs and Transfer Payments From States to Employees

As there is no mandate within these proposed regulations to use one specific staffing model, any changes from one staffing model to another would be voluntary by the State, and would result in transition costs to States as well as transfer payments from States to employees providing ES services. Changing staffing systems is not without costs. Even if the same employees provide Wagner-Peyser services, changing the staffing system may still create burdens for the State and the employees themselves. This may require a change in employer by moving from State employment to local government employment and may have consequences for the employee in terms of pay and benefits, including health insurance and retirement benefits. Changing employers would also require the time and expertise of Human Resources professionals to process the paperwork to affect these changes. Because of these considerations, the Department anticipates that States will need to weigh the costs and benefits of any staffing model before making changes.

In previous Wagner-Peyser rulemakings, the Department attempted to quantify potential costs or cost

[12] This analysis uses codes from the Standard Occupational Classification (SOC) system and the North American Industry Classification System (NAICS).

[13] BLS, ''Occupational Employment and Wage Statistics, National Industry-Specific Occupational Employment and Wage Estimates, NAICS 999200'' SOC Code 11–3121, May 2024, *https://data.bls.gov/oes/#/industry/999200* (last visited May 27, 2025).

[14] BLS, ''National Compensation Survey, Employer Costs for Employee Compensation,'' *https://www.bls.gov/ecec/data.htm* (last visited May 27, 2025). For State and local government workers, wages and salaries averaged $38.45 per hour worked in 2024, while benefit costs averaged $23.81, which is a benefits rate of 62 percent.

[15] Cody Rice, U.S. Environmental Protection Agency, ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program,'' June 10, 2002, *https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005* (last visited May 27, 2025).

savings for the States. In the 2020 Final Rule, the Department surveyed a range of States of different size classes and attempted to infer the cost savings nationwide from allowing staffing flexibility. The total estimated wage savings for the 2020 Final Rule was $6,754,691 per year (2018$), which is approximately $8,631,000 in 2025 dollars. The Department's analysis assumed a 50 percent substitution rate, meaning that States would choose to re-staff half of their positions with personnel other than State merit staff based on States' determination that such models would be more efficient and less expensive. Wage savings were expected to vary among States based on each State's substitution rate.

In the 2023 Final Rule, the Department provided estimates of rule familiarization costs and information collection costs; however, due to data limitations, the Department was unable to quantify the transition costs or transfer payments that were likely to be incurred by the three States (*i.e.,* Delaware, Indiana, and Missouri) that implemented the staffing flexibility provided by the 2020 Final Rule as they transitioned the delivery of all ES services to State merit staff. The Department did not anticipate that the transition costs or transfer payments would be large enough for the 2023 Final Rule to be deemed a significant regulatory action under sec. 3(f)(1) of E.O. 12866.

Neither analysis was a comprehensive analysis of the specific individuals performing ES services for each specific State, the cost of providing the same services under a different staffing model, or whether there were other barriers or impediments to changing staffing models other than the regulation at § 652.215.

Removing the merit-staffing requirement will allow the States to perform this granular analysis, consider their own State statutes and agreements, and select the staffing model that delivers the required services in the most efficient manner available to them. Some jurisdictions may find that their current models are the most cost efficient. Others may find that a more cost-efficient model exists and decide to change staffing structures. Still others may find that a more cost-efficient option exists but choose to remain with State merit-staffing due to State statutes, collective bargaining agreements, or to use ES staff as surge capacity for other governmental functions. The Department lacks sufficient information about the changes States will make to their staffing models; therefore, we are unable to conduct a quantitative analysis of the transition costs to States associated with this rulemaking. The Department invites comments on the anticipated transition costs to States with the goal of ensuring thorough consideration and discussion at the final rule stage.

In economic theory, it is assumed that economic actors are rational and select the best choice after considering information on costs and outcomes. Based on this, in practice, if States are deciding based on staffing costs, it is unlikely that States would switch to a more costly staffing model that would provide the same required services. States would either choose their current status quo or a more cost-efficient staffing model. Therefore, while the Department cannot quantify the exact cost savings to the States, it can conclude that the removal of the merit-staffing requirement will not be more costly than the current baseline, and may yield cost savings to the States.

iii. Transfers From Employees to States

For the economic analysis in the 2020 Final Rule, the Department surveyed a sample of States to estimate the wage savings that would result from the added staffing flexibility. Eight States—representing three tiers of Wagner-Peyser Act funding—were surveyed by the Department and asked to provide the total number of Full-Time Equivalent (FTE) hours worked by State merit staff dedicated to delivering Wagner-Peyser Act-funded services, as well as the occupational title for all employees included in the FTE calculations. Based on the staffing patterns in the three States that were previously granted exemptions (*i.e.,* Colorado, Massachusetts, and Michigan), the Department assumed a 50 percent substitution rate in its wage savings calculations.

The Department then calculated the difference between the fully loaded wage rates of government workers and workers in all sectors to estimate the wage savings for the States within each of the three funding tiers. The results for each tier were then multiplied by the appropriate ratio to estimate the wage savings for the entire tier. And then the estimated wage savings for each tier were added together. In total, the estimated savings of the 2020 Final Rule was $6,754,691 per year (2018$), which is approximately $8,631,000 in 2025 dollars. Wage savings will vary among States, with each State's wage savings dependent on the choices it makes for staffing.

For purposes of E.O.s 12866 and 14192, the base wage and fringe benefit portions of these estimated savings are categorized as transfers from employees to States.

iv. Non-Quantifiable Benefits

This proposed rule will likely provide benefits to States and to society. The added staffing flexibility will allow States to identify and achieve administrative efficiencies. Given the estimated cost savings that will result, States will be able to dedicate more resources under the Wagner-Peyser Act to the provision of services to job seekers and employers. These services, which help individuals find jobs and help employers find workers, will provide economic benefits through greater employment. These resources can also provide States with added capacity to deliver more career services, including individualized career services, which studies have shown improve employment outcomes.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. chapter 6, requires the Department to evaluate the economic impact of this rule on small entities. The RFA defines small entities to include small businesses, small organizations, including not-for-profit organizations, and small governmental jurisdictions. The Department must determine whether the rule will impose a significant economic impact on a substantial number of such small entities. The Department concludes that this rule does not regulate any small entities directly, so any regulatory effect on small entities will be indirect. Accordingly, the Department has determined this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

C. Paperwork Reduction Act of 1995

The purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* include minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the

PRA. See 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by OMB under the PRA and it displays a currently valid OMB control number. The public is also not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

This proposed rule does not impose any new collection of information. The Department notes that the proposed change of the staffing requirement would necessitate simple changes to the WIOA State Plan Information Collection Request (1205–0522), which currently requires States to provide information regarding the staffing model States use to deliver ES services, among the other information States submit in their State Plans. However, this proposed rule will not change the burden hours associated with submitting the State plans to the Department.

Unified or Combined State Plan and Plan Modifications Under the Workforce Innovation and Opportunity Act, Wagner-Peyser WIOA Title I Programs and Vocational Rehabilitation Adult Education

Agency: DOL–ETA.

Title of Collection: Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act, Wagner-Peyser WIOA Title I Programs and Vocational Rehabilitation Adult Education.

Type of Review: Revision.

OMB Control Number: 1205–0522.

Description: Under the provisions of *Workforce Innovation and Opportunity Act (WIOA),* the Governor of each State or Territory must submit a Unified or Combined State Plan to the U.S. Department of Labor, which is approved jointly with the Department of Education, that fosters strategic alignment of the six core programs, which include the adult, dislocated worker, youth, Wagner-Peyser Act Employment Service, AEFLA, and VR programs.

Affected Public: States, Local, and Tribal Governments.

Obligation to Respond: Required to Obtain or Retain Benefits.

Estimated Total Annual Responses: 38.

Estimated Total Annual Burden Hours: 8,135.8.

Estimated Total Annual Other Burden Costs: $501,503.

Regulations sections: DOL programs—20 CFR 652.211, 653.107(d),653.109(d), 676.105, 676.110, 676.115,676.120, 676.135, 676,140, 676.145,677.230, 678.310, 678.405, 678.750(a), 681.400(a)(1), 681.410(b)(2), 682.100,683.115. ED programs—34 CFR parts 361, 462 and 463.

D. Review Under Executive Order 13132 (Federalism)

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. E.O. 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. E.O. 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. The Department has reviewed this proposed rule in light of these requirements and has concluded that it meets the requirements of E.O. 13132 by enhancing, rather than limiting, States' discretion in the administration of the Wagner-Peyser Act ES program.

Accordingly, the Department has reviewed this proposed rule and has concluded that the rulemaking has no substantial direct effects on States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government as described by E.O. 13132. Therefore, the Department has concluded that this proposed rule, if finalized, does not have a sufficient Federalism implication to require further agency action or analysis.

E. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

DOL examined this proposed rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

F. Executive Order 13175 (Indian Tribal Governments)

The Department has reviewed this proposed rule under the terms of E.O. 13175 and DOL's Tribal Consultation Policy and has concluded that the changes to regulatory text would not have tribal implications. These changes do not have substantial direct effects on one or more Indian tribes, the relationship between the Federal government and Indian tribes, nor the distribution of power and responsibilities between the Federal government and Tribal Governments.

G. Plain Language

E.O. 12866, E.O. 13563, and the Presidential Memorandum of June 1, 1998 (Plain Language in Government Writing), direct executive departments and agencies to use plain language in all rulemaking documents published in the **Federal Register**. The goal is to make the government more responsive, accessible, and understandable in its communications with the public. Accordingly, the Department drafted this NPRM in plain language.

List of Subjects in 20 CFR Part 652

Employment, Grant programs—Labor, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR part 652 as follows:

PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICE

■ 1. The authority citation for part 652 continues to read as follows:

Authority: 29 U.S.C. chapter 4B; 38 U.S.C. chapters 41 and 42; Secs. 189 and 503, Public Law 113–128, 128 Stat. 1425 (Jul. 22, 2014).

§ 652.215 [Reserved]

■ 2. Remove and reserve § 652.215.

Susan Frazier,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2025–12275 Filed 6–30–25; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary of Labor

29 CFR Part 38

RIN 1291–AA47

Rescission of Affirmative Outreach Requirements for Recipients of WIOA Title I Financial Assistance

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule; request for comment.

SUMMARY: The Department of Labor (Department), Office of the Assistant Secretary for Administration and Management, Civil Rights Center (CRC), proposes to remove the regulations implementing the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA) that contain affirmative outreach requirements for recipients of financial assistance under Title I of WIOA. WIOA does not authorize the Department to require affirmative outreach, therefore the Department is proposing to remove this requirement.

DATES: Comments must be received on or before July 31, 2025.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1291–AA47, by either of the following methods:

- *Electronic Comments:* Submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Naomi Barry-Perez, Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210.

Instructions: All submissions received must include ''RIN 1291–AA47.'' Please submit only one copy of your comments by only one method. Commenters submitting file attachments on *https://www.regulations.gov* are advised that uploading text-recognized documents—*i.e.,* documents in a native file format or documents which have undergone optical character recognition (OCR)—enable staff at the Department to more easily search and retrieve specific content included in your comment for consideration.

Please be advised that comments received will become a matter of public record and will be posted to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at *https://www.regulations.gov* (search using RIN 1291–AA47).

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. 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. Discussion

This action proposes to rescind CRC's regulation at 29 CFR 38.40, which was promulgated in 2016 and states that WIOA recipients ''must take'' affirmative outreach efforts to groups based on race, sex, national origin, and other characteristic and provides non-exhaustive examples of actions that may constitute ''reasonable efforts.'' Recipients are defined in 29 CFR 38.4(zz) as entities to which financial assistance under Title I of WIOA is extended, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). The term ''recipient'' excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity.

The Department is proposing to rescind 29 CFR 38.40 because the statute it implements—Section 188 of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3248—does not require affirmative outreach, and the Department has tentatively determined that imposing such a requirement by regulation exceeds its statutory authority.

Section 188 of WIOA (29 U.S.C. 3248) prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, and political affiliation or belief in programs and activities funded under Title I of WIOA. However, nothing in the text of Section 188 mandates that recipients of WIOA Title I financial assistance conduct proactive or affirmative outreach to particular demographic groups. The affirmative outreach provision at § 38.40 was added by regulation, not by Congress. The provision created a substantive compliance obligation not expressly authorized in statute. In doing so, it required recipients to undertake specific forms of outreach based solely on the demographic characteristics of individuals or groups, regardless of whether any actual discrimination had occurred. The Department now tentatively finds that such a requirement lacks a statutory foundation based on the best reading of the WIOA. *See Loper Bright Enterprises* v. *Raimondo,* 603 U.S.____ (2024).

The Department is also concerned that affirmative outreach may conflict with the Supreme Court's decision in *Students for Fair Admissions* v. *Harvard,* 600 U.S. 181 (2023), which reaffirmed that the government's use race and similar protected traits are subject to strict scrutiny and must be narrowly tailored to a compelling interest. While § 38.40 was framed as an outreach provision, it forces recipients to make ''reasonable efforts'' to take action based on characteristics like race, sex, and national origin. This may require recipients to consider protected traits in designing recruitment or programming. In doing so, § 38.40 risks encouraging demographic classifications that are suspect under *SFFA.*

To avoid potential constitutional conflict and ensure the Department's regulations stay within statutory and constitutional limits, the Department is rescinding § 38.40. Recipients remain subject to WIOA's nondiscrimination requirements.

Consistent with E.O. 14219, CRC is rescinding this regulation at § 38.40. E.O. 14219 directed agencies to review ''all regulations subject to their sole or joint jurisdiction for consistency with law and Administration Policy.'' [1] The Trump Administration provided additional guidance to agencies via Presidential Memorandum, ''Directing the Repeal of Unlawful Regulations''

[1] *See* E.O. 14219, 90 FR 10583 (Feb. 19, 2025).