

Dated: December 18, 2023.

**Vanessa A. Countryman,**  
Secretary.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 54

[TD 9985]

RIN 1545-BQ94

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 29 CFR Part 2590

RIN 1210-AC24

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### 45 CFR Part 149

[CMS-9890-CN]

RIN 0938-AV39

### Federal Independent Dispute Resolution (IDR) Process Administrative Fee and Certified IDR Entity Fee Ranges; Correction

**AGENCY:** Internal Revenue Service (IRS), Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services (HHS).

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the December 21, 2023 final rules entitled, “Federal Independent Dispute Resolution (IDR) Process Administrative Fee and Certified IDR Entity Fee Ranges.”

**DATES:** This correcting document is effective January 22, 2024.

**FOR FURTHER INFORMATION CONTACT:**

Shira B. McKinlay or William Fischer, Internal Revenue Service, Department of the Treasury, 202-317-5500; Shannon Hysjulien or Rebecca Miller, Employee Benefits Security Administration, Department of Labor, 202-693-8335; and Jacquelyn Rudich or Nora Simmons, Centers for Medicare &

Medicaid Services, Department of Health and Human Services, 301-492-5211.

**SUPPLEMENTARY INFORMATION:**

### I. Background

#### A. Introduction

On December 21, 2023, the Departments of Health and Human Services (HHS), Labor, and the Treasury (collectively, the Departments) published FR Doc. 2023-27931 (88 FR 88494), entitled “Federal Independent Dispute Resolution (IDR) Process Administrative Fee and Certified IDR Entity Fee Ranges” (final rules) related to the fees established by the No Surprises Act for the Federal IDR process, as established by the Consolidated Appropriations Act, 2021. The final rules (88 FR 88524 and 88525) contained non-substantive technical errors in the amendatory instructions for the regulation text and the HHS title that are identified in section II. of this document and corrected in section IV. of this document. The provisions in this correction document are effective as of the effective date of the final rules, because the Departments determined there is good cause to waive any delay in effective date for the reasons set forth in section III. of this document. Accordingly, the corrections are effective January 22, 2024.

#### B. Regulations Overview

The final rules amended existing regulations to provide that the administrative fee amount charged by the Departments to participate in the Federal IDR process and the ranges for certified IDR entity fees for single and batched determinations will be set by the Departments through notice and comment rulemaking. The preamble to the final rules also set forth the methodology used to calculate the administrative fee and the considerations used to develop the certified IDR entity fee ranges. The final rules also finalized the amount of the administrative fee and the certified IDR entity fee ranges for disputes initiated on or after the effective date of the final rules. Below, the Departments summarize the errors in the final rules and describe the corrections that the Departments are making in this document.

### II. Summary of Errors

In the final rules the Departments inadvertently made technical errors in the amendatory instructions for the regulation text for all three Departments. Amendatory instruction 3.h. incorrectly stated that the Department of the

Treasury was removing “; and” at the end of newly redesignated 26 CFR 54.9816-8T(e)(2)(xii) and adding a period in its place. Similarly, amendatory instruction 5.h. incorrectly stated that the Department of Labor was removing “; and” at the end of newly redesignated 29 CFR 2590.716-8(e)(2)(xii) and adding a period in its place, and amendatory instruction 7.h. incorrectly stated that the Department of Health and Human Services was removing “; and” at the end of newly redesignated 45 CFR 149.510(e)(2)(xii) and adding a period in its place. Instead, the Departments intended for these amendments to apply to newly redesignated 26 CFR 54.9816-8T(e)(2)(xi), 29 CFR 2590.716-8(e)(2)(xi), and 45 CFR 149.510(e)(2)(xi), respectively, rather than newly redesignated 26 CFR 54.9816-8T(e)(2)(xii), 29 CFR 2590.716-8(e)(2)(xii), and 45 CFR 149.510(e)(2)(xii), which do not include “; and” at the end of each paragraph and already end with periods. Finally, the Departments made a typographical error in the title line for HHS and incorrectly referenced 49 CFR subtitle A rather than 45 CFR subtitle A. Accordingly, the Departments are revising the title line for HHS to accurately reflect the correct title.

### III. Waiver of Proposed Rulemaking and Waiver of the Delay in Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 551, *et seq.*), while a general notice of proposed rulemaking and an opportunity for public comment is generally required before the promulgation of regulations, this is not required when an agency, for good cause, finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the reasons for that finding in the document.

The APA also generally requires that a final rule be effective no sooner than 30 days after the date of publication in the **Federal Register**. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment and delay in effective date requirements. Section 553(b)(B) of the APA authorizes an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest and includes a statement of the finding and the reasons for it in the rule. Similarly, section 553(d)(3) of the APA allows the agency

to avoid the 30-day delay in effective date where good cause is found and the agency includes in the rule a statement of the finding and the reasons for it.

The Departments are publishing this technical correction without advance notice or an opportunity for comment because it falls under the “good cause” exception of the APA, 5 U.S.C. 553(b)(B).

This document corrects technical and typographical errors made in the final rules, which were published in accordance with the APA after the Departments proposed the rules and provided the public with an opportunity to comment on the proposals, and will be effective on January 22, 2024. The corrections contained in this document do not make any substantive changes to the policies adopted in the final rules and merely make typographical corrections to the amendatory instructions of the regulation text and the HHS title line. Therefore, the Departments find for good cause that it is impracticable, unnecessary, and contrary to the public interest to undertake further notice and comment procedures to incorporate these corrections.

The Departments are also waiving the 30-day delay in effective date for these corrections. It is in the public interest to ensure that the final rules setting forth requirements for group health plans, health insurance issuers offering group or individual health insurance coverage, providers, facilities, and providers of air ambulance services relating to the administrative fee amount and certified IDR entity fee ranges for participation in the Federal IDR process accurately state the Departments’ policies as of the date they take effect. Therefore, the Departments find that delaying the effective date of these corrections beyond the January 22, 2024 effective date of the final rules would be contrary to the public interest. In doing so, the Departments find good cause to waive the 30-day delay in the effective date.

#### IV. Correction of Errors in the Regulation Text

In FR Doc. 2023–27931 of December 21, 2023 (88 FR 88494), the following corrections are made:

##### 26 CFR 54.9816–8T [Corrected]

■ 1. On page 88524, in the first column, in amendment 3.h. for 26 CFR 54.9816–8T, the instruction “Removing “; and” at the end of newly redesignated paragraph (e)(2)(xii) and adding a period in its place.” is corrected to read “Removing “; and” at the end of newly redesignated paragraph (e)(2)(xi) and adding a period in its place.”

##### 29 CFR 2590.716–8 [Corrected]

■ 2. On page 88524, in the second column, in amendatory instruction 5.h. for 29 CFR 2590.716–8, the amendatory instruction “Removing “; and” at the end of newly redesignated paragraph (e)(2)(xii) and adding a period in its place.” is corrected to read “Removing “; and” at the end of newly redesignated paragraph (e)(2)(xi) and adding a period in its place.”

##### 45 CFR Subtitle A

■ 3. On page 88525, in the first column, the title line for the Department of Health and Human Services “49 CFR Subtitle A” is corrected to read “45 CFR Subtitle A”.

##### 45 CFR 149.510 [Corrected]

■ 4. On page 88525, in the first column, in amendatory instruction 7.h. for 45 CFR 149.510, the amendatory instruction “Removing “; and” at the end of newly redesignated paragraph (e)(2)(xii) and adding a period in its place.” is corrected to read “Removing “; and” at the end of newly redesignated paragraph (e)(2)(xi) and adding a period in its place.”

##### Oluwafunmilayo A. Taylor,

*Section Chief, Publications and Regulations Section, Associate Chief Counsel, Procedure and Administration, Internal Revenue Service.*

##### Amber M. Rivers,

*Director, Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Department of Labor.*

##### Elizabeth J. Gramling,

*Executive Secretary to the Department, Department of Health and Human Services.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2022–0519]

RIN 1625–AA09

#### Drawbridge Operation Regulation; Housatonic River, Stratford, CT

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is altering the operating schedule that governs the Metro-North (Devon) Bridge, across the Housatonic River, mile 3.9, at Stratford,

CT. The bridge owner, Metro-North (MNR), submitted a request on May 5, 2022 to modify the regulation by aligning with the Metro-North “WALK” Bridge train schedule and avoid bridge openings during peak transit hours. It is expected that this change to the regulations will better serve the needs of the community while continuing to meet the reasonable needs of navigation.

**DATES:** This rule is effective February 23, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type the docket number (USCG–2022–0519) in the “SEARCH” box and click “SEARCH”. In the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Ms. Stephanie E. Lopez, First Coast Guard District, Project Officer, telephone 212–514–4335, email [Stephanie.E.Lopez@uscg.mil](mailto:Stephanie.E.Lopez@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
OMB Office of Management and Budget  
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)  
§ Section  
U.S.C. United States Code  
MNR Metro North Railroad

##### II. Background Information and Regulatory History

On January 27, 2023, the Coast Guard published an NPRM, with a request for comments, entitled “Drawbridge Operation Regulation; Housatonic River, Stratford, CT” in the **Federal Register** (88 FR 5293). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended February 27, 2023, we received no comments.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under 33 U.S.C. 499. The Metro-North (Devon) Bridge at mile 3.9, across the Housatonic River, Stratford, CT, has a vertical clearance of 19 feet at mean high water and a horizontal clearance of approximately 83 feet. Waterway users include recreational and commercial vessels, including fishing vessels.

The existing drawbridge operating regulations are listed at 33 CFR 117.207(b). MNR is requesting the modification of the requirements in 33 CFR part 117.207 to align with the