

## 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 AD 2023–21–08, Amendment 39–22580 (88 FR 77889, November 14, 2023); and  
 ■ b. Adding the following new airworthiness directive:

#### Rolls-Royce Deutschland Ltd & Co KG:

Docket No. FAA–2024–2014; Project Identifier MCAI–2024–00162–E.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 23, 2024.

#### (b) Affected ADs

This AD replaces AD 2023–21–08, Amendment 39–22580 (88 FR 77889, November 14, 2023).

#### (c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent 1000–A, Trent 1000–AE, Trent 1000–C, Trent 1000–CE, Trent 1000–D, Trent 1000–E, Trent 1000–G, and Trent 1000–H engines.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

#### (e) Unsafe Condition

This AD was prompted by the manufacturer revising the engine Time Limits Manual life limits of certain critical rotating parts. The FAA is issuing this AD to prevent the failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of critical rotating parts, which could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

#### (f) Compliance

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

#### (g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0062, dated March 6, 2024 (EASA AD 2024–0062).

#### (h) Exceptions to EASA AD 2024–0062

(1) Where EASA AD 2024–0062 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not require compliance with paragraphs (1), (2), (4), and (5) of EASA AD 2024–0062.

(3) Where paragraph (3) of EASA AD 2024–0062 specifies “Within 12 months after the effective date of this AD, revise the approved AMP,” replace that text with “Within 30

days after the effective date of this AD, revise the airworthiness limitation section (ALS) of the existing approved engine maintenance or inspection program, as applicable.”

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0062 is on or before the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2024–0062 or within 30 days after the effective date of this AD, whichever occurs later.

(5) This AD does not adopt the “Remarks” paragraph of EASA AD 2024–0062.

#### (i) Provisions for Alternative Actions and Intervals

No alternative actions and associated thresholds and intervals, including life limits, are allowed for compliance with paragraph (g) of this AD unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2024–0062.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety 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, AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: [AMOC@faa.gov](mailto: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 Ethan Carlson, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (206) 578–2291; email: [ethan.m.carlson@faa.gov](mailto:ethan.m.carlson@faa.gov).

#### (l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0062, dated March 6, 2024.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) 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-locations](http://www.archives.gov/federal-register/cfr/ibr-locations) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov).

Issued on August 2, 2024.

**Peter A. White,**

*Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.*

[FR Doc. 2024–17592 Filed 8–8–24; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Parts 259 and 261

[Docket No. DOT–OST–2024–0091]

RIN 2105–AF15

#### Family Seating in Air Transportation

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The U.S. Department of Transportation (Department or DOT) is proposing to require U.S. and foreign air carriers to seat children aged 13 and under adjacent to at least one accompanying adult at no additional cost beyond the fare, subject to limited exceptions. The Department considers family seating to be a basic service, essential for the provision of adequate air transportation, that must be included in the advertised fare. Under this proposal, a carrier’s failure to provide family seating would subject it to civil penalties on a per passenger (child) basis, and if the carrier charged families a fee beyond the fare to secure family seating, the carrier would be subject to civil penalties for each fee imposed.

**DATES:** Comments should be filed by October 8, 2024. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may file comments identified by the docket number DOT–OST–2024–0091 by any of the following methods:

- *Federal eRulemaking Portal:* go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140,

1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal Holidays.

- Fax: (202) 493-2251.

**Instructions:** You must include the agency name and docket number DOT-OST-2024-0091 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Privacy Act:** Anyone can search the electronic form of all comments received in any of the dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

**Docket:** For access to the docket to read background documents and comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:**

Maegan Johnson, Senior Trial Attorney, Nicole Smith, Trial Attorney, or Blane A. Workie, Assistant General Counsel, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202-366-9342, 202-366-7152 (fax), [Maegan.johnson@dot.gov](mailto:Maegan.johnson@dot.gov), [nicole.smith@dot.gov](mailto:nicole.smith@dot.gov), or [blane.workie@dot.gov](mailto:blane.workie@dot.gov) (email).

**SUPPLEMENTARY INFORMATION:**

**I. Executive Summary**

**A. Background**

The FAA Extension, Safety, and Security Act of 2016 (2016 FAA Extension Act) requires the Department to review U.S. air carrier family seating policies and, if appropriate, direct air carriers to establish policies that enable young children, age 13 and under, to sit adjacent to an accompanying family member, age 14 or over, to the maximum extent practicable and at no additional cost.<sup>1</sup> In response to this directive, in 2017, the Department's Office of Aviation Consumer Protection (OACP) reviewed family seating complaints received between June 1, 2016 and June 1, 2017, to better understand the issues facing consumers. OACP also conducted a review of the nine largest U.S. airlines'<sup>2</sup> family

seating policies and had discussions with each of these airlines to learn about their family seating policies, practices, and procedures. Based on its review of airline family seating policies and consumer complaints, the Department determined that it was unnecessary to direct airlines to establish policies that enable a child to sit next to an adult family member at that time.

OACP conducted a follow-up review in 2019 and learned that airlines had implemented enhanced approaches for providing family seating (e.g., more than one airline had developed an automated system to assign young children to seats next to an adult family member), but airlines did not guarantee family seating. Also, the total number of family seating complaints against U.S. airlines received by the Department trended slightly higher from July 2017 through June 2019.<sup>3</sup> In the Joint Explanatory Statement accompanying the Consolidated Appropriations Act of 2019, the House and Senate Committees on Appropriations (Committees) requested that the Department provide a report to the Committees "on its review of family seating policies and a justification for its decision to defer to current airline seating policies," noting that the Department has stated that it completed its review and deferred to current airline family seating policies.<sup>4</sup> The Department submitted the requested report to the Committees on March 12, 2020. In that report, the Department concluded that "[i]n lieu of directing airlines to establish specific seating policies, [it would] continue[ ] to update the family seating web page . . . [and] monitor and review the family seating complaints it receives on a regular basis to better understand what is and is not working."

In July 2021, DOT Secretary Buttigieg and other officials from the Department

carrier that accounted for at least one percent of domestic scheduled passenger revenues. OACP reviewed the following airlines: Alaska Airlines, American Airlines, Delta Air Lines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, Southwest Airlines, Spirit Airlines, and United Airlines. Together, these airlines and their operating partners accounted for approximately 95 percent of domestic passenger air traffic.

<sup>3</sup> In calendar year 2017, 0.38% of complaints (44 complaints) filed with the Department by consumers against U.S. airlines concerned family seating. In calendar year 2018, 0.51% of air travel service complaints (46 complaints) against U.S. airlines concerned family seating. In calendar year 2019, 2.4% of air travel service complaints (230 family seating complaints) against U.S. airlines concerned family seating. This increase corresponded with a consumer advocacy group's effort to encourage air travelers to file complaints with the Department if they were dissatisfied with an experience related to family seating.

<sup>4</sup> See <https://www.govinfo.gov/content/pkg/CRPT-115srpt268/html/CRPT-115srpt268.htm>.

met with consumer advocates who, as one of their top priorities, urged the Department to issue a rule requiring airlines to seat children next to at least one adult family member at no additional cost. The consumer advocates emphasized that, while the number of complaints about children being seated apart from an accompanying adult on a flight may not be large, the harm to the children who are separated is significant. After the meeting, the Department publicly stated that it would review this matter again to determine what other actions should be taken.<sup>5</sup>

In July 2022, the Department issued a notice encouraging airlines to review and improve, as needed, their policies and procedures to ensure young children are seated adjacent to at least one accompanying adult to the maximum extent practicable and at no additional cost.<sup>6</sup> In the notice, the Department asked airlines to review and improve their policies and procedures and stated that, four months from the date of the notice, it would initiate a review of airlines' family seating policies to ensure that children aged 13 or younger would be seated adjacent to an accompanying adult without paying an additional fee. In November 2022, the Department reviewed the ten largest U.S. airlines'<sup>7</sup> family seating policies and discovered that airlines generally promised to make efforts to seat families together, but many required families to pay an additional fee to be assured that a young child traveling in the party would be seated adjacent to an accompanying adult.

In February 2023, the President called upon Congress to ban airline family seating fees and announced that the Department would publish a family seating fee dashboard and initiate a rulemaking to ban the practice.<sup>8</sup> The

<sup>5</sup> See Travel Weekly, DOT takes another look at how families are split on airplanes, available at <https://www.travelweekly.com/Travel-News/Airline-News/DOT-reexamining-family-seating-airplanes> (Sept. 13, 2021).

<sup>6</sup> See <https://www.transportation.gov/individuals/aviation-consumer-protection/family-seating/June-2022-notice>.

<sup>7</sup> The Department focused its review on the largest U.S. airlines, i.e., a certificated U.S. air carrier that accounted for at least 1-percent of domestic scheduled passenger revenues. OACP reviewed the following airlines: Alaska Airlines, Allegiant Air, American Airlines, Delta Air Lines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, Southwest Airlines, Spirit Airlines, and United Airlines.

<sup>8</sup> See <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/01/fact-sheet-president-biden-highlights-new-progress-on-his-competition-agenda/>. Also, see <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/02/07/remarks-of-president-joe>

<sup>1</sup> Public Law 114-190, codified at 49 U.S.C. 42301 note prec.

<sup>2</sup> The Department focused its review on the largest U.S. airlines, i.e., a certificated U.S. air

Secretary of Transportation (Secretary) also announced the Department's plan to launch a dashboard that provides information to air travelers on the largest airlines' guarantees to seat young children adjacent to at least one accompanying adult without the traveler having to pay an additional fee.

In anticipation of the dashboard's release, some airlines amended their family seating policies and added language to their customer service plans guaranteeing that they would provide adjacent seats for young children 13 or under traveling with an accompanying adult at no additional cost, subject to limited conditions. When the Department's family seating dashboard was published on OACP's website on March 6, 2023, only three out of the ten largest U.S. carriers had committed to guaranteeing adjacent seating for families at no additional cost. Since then, one additional airline has made that commitment.<sup>9</sup>

Because most airlines would not guarantee that they would seat a parent and a child together at no extra cost, the Department initiated this rulemaking to ensure a young child is able to sit adjacent to an accompanying adult. On March 10, 2023, the Secretary also submitted a legislative proposal to Congress to amend chapter 417 of title 49, U.S. Code, to ensure that young children are seated adjacent to at least one accompanying adult at no additional cost, subject to certain conditions.<sup>10</sup>

#### A. Need for a Rulemaking

The Department views family seating as a basic service, essential for the provision of adequate air transportation, that should be provided to passengers at no additional cost. As described in the Regulatory Impact Analysis (RIA) developed in support of this rulemaking, the Department estimates the percentage of consumers, including families with young children, who may pay seating fees. According to complaints received by DOT, some parents mistakenly assume that they will be seated next to their young children when they purchase tickets for air transportation.<sup>11</sup> These passengers

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<sup>9</sup> See <https://www.transportation.gov/airconsumer/airline-family-seating-dashboard>.

<sup>10</sup> See <https://www.transportation.gov/resources/individuals/aviation-consumer-protection/family-seating-legislative-proposal>.

<sup>11</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and*

assume that fee-free family seating is already required because a parent would need to supervise and tend to their child during a flight, not to mention the potential harm that may occur from a child being separated from a parent during a flight.

Based on the nature and severity of the complaints the Department has received, and the reluctance shown by the majority of the largest U.S. airlines to amend their family seating policies to guarantee family seating at no additional cost, demonstrates a need for action in this area. Additionally, the Department received several hundred comments on its Enhancing Transparency of Airline Ancillary Service Fees NPRM that urged the Department to ban family seating fees, rather than requiring that those fees be disclosed to consumers early in the purchasing process.<sup>12</sup>

Specifically, the Department is concerned about the hardship experienced by families when they are unable to ensure family seating in advance of travel and about families paying extra fees just to ensure that they are seated with their children. Furthermore, a carrier's failure to provide family seating harms not only passengers traveling with young children, but also other passengers on the aircraft who may be asked or directed to give up their seats to accommodate families on the day of

2022: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>12</sup> See, e.g., Comment from National Consumers League, available at <https://www.regulations.gov/comment/DOT-OST-2022-0109-0097> ("DOT should not assume that air carriers will stop charging seat reservation fees for family seating following the enactment of the proposed ancillary fee transparency regulations. To end this practice, the undersigned consumer and traveler rights organizations continue to urge the Department to utilize its existing authorities to require airlines to seat children 13 years old and younger with accompanying adults at no additional charge."); Comment from PUBLIC INTEREST RESEARCH GROUP, available at <https://www.regulations.gov/comment/DOT-OST-2022-0109-0383> ("... OACP receives complaints involving children as young as 11 months old not seated next to their adult travel partner. This is unacceptable. We support the OACP's position that airlines should not charge additional fees for a child 13 or younger to be seated next to an accompanying adult."); Comment from AARP, available at <https://www.regulations.gov/comment/DOT-OST-2022-0109-0093> ("... the high fees for changing or cancelling travel plans and fees for families to reserve seats together do not promote affordable access to travel by air. While disclosure is an essential first step, we would encourage the Department, and the airlines themselves, to reduce or eliminate such fees wherever possible."); Comment from Travel Agent Org, available at <https://www.regulations.gov/comment/DOT-OST-2022-0109-0492> ("Suggestion: Follow the way of other counties like Canada's APPR and require free adjacent seating for families with kids under 13.")

travel or who may be required to sit next to an unsupervised child.

Consumers traveling with young children have reported feeling undue stress and anxiety when they are unable to receive assurances from carriers before the date of travel that they will be seated next to their young children. Although most airlines have indicated that their gate agents and flight crew will attempt to seat families together during the boarding process, these attempts are often taxing and, sometimes, unsuccessful. In one passenger complaint received by the Department, the passenger alleges that she purchased a "basic" ticket, and she was assigned a seat in a different row than her 4-year-old son.<sup>13</sup> She states that her son was assigned to a seat in between two men that she had never met before, and the flight attendant onboard the aircraft refused to assist her with asking passengers to shuffle seats because it was a full flight. Similarly, the Department received another consumer complaint alleging that a 10-year-old child suffered an anxiety attack when, at the start of boarding, the child was still assigned to a seat in a separate row from his parents.<sup>14</sup>

The Department is also concerned that the carriers that do not guarantee family seating advise passengers to purchase advance seat assignments, purchase seats in a higher fare class, or pay a fee to receive early boarding on the aircraft, simply to ensure that families are seated together. Many U.S. airlines offer basic economy, or another equivalent low-cost economy ticket. These low-cost economy ticket options typically do not allow passengers to select a seat assignment for free. Thus, if a passenger wants to ensure that they will receive a seat assignment next to their child in advance of the flight, carriers that do not guarantee free family seating typically advise passengers to either pay the advance seat assignment selection fee, or purchase seats that cost more than the low-cost economy tickets to be assured of seats adjacent to their young child. Thus, families traveling with young children are being forced to purchase a more expensive fare to

<sup>13</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>14</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

ensure that they are seated with their young children.

Most carriers have indicated to the Department that they would try to make accommodations at the airport to ensure that families are seated together, regardless of the fare purchased by the passenger. Nonetheless, passengers who purchase low-fare economy tickets for their family have reported having difficulty when attempting to obtain family seating at the gate, and have, in some instances, been shamed by airlines for failing to purchase a higher fare ticket to ensure that their family will be assigned adjacent seats.

To illustrate, one passenger alleged that she purchased inexpensive seats on a large U.S. carrier and when she approached a gate agent on the day of travel, the agent initially refused to assign her a seat next to her two-year old and four-year old children and stated that she should have booked in a "higher class."<sup>15</sup> The passenger states that the agent eventually facilitated new seat assignments for her family, but she was upset by the lack of empathy shown by the agent and the unpleasantness of the encounter. In another complaint received by the Department, a passenger alleges that she was seated eight rows apart from her 3-year-old child and that the airline stated that it hoped she would be able to sit with her child on the day of travel or, in the alternative, that the passenger could pay for upgraded seats.<sup>16</sup>

The Department also notes that even if a passenger reserves seats in advance, pays a fee to select seats, or purchases seats in a higher class to ensure family seating, the passenger may be later assigned seats away from a young child in their travel party if the carrier changes the flight's aircraft. For example, the Department received a complaint from a passenger who alleges that he booked a flight for himself and his 8-year-old daughter. He states that when he booked his flight, he made sure

that he reserved a seat directly next to his daughter, but when the airline changed the flight schedule, they also changed his seat assignment, and he was no longer seated next to his daughter.<sup>17</sup>

Families have also identified child safety concerns as a major cause of stress and anxiety when a carrier does not provide passengers with assurances that they will be seated next to their young child on a flight.<sup>18</sup> In one passenger complaint received by DOT, a passenger alleges that her three children, all under the age of 13, were assigned seats away from the accompanying adults in their travel party. She states that she was concerned about the seating arrangement because there would be no responsible adult available to help her children with masks or life vests in the case of an emergency, no one to help her children load baggage into the overhead bin, and no assurances that her children were protected sitting next to strangers.<sup>19</sup> No family should have to worry about the safety of a young child, including during a potential emergency, because their child is seated rows away and next to complete strangers.

Additionally, carriers that do not guarantee family seating to passengers traveling with children cause harm to passengers traveling without children. When a carrier assigns a young child a seat away from their accompanying adult, other passengers must make the decision to sit next to an unsupervised child or to forfeit the seat they may have paid to obtain, to remedy a situation the carrier created. When a parent and child are seated apart, carriers rely heavily on the goodwill of other passengers on the

aircraft to relinquish their seats to allow a child and a parent to be seated next to each other on the aircraft. However, due to carriers' seating policies, many passengers may have paid an additional fee for the seat they selected or have paid an additional fee to board the aircraft early. If the passenger elects not to relocate, the passenger would then sit next to, and potentially have to look after, an unsupervised child. Similarly, the Department views it as unreasonable for passengers who paid for early boarding to relinquish their seats to families traveling with young children to remedy the situation the carrier created. The seat switching process also creates a transaction cost on all parties involved, including delays in boarding and departure time, that could have been avoided if the family had already been assigned seats together prior to boarding, or in the case of open seating carriers, boarded in a manner that ensured family seating.

As described above, the Department has received various complaints describing stress-inducing incidents where families with very young children were assigned seats apart from a parent, and complaints describing fees that had to be paid to ensure that a parent was seated adjacent to their child. These additional costs can be a significant expense and can be a barrier for families who cannot afford to pay additional fees to ensure that a child in the travel party is seated adjacent to at least one accompanying adult.

In this rulemaking, the Department proposes to amend 14 CFR part 259, Enhanced Protections for Airline Passengers, and create a new 14 CFR part 261 Family Seating, to require U.S. and foreign air carriers to seat children aged 13 and under next to at least one accompanying adult at no additional cost, as defined in this rulemaking, subject to limited exceptions. Under this proposal, a carrier would be prohibited from imposing additional charges to provide adjacent seating. Failure to provide family seating at no additional cost beyond the fare, including by charging for seat selection or upgraded priority boarding, would subject the carrier to civil penalties on a per passenger (child) basis or a per fee basis. If an airline fails to provide adjacent seating as required by the proposed rule, it would be required to provide the passengers remedial choices.

<sup>17</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>18</sup> Hundreds of commenters on the Department's Enhancing Transparency of Airline Ancillary Service Fees NPRM noted that family seating "is a basic human safety right. No child should have to sit next to strangers on a plane, airlines need to proactively offer children seating next to an accompanying adult." See, e.g., <https://www.regulations.gov/document/DOT-OST-2022-0109-0696>.

<sup>19</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>15</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>16</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

### B. Statutory Authority

#### 1. Authority To Regulate Under the FAA Reauthorization Act of 2024

Section 516 of the FAA Reauthorization Act of 2024 (2024 FAA Reauthorization Act, Reauthorization Act, or Act)<sup>20</sup> provides that the Secretary of Transportation “shall issue a notice of proposed rulemaking to establish a policy” that directs assigned seating air carriers to seat young children, under 14 years of age, adjacent to an accompanying adult to the greatest extent practicable, if the adjacent seats are available any time after the ticket has been issued, but before the first passenger boards the flight.<sup>21</sup> Additionally, the Reauthorization Act also prohibits air carriers from charging a fee or imposing an additional cost beyond the ticket price to provide this service. Further, the Act states that section 516 should not be construed in such a way as to “allow the Secretary to impose a change in the overall seating or boarding policy of an air carrier that has an open or flexible seating policy in place that generally allows adjacent family seating as described in” that section. Pursuant to Section 516 of the Reauthorization Act, DOT proposes in this NPRM to require assigned seating carriers to provide family seating to young children and an accompanying adult on aircraft at no additional cost. The Department also proposes to require carriers with an open or flexible seating policy to board passengers in a manner that allows a young child and an accompanying adult to secure adjacent seatings on the flight at no additional charge. This proposal, made pursuant to existing statutory authority at 49 U.S.C. 41702 and 41712 as explained in the following paragraphs, is consistent with paragraph (c) of section 516, which prohibits DOT from imposing a change in the overall seating or boarding policies of open or flexible seating carriers. The Department’s proposals provide open and flexible seating carriers with the flexibility to work within the framework of their existing seating policies to determine how to board passengers in a way that would allow a young child to secure a seat adjacent to an accompanying adult at no additional charge. For example, a

<sup>20</sup> FAA Reauthorization Act of 2024, Public Law 118–63, § 516, 138 Stat. 1025, 1197–1198 (2024).

<sup>21</sup> In addition to the mandate to issue an NPRM in the 2024 FAA Reauthorization Act, in 2016 Congress also required DOT to “establish a policy directing all air carriers . . . to establish policies that enable young children to sit adjacent to an accompanying family member over age 13 to the maximum extent practicable and at no additional cost.” See section 2309(a) of the 2016 FAA Extension Act.

carrier, operating under its existing open or flexible seating policies could ensure family seating by blocking off seats in a specific section of the aircraft dedicated to passengers traveling with families, or by requiring families to be at the gate at a certain time before boarding to obtain family seating.

#### 2. Authority To Regulate Under 49 U.S.C. 41702

With respect to the proposed requirements in this NPRM applicable to air carriers,<sup>22</sup> the Department issues this NPRM pursuant to additional authority under 49 U.S.C. 41702, which states that “an air carrier shall provide safe and adequate interstate air transportation.”<sup>23</sup> The Civil Aeronautics Board (CAB), the predecessor to the U.S. Department of Transportation, had the authority to ensure that air carriers provide “safe and adequate service, equipment and facilities” under section 404(a) of the Federal Aviation Act of 1958, which was later codified in 49 U.S.C. 41702.<sup>24</sup> The CAB relied on section 404(a) to adopt a regulation that restricted smoking on flights by dividing aircraft cabins into smoking and nonsmoking sections. The CAB reasoned that its authority to require air carriers to provide “adequate service” under § 41702 includes ensuring that the service does not cause passenger discomfort and annoyance.<sup>25</sup> The CAB’s regulation and interpretation of “adequate service” was later challenged by a passenger, but the U.S. Court of Appeals for the Fifth Circuit found that “adequate service” referred both to the number of flights provided by an air

<sup>22</sup> Pursuant to 49 U.S.C. 70102, an “air carrier” means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

<sup>23</sup> Pursuant to 49 U.S.C. 40102(a)(25) “interstate air transportation” means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—(A) between a place in—(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States; (ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii; (iii) the District of Columbia and another place in the District of Columbia; or (iv) a territory or possession of the United States and another place in the same territory or possession; and (B) when any part of the transportation is by aircraft.

<sup>24</sup> Codification was effectuated in Public Law 103–272 (enacted July 5, 1994).

<sup>25</sup> “[T]he extent and depth of passenger discomfort and annoyance from unsegregated and unregulated smoking on aircraft compels the conclusion that service which does not provide for the effective separation of smokers constitutes neither adequate service nor reasonable practice and cannot be permitted under the act.” 38 FR 12209 (May 10, 1973).

carrier and the quality of service provided to passengers.<sup>26</sup>

More recently, the Department relied on its authority to provide safe and adequate interstate transportation in § 41702 in its 2016 final rule prohibiting the use of e-cigarettes on-board aircraft.<sup>27</sup> In that final rule, the Department reasoned that it had the authority to rely on the “adequate” prong in § 41702 to ban the use of e-cigarettes. The Department argued that discomfort from e-cigarettes was like the discomfort described by the CAB when it chose to restrict smoking on aircraft in 1973.<sup>28</sup>

The Department’s proposal in this NPRM promotes “adequate” air transportation because requiring airlines to ensure that young children are seated adjacent to an accompanying adult at no additional cost would decrease the significant hardship, stress, and anxiety experienced by families when a young child is not seated next to an accompanying adult on an aircraft. Passenger complaints received by DOT allege that both parents and their children have experienced anxiety and significant stress when faced with the risk of being separated during their flights.<sup>29</sup> Failing to provide family seating also causes discomfort and harm to passengers who are not traveling with young children since these passengers may be asked to voluntarily give up their seats on the day of travel to accommodate a young child and accompanying adult. Forcing passengers, especially those passengers who paid for a specific seat assignment, to choose either to sit next to an unsupervised child or to relinquish their seat and move to a potentially undesirable location on the aircraft causes discomfort and annoyance.

In addition, the rule promotes “adequate” service because ensuring that young children are seated adjacent to an accompanying adult is an essential component of basic air transportation service that passengers reasonably believe should be included in their air transportation fare. Adequate service includes the quality of the service

<sup>26</sup> See *Diefenthal v. Civil Aeronautics Bd.*, 681 F.2d 1039 (5th Cir. 1982) (adequate service can refer both to the number of flights scheduled as well as the quality of service provided).

<sup>27</sup> 81 FR 11415 (March 4, 2016).

<sup>28</sup> 81 FR 11415, 11421 (March 4, 2016).

<sup>29</sup> See *Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation’s Office of Aviation Consumer Protection between 2019 and 2022*: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

provided to passengers.<sup>30</sup> Current carrier practices of encouraging families to pay fees for a basic service that should be included with the air transportation purchased degrades the quality of the service provided to passengers by the carrier and can ultimately be harmful to any passengers on the aircraft. As such, the Department's authority to ensure adequate service under § 41702 supports the proposed requirements in this NPRM.

Also, in light of passenger complaints received by DOT, the Department's proposal in this NPRM promotes "adequate" air transportation under § 41702 by establishing further protections for young children traveling in air transportation. According to passenger complaints, young children who are separated from an accompanying adult may be more vulnerable to harm when traveling on an aircraft. Unlike children traveling as unaccompanied minors, who benefit from a service provided by airlines that typically involves the airline charging a fee to monitor and supervise the transport of a young child, young children who travel unsupervised because the airline failed to provide family seating may undergo unnecessary emotional trauma,<sup>31</sup> may be harmed by another passenger during air transportation,<sup>32</sup> or may not receive the requisite assistance to protect themselves during an emergency on the aircraft. Passenger concerns about protecting children traveling alone on aircraft therefore justify the Department's use of its authority to ensure adequate transportation under § 41702.

### 3. Authority To Regulate Under 49 U.S.C. 41712

The Department is also issuing this NPRM pursuant to its authority in 49 U.S.C. 41712 to prohibit unfair or deceptive practices by air carriers, foreign air carriers, or ticket agents in air transportation or the sale of air transportation.

<sup>30</sup> See *Diefenthal*, 681 F.2d at 1044 (adequate service can refer both to the number of flights scheduled as well as to the quality of service provided).

<sup>31</sup> See Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>32</sup> Press Release, U.S. Fed. Bureau of Investigation, Sexual Assault Aboard Aircraft: Raising Awareness About a Serious Federal Crime, (April 26, 2018), <https://www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618>.

On December 7, 2020, the Department issued a final rule that, among other things, requires the Department to provide its reasoning for concluding that a certain practice is unfair or deceptive to consumers when issuing aviation consumer protection rulemakings that are not specifically required by statute and are based on the Department's general authority to prohibit unfair or deceptive practices under section 41712.<sup>33</sup> That final rule adopted definitions for the terms "unfair" and "deceptive." A practice is "unfair" to consumers if it causes or is likely to cause substantial injury, which is not reasonably avoidable, and the harm is not outweighed by benefits to consumers or competition.<sup>34</sup> A practice is "deceptive" to consumers if it is likely to mislead a consumer, acting reasonably under the circumstances, with respect to a material matter. A matter is material if it is likely to have affected the consumer's conduct or decision with respect to a product or service.<sup>35</sup> Proof of intent is not necessary to establish unfairness or deception.<sup>36</sup> The Department elaborated further on the elements of "unfair" and "deceptive" in a 2022 guidance document.<sup>37</sup>

#### a. Unfair Practice

Pursuant to its authority to prohibit unfair practices under section 41712, the Department proposes to ensure that carriers allow young children to be seated adjacent to an accompanying adult on a flight at no additional cost. In support of its proposal, the Department reasons that a carrier's practice of not allowing a young child or young children to be seated adjacent to an accompanying adult unless they pay a fee to ensure adjacent seating is unfair because it causes substantial harm to consumers, the harm is not reasonably avoidable, and the harm is not outweighed by the benefits to consumers and competition. Although the number of family seating complaints that the Department has received is low, a substantial harm may be demonstrated by a large amount of harm to a small

<sup>33</sup> See Final Rule, Defining Unfair or Deceptive Practices, 85 FR 78707, Dec. 7, 2020. See also <https://www.govinfo.gov/content/pkg/FR-2022-08-29/pdf/2022-18170.pdf>.

<sup>34</sup> 14 CFR 399.79(b)(1).

<sup>35</sup> 14 CFR 399.79(b)(2).

<sup>36</sup> 14 CFR 399.79(c).

<sup>37</sup> 87 FR 52677 (August 28, 2022).

number of people<sup>38</sup> or unwarranted health and safety risk.<sup>39</sup>

The Department believes there is substantial harm whenever a young child is separated from an accompanying adult on a flight due to unwarranted health and safety risks to the child. Consumers report experiencing significant stress and anxiety when they are assigned seats apart from their young children, who, in some circumstances, are too young to feed themselves, fasten their own seatbelt, go to the bathroom, and, in some cases, communicate. Furthermore, as discussed above, young children who travel unsupervised because the airline failed to provide family seating may undergo unnecessary emotional trauma,<sup>40</sup> may be harmed by another passenger during air transportation,<sup>41</sup> or may not receive the requisite assistance

<sup>38</sup> A parent attempting to travel on a major U.S. airline in 2021 complained to the Department that the airline seated her 11-month-old and 4-year-old children by themselves. The airline did not dispute this occurred and stated that DOT had yet to put any directives in place for U.S. airlines about family seating. In another example, a complaint against another major airline alleged that in 2020 the airline seated a six-year-old apart from a parent and that the traveler next to the child proceeded to watch R-rated content. The airline did not dispute this occurred. Further, one complaint alleges that a child with autism was initially separated from his parents, which caused the child's mother to suffer a panic attack. While another complaint alleges that a 10-year-old child suffered an anxiety attack when initially separated from their parents. Another family alleged being asked to pay \$200 per ticket after being separated from a 5-year-old. Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>39</sup> FTC has found actions to be unfair if they pose a risk of physical harm to children or enticed children to engage in risky or dangerous activities. *FTC Policy Statement on Unfairness*, available at, <https://www.ftc.gov/legal-library/browse/ftc-policy-statement-unfairness> (Dec. 17, 1980) (citing to Philip Morris, Inc., 82 F.T.C. 16 (1973) (approving consent decree to cease distributing unsolicited razor blades directly to homes: "[T]he distribution of the razor blades, constitutes a hazard to the health and safety of persons . . . particularly young children.").

<sup>40</sup> See Redacted Sample of Consumer Complaints Related to Seat Assignment Fees for Families Traveling with Children 13 and Under Received by the Department of Transportation's Office of Aviation Consumer Protection between 2019 and 2022: <https://www.regulations.gov/document/DOT-OST-2022-0109-0023>.

<sup>41</sup> Press Release, U.S. Fed. Bureau of Investigation, Sexual Assault Aboard Aircraft: Raising Awareness About a Serious Federal Crime, (April 26, 2018), <https://www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618>. See also <https://www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618>.

to protect themselves during an emergency on the aircraft.

The Department also considers the monetary harm to parents, who are required to purchase adjacent seats to ensure the safety of their children, to be substantial and to satisfy the first prong of the unfairness test. Other travelers may choose to purchase adjacent seats for convenience or companionship, but they would not face the same concerns that parents with young children would if they are not seated together because young children are not able to defend and protect themselves from harm in the same way as an adult. A parent traveling with young children may feel compelled to pay for adjacent seating, even though the cost is high, to ease their minds about the health and safety of their children. For similar reasons, parents traveling with young children are currently not able to take advantage of basic economy fares that do not include the ability to select seats or to be seated together, thereby creating higher travel costs for those with young children.

Furthermore, the practice of not guaranteeing that young children will be seated adjacent to at least one accompanying adult at no additional cost harms other passengers on the aircraft. Most carriers have moved to a seating model where people may pay to select their seat in advance or pay for early boarding. Airlines charge different fees for different seats based on perceived benefits. Despite passengers paying these fees, airlines may ask these passengers to “voluntarily” forfeit their seats for families traveling with young children and move to a less desirable seat, with the alternative of being seated next to an unsupervised child and causing stress and anxiety for that child’s parent.

For families traveling with young children, the monetary harm suffered by consumers who are coerced into paying more to sit adjacent to their children is not reasonably avoidable because the only way for families to ensure that they are seated together on carriers that do not guarantee family seating is to pay a seat-selection fee, book a seat in a higher fare class, or pay an early boarding fee. For many parents, sitting apart from their child is not an option, and those parents feel compelled to pay the fee or may even be unable to travel altogether because of the additional cost. Furthermore, as discussed above, even those paying fees for adjacent seats may be separated from their children in the event of an aircraft change and would also be unable to avoid the harm of being seated apart from their young children. In addition, the harm to passengers not traveling with young

children is not reasonably avoidable because these passengers do not know, prior to travel, if they will be asked to relinquish their seat to accommodate a family traveling with a young child or if they will be seated next to an unsupervised child.

The Department believes that the tangible and significant harm to consumers is not outweighed by countervailing benefits to consumers or competition. As noted above, consumers face substantial harm when a carrier refuses to seat families traveling with young children together at no additional cost, or when the carrier relies on other passengers to choose between sitting next to an unsupervised child or giving up their preferred seat. Further, the countervailing benefits to consumers and competition of permitting family seating fees do not outweigh this substantial harm to consumers. The Department does not believe the harm outweighs any benefit to consumers, such as any potential slight increase in fare cost for consumers traveling without children or families that do not currently pay advance seat fees.

In fact, the Department believes that its proposal will promote competition. Today, airlines are required to state the full price of a ticket, inclusive of all mandatory fees, in their published fares. However, airlines are not required to include fees for adjacent seats in the advertised fare, as they are considered optional services.<sup>42</sup> Many families with young children consider fees for adjacent seats as not truly optional and effectively part of the price. Fees for adjacent seats can quickly add up and transform what seemed like a cheap airline ticket into a pricey one. The addition of a seating fee to the advertised fare effectively raises the final cost of air transportation for families traveling with young children. Banning fees for seating young children adjacent to an accompanying adult will enhance competition, as families will be able to use the published fare to accurately comparison shop between airline offers. Effective competition is enabled when consumers have the information necessary to make informed choices.

The Department also proposes to prohibit unfair practices by requiring a carrier to disclose that it provides family seating at no additional cost and to disclose any carrier-imposed requirements that attach to its family seating policy and are permitted under the proposed rule that may impact the

consumer’s ability to secure adjacent seats, including carrier requirements for check-in or boarding. These disclosures would be required on a carrier’s online platforms and when a consumer calls the carrier’s reservation center to inquire about a fare or seating or to book a ticket.

A carrier’s failure to disclose that it provides family seating at no additional cost would result in substantial monetary harm to families because uninformed consumers would be likely to needlessly purchase seats assignments, or seats in a higher fair class to, secure family seating, which would result in higher costs to families traveling in air transportation. Additionally, failing to disclose the exceptions to the carrier’s family seating policy would cause significant harm to consumers because uninformed families run the risk of unwittingly forfeiting their ability to secure adjacent seats *e.g.*, a family may be refused family seating, resulting in a young child or young children sitting apart from a parent or other responsible adult, if the family was unaware of the need to check-in at the boarding gate at a specific time.

The harm is not reasonably avoidable because consumers would have no way of learning the parameters of a carrier’s family seating policy if a carrier failed to make the disclosures proposed in this NPRM. The only way that a consumer would learn that a carrier provides family seating for free, or that certain exceptions to the carrier’s family seating policy exist, would be if the consumer made a direct inquiry to the carrier. The Department believes that such an inquiry is unlikely to occur because an ordinary consumer would reasonably assume that a carrier has provided pertinent information about its seating policies, including for family seating to enable young children to sit next to a parent or other responsible adult, on its online platform.

Finally, the harm to consumers is not outweighed by the benefit because, as discussed above, the additional cost of purchasing assigned seats or seats in a higher fare class would raise the cost of air transportation for families traveling with young children. Additionally, uninformed consumers run the risk of failing to secure family seating.

#### b. Deceptive Practice

Pursuant to its authority to prohibit deceptive practices under section 41712, the Department is proposing to require carriers to disclose that they will seat a young child adjacent to an accompanying adult at no additional cost with limited exceptions and disclose the exceptions that may impact

<sup>42</sup> Optional Services is a service the airline provides, for a fee, beyond passenger air transportation. See defined in 14 CFR 399.85(d).



the consumer’s ability to secure adjacent seats, if the proposal to ban family seating fees is adopted in final. The Department is proposing to require this disclosure on carrier’s online platforms and when a customer calls the carrier’s reservation center to inquire about a fare or seating or to book a ticket. Without this disclosure, it is likely that a consumer, acting reasonably under the circumstances, would be misled and unnecessarily pay for adjacent seats or inadvertently not take the required steps to secure adjacent seats. The carrier’s disclosure that it will provide family seating at no additional cost, and disclosure of the applicable exceptions to its policy, is a material matter for consumers, as the disclosure prevents unnecessary payment of fees and ensures families know what they need to do to ensure they are seated together.<sup>43</sup>

**C. Hearing Procedures**

For the reasons discussed in the Statutory Authority section of this NPRM, the Department proposes that failing to provide family seating at no additional cost is an unfair practice. The Department also proposes that, if family seating fees are banned, it would be a deceptive practice for carriers not to

disclose to families that they will seat a young child adjacent to an accompanying adult at no additional cost with limited exceptions.

Pursuant to 14 CFR 399.75(b)(1), any interested party may file a petition to hold a hearing on the proposed rule prior to the close of the comment period. As stated in the **DATES** section, petitions must therefore be received by October 8, 2024.

14 CFR 399.75(b)(2) provides that the Department will grant a petition if the petitioner makes a clear and convincing showing that granting the petition is in the public interest. Factors considered in determining whether a petition is in the public interest include: (1) Whether the proposed rule depends on conclusions concerning one or more specific scientific, technical, economic, or other factual issues that are genuinely in dispute or that may not satisfy the requirements of the Information Quality Act; (2) whether the ordinary public comment process is unlikely to provide an adequate examination of the issues to permit a fully informed judgment; (3) whether the resolution of the disputed factual issues would likely have a material effect on the costs and benefits of the proposed rule; (4) whether the requested hearing would advance the

consideration of the proposed rule and the General Counsel’s ability to make the rulemaking determinations required by § 399.75; and (5) whether the hearing would unreasonably delay completion of the rulemaking. DOT must also provide an explanation of the basis for the decision on a petition. (14 CFR 399.75(b)(3)).

**D. Summary of Proposed Regulatory Provisions**

The Department is proposing to enhance its aviation consumer protection requirements by adopting a new part under Subchapter A of Title 14 of the Code of Federal regulations, 14 CFR part 261, which would require U.S. and foreign air carriers to allow young children to be seated adjacent to an accompanying adult on a flight at no additional cost. In addition, the Department seeks to enhance its aviation consumer protection requirements by amending 14 CFR part 259 to require carriers to notify passengers of their family seating policies in their customer service plans. The Department’s proposed protections are described in the summary table below.

Subject	Proposal
Applicability .....	Would apply to U.S. and foreign air carriers that operate or market scheduled passenger flights to, within, or from the U.S. on at least one aircraft that has a designed capacity of 30 or more passenger seats.
Family Seating Requirement .....	Would require adjacent seats for a young child (age 13 and under) and an accompanying adult (age 14 and over) within the same class of service at no additional cost beyond the fare, with limited exceptions. This Part clarifies that family seating is a basic service, essential for the provision of adequate air transportation, that must be included in the advertised fare.
Exceptions to Family Seating Requirements.	Would provide four exceptions to the family seating requirement when: (1) the young child is not traveling with an accompanying adult; (2) the booking party or accompanying adult declines to accept the adjacent seats or chooses to sit apart from the young child; (3) the number of young children traveling makes it impossible to provide adjacent seats due to the layout of the aircraft; or (4) the young child and/or accompanying adult do not comply with the carrier’s check-in or boarding requirements. In situations where it is impossible to seat multiple young children adjacent to an accompanying adult, carriers must seat the young children across the aisle from, or directly in front of or directly behind the accompanying adult at no additional cost beyond the fare.
Available Family Seating at Booking ...	If adjacent seats are available at booking, would require a carrier that assigns seats in advance of the date of departure of a flight (Assigned Seating Carrier) to make every reasonable effort to provide adjacent seat assignments to a young child and accompanying adult at the time of booking, but no later than 48 hours after the tickets are purchased, for each flight segment, unless an exception applies.
No Available Family Seating at Booking—Options, Notification by Airline, and Decision by Passenger.	If adjacent seats are not available at booking, an Assigned Seating Carrier must provide the booking party the choice between: (1) a full refund or, (2) the option to wait for family seating to become available for the booked flight closer to the scheduled departure. For flights purchased more than two weeks prior to departure, would require an Assigned Seating Carrier to contact the booking party within 48 hours after the ticket for air transportation has been purchased and provide the booking party a minimum of seven days to choose between: (1) a full refund or, (2) the option to wait for family seating to become available for the booked flight closer to the scheduled departure.

<sup>43</sup> See Fed. Trade Comm’n, FTC Policy Statement on Deception, 103 F.T.C. 174, 182 (1984) (“Information has been found material where it

concerns the purpose, safety, efficacy, or cost, of the product or service. Information is also likely to be

material if it concerns durability, performance, warranties, or quality”).



Subject	Proposal
Waiting for Available Family Seating—Adjacent Seats Become Available.	Requires an Assigned Seating Carrier, for flights purchased less than two weeks prior to departure, to contact the booking party as soon as practical after the ticket for air transportation has been purchased and provide the booking party a reasonable amount of time to choose between: (1) a full refund or, (2) the option to wait for family seating to become available for the booked flight closer to the scheduled departure. Would specify that when a booking party chooses to wait for available family seating, and adjacent seats become available before the first passenger boards the aircraft, an Assigned Seating Carrier must notify the booking party and assign the adjacent seats to a young child and accompanying adult as soon as the seats become available.
Waiting for Available Family Seating—Adjacent Seats Do Not Become Available.	Would specify that when a passenger chooses to wait for available family seating, and adjacent seats do not become available before the first passenger boards the aircraft, an Assigned Seating Carrier must offer the booking party and/or the accompanying adult the choice between free rebooking on the next flight with available family seating at no additional cost or continuing travel in seats that are not adjacent.
Disclosure of Family Seating Policy .....	Would require carriers to clearly and conspicuously disclose their family seating policies on their public-facing online platforms and when a customer calls the carrier’s reservation center to inquire about a fare or seating or to book a ticket that the carrier will allow a young child to be seated adjacent to an accompanying adult at no additional cost beyond the fare. The disclosure is also required to include any exceptions to the family seating requirement, including any carrier requirements for check-in and boarding that may impact the ability to secure adjacent seats.
Mitigating Passenger Harm—Options Available.	Requires a carrier to mitigate passenger harm if the carrier fails to provide family seating as proposed by offering a choice between: (1) rebooking at no additional cost on the next flight with available family seating, (2) transporting the young child or young children and an accompanying adult on the flight without adjacent seats, or (3) a refund.
Mitigating Passenger Harm—Refund Calculation.	States that the amount of refund that the booking party is entitled to receive would be the entire cost of the ticket if family seating as required by this rule is not provided on any segment of the outbound flight and the young child and passengers on that reservation decide not to travel to destination. States that the amount of refund in all other cases would be the cost of the unused portion of the ticket.
Mitigating Passenger Harm—Right of Passengers Stuck at Connecting Airport on Outbound Trip.	Would specify that, if a carrier fails to provide family seating as specified in this rule and that failure results in the young child and accompanying adult being stuck at a connecting airport on the outbound trip and they choose to no longer travel, the carrier must provide return transportation to the origination airport at no cost.
Customer Service Plan .....	Would require that carriers update their Customer Service Plans to include a commitment to notify passengers that the carrier will provide adjacent seats to a young child and accompanying adult at no additional cost.
Civil Penalty .....	States that carriers that violate the family seating requirements would be subject to civil penalties. Specifies that if young children and an accompanying adult are not provided adjacent seats as required by the proposed rule and none of the exceptions apply, then a separate violation would occur for each child that is not seated next to an accompanying adult. Also, specifies that when a fee beyond the fare is imposed to secure family seating, a separate violation occurs for each fee imposed.
Removal of Passengers for Safety or Operational Reasons.	Clarifies that this rule would not prohibit carriers from removing or reseating a young child and an accompanying adult, because of safety or operational reasons. Proposes that the selection of passengers for removal must be non-discriminatory.
Inclusion of Fees for Basic Services in Advertised Fare.	Seeks comments on whether fees for other basic airline services should be required to be included in the advertised fare.

E. Summary of Regulatory Impact Analysis

SUMMARY OF ECONOMIC IMPACTS, ANNUAL  
[2022 Dollars, millions]

<i>Benefits (+):</i> Reduced disutility to passengers from separation of families traveling by air.	Unquantified.	<i>Benefits (+):</i>
<i>Costs (-):</i> Implementation costs .....	\$5–21 .....	<i>Costs (-):</i> Implementation costs.
<i>Net societal benefits (costs) .....</i>	Not applicable .....	<i>Net societal benefits (costs).</i>
<i>Transfers (0):</i> Increase in consumer surplus from elimination of seating fees for families (airlines to families).	\$910 .....	<i>Transfers (0):</i> Increase in consumer surplus from elimination of seating fees for families (airlines to families).
Decrease in consumer surplus for solo air passengers (solo passengers to airlines).	\$760.	
Decrease in consumer surplus for families who do not pay for seat reservations in the baseline (families to airlines).	\$51 .....	Decrease in consumer surplus for families who do not pay for seat reservations in the baseline (families to airlines).
Airline revenue loss (airlines to consumers) .....	\$85 .....	Airline revenue loss (airlines to consumers)
<i>Benefits (+):</i>		<i>Benefits (+):</i>

SUMMARY OF ECONOMIC IMPACTS, ANNUAL—Continued

[2022 Dollars, millions]

Reduced disutility to passengers from separation of families traveling by air.	Unquantified .....	Reduced disutility to passengers from separation of families traveling by air.
<i>Costs (-):</i>		<i>Costs (-):</i>
Implementation costs .....	\$5–21 .....	Implementation costs.
<i>Net societal benefits (costs)</i> .....	Not applicable .....	<i>Net societal benefits (costs)</i> .

Benefits, which we did not quantify, are due to the reduction in disutility to passengers from separation of families traveling by air. Costs are the upfront costs that carriers will incur to adjust their ticketing systems to allow them to distinguish passengers traveling as a family from other passengers. Aside from these implementation costs, the other quantified effects of the proposed rule are transfers. Families who currently pay for seat assignments will experience an increase in consumer surplus when their seating fees are eliminated. The elimination of seating fees encourages families to increase air travel, which puts upward pressure on airfares. Passengers that do not travel as a family and families who do not currently purchase seat reservations experience a loss in consumer surplus due to an airfare increase. Airlines initially will incur a loss in revenue primarily from the loss in seating fee revenue from families, as well as a smaller amount from the reduced travel on the part of solo passengers and families who do not pay seating fees in the baselines.

**II. Discussion of Proposals**

*A. Overview of Proposal*

In this rulemaking, the Department proposes to require U.S. and foreign air carriers to ensure that young children aged 13 and under are seated adjacent to at least one accompanying adult aged 14 or over at no additional cost, subject to limited exceptions.<sup>44</sup> Under this rulemaking, the specific requirements that U.S. and foreign air carriers would be required to follow to ensure a young child is seated adjacent to an accompanying adult at no additional cost differ depending on the carrier’s seating method. There are different requirements for an open seating carrier

<sup>44</sup> Although the provisions in the proposed regulation on family seating do not reference adjacent seating for individuals with disabilities, the Department has separate regulations in 14 CFR part 382, pursuant to the Air Carrier Access Act, that specify when a carrier is permitted to require a passenger with a disability to travel with a safety assistant, and when a carrier is required to provide an adjoining seat at no additional cost to a person assisting a passenger with a disability, such as a personal care attendant, a safety assistant, or an interpreter. See 14 CFR 382.29 and 14 CFR 382.81(b).

and an assigned seating carrier. However, in both cases, carriers would be prohibited from imposing additional charges for adjacent family seating. Further, under this proposed rule, carriers would be required to take certain steps to mitigate passenger harm if they fail to provide family seating as required by the proposed rule. Additionally, the Department would consider it a violation each time a young child is not provided the opportunity to secure a seat adjacent to an accompanying adult as required by the proposed rule, including each time an additional charge is incurred to secure an adjacent seat. Each violation could subject an airline to civil penalties. The Department believes that the proposed requirements along with the proposed exceptions will ensure that carriers have policies that enable young children to sit adjacent to an accompanying adult to the maximum extent practicable and at no additional cost.

The Department seeks comment on its proposal to require carriers to provide family seating at no additional cost beyond the fare, and whether its proposal protects families adequately. Should families traveling with young children continue to be forced to purchase adjacent seating in order to ensure that they will sit together, or should carriers provide this service to passengers traveling with young children at no additional cost beyond the fare, as is being proposed? Additionally, the Department seeks comment on whether its family seating requirements provide needed protections for children on aircraft. The Department is also examining whether fees for other basic airline services such as booking a ticket should be required to be included in the advertised fare and solicits comment in this area, as described in Section K.

*A. Applicability*

In this NPRM, the Department proposes to adopt family seating requirements in 14 CFR part 261 that would apply to U.S. and foreign air carriers that operate and market scheduled passenger flights to, from, or within the U.S. using at least one aircraft that has a designed capacity of 30 or more passenger seats. The

Department is of the view that the rulemaking should apply to both marketing and operating carriers because they both interact with consumers regarding seating, including families traveling with young children. Marketing carriers interact with consumers in advance of travel since they typically hold out services to the public, ticket passengers, offer reservation services, and assign seats. Operating carriers interact with consumers on the date of the travel by assisting families who are not seated adjacent to their young children. The Department seeks comment on its decision to apply this rulemaking to both marketing and operating carriers.

As proposed, this rulemaking would apply to carriers that operate aircraft with a designed seating capacity of 30 or more seats. This is consistent with the Department’s past practice, as many of the Department’s consumer protection requirements do not apply to small U.S. carriers that operate passenger service exclusively with aircraft that have fewer than 30 seats.<sup>45</sup> Very few passengers travel on aircraft with fewer than 30 seats.<sup>46</sup> Although aircraft designed to have a maximum passenger capacity of 60 seats or fewer are considered small aircraft,<sup>47</sup> DOT has not proposed to exclude them because a substantial number of passengers are transported on flights operated by aircraft with between 30 and 60 seats. According to data from the Department’s Bureau of Transportation Statistics (BTS), a total of 760,159,634 domestic passengers were transported in 2022, 734,090,772 (or 96.6%) of which

<sup>45</sup> The requirements relating to tarmac contingency plans and reporting tarmac delays, specific customer service plan provisions, and denied boarding compensation also do not apply to these carriers. See 14 CFR 259.2, 14 CFR 250.2.

<sup>46</sup> According to data from the Department’s Bureau of Transportation Statistics (BTS), a total of 760,159,634 domestic passengers were transported in 2022 and 2,351,381 or 0.3% were on flights using aircraft with less than 30 seats. See Bureau of Transportation Statistics “T–100 Domestic Segment Data (World Area Code)”, <https://www.bts.gov/browse-statistical-products-and-data/bts-publications/data-bank-28ds-t-100-domestic-segment-data>.

<sup>47</sup> An air carrier is a small business if it provides air transportation only with small aircraft (*i.e.*, aircraft with up to 60 seats/18,000 pound payload capacity). See 14 CFR 399.73.

were on flights using aircraft of more than 60 seats, 23,717,481 (or 3.1%) of which were on flights using aircraft with 30 through 60 seats, and 2,351,381 (or 0.3%) were on flights using aircraft with fewer than 30 seats.<sup>48</sup> We solicit comment on whether the Department should cover carriers as proposed or limit or expand the carriers covered by this rulemaking. We ask proponents and opponents of any alternative to provide arguments and evidence in support of their positions.

### B. Family Seating Requirements (Definitions)

The Department proposes to require carriers to ensure adjacent seating for a young child and an accompanying adult within the same class of service at no additional cost with limited exceptions when there is available family seating. The Department proposes definitions for each key term.

#### 1. Adjacent Seating

In this NPRM, the Department proposes to define “adjacent seating” as two or more seats positioned next to each other in the same row of the aircraft and not separated by an aisle. The Department’s family seating dashboard published on its aviation consumer protection website identifies those carriers that guarantee adjacent seats for a child 13 or under and an accompanying adult at no additional cost for all fare types, subject to limited conditions. However, the Department does not define adjacent seating on the Dashboard, and some carriers have interpreted adjacent seating to include a seat across the aisle from another seat. By proposing a definition of adjacent seats, the Department is ensuring that there is consistency in the service that families with young children receive across airlines. Further, the Department believes that its proposed definition of adjacent seats is necessary to ensure that an accompanying adult is seated close enough to care adequately for a young child and to ease anxiety about the seat that a child may be assigned on the aircraft. The Department seeks comment on its proposed definition of adjacent. Specifically, should adjacent be defined as two seats next to each other in the same row and not separated by an aisle as proposed? Or, conversely, should airlines be permitted to seat a child across the aisle from or near an accompanying adult, and if the latter, what should “near” mean?

<sup>48</sup> See Bureau of Transportation Statistics “T–100 Domestic Segment Data (World Area Code)”, <https://www.bts.gov/browse-statistical-products-and-data/bts-publications/data-bank-28ds-t-100-domestic-segment-data>.

#### 2. Young Child or Young Children

The Department is proposing to define “young child or young children” in this NPRM to mean an individual(s) age 13 or under on the date of scheduled departure of the purchased flight. This definition is consistent with section 516 of the 2024 FAA Reauthorization which defines “young child” to mean “an individual who has not attained 14 years of age.”

The Department considered modeling its definition of young child after language in FAA Advisory Circular 120–27F<sup>49</sup> addressing air carrier weight and balance control programs, which defines a child to be less than 13 years of age. The Department chose “13 or under”, as prescribed in the Act, instead of the “under 13” age designation, as prescribed in FAA Advisory Circular 120–27F, because the definition in the FAA Advisory Circular was singularly focused on the weight and balance safety aspects of the aircraft and did not consider the mental fitness of a child and whether a child is old enough to be safely seated alone. The Department also considered the age that airlines permit children to travel unaccompanied as standard passengers. Many U.S. airlines do not accept children traveling alone as standard passengers unless they are 15 or older, although some U.S. airlines do allow children 12 or older to travel alone.<sup>50</sup>

The Department believes that children should not be separated from their families on a flight because, if they are separated, they are not supervised or monitored by their families or by airline staff. In this NPRM, the Department proposes to apply family seating policies to children aged 13 or under. We solicit comment on whether 13 or under is the appropriate definition for a young child. We encourage commenters to provide data or other evidence as

<sup>49</sup> AC 120–27F—Aircraft Weight and Balance Control, available at [https://www.faa.gov/regulations\\_policies/advisory\\_circulars/index.cfm/go/document.information/documentID/1035868](https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1035868) (May 6, 2019).

<sup>50</sup> Allegiant, American, Delta, Frontier, Spirit, and United do not allow children under 15 to travel alone for safety reasons. See <https://www.allegiantair.com/traveling-with-children>, <https://www.delta.com/us/en/children-infant-travel/unaccompanied-minor-program>, <https://www.united.com/en/us/fly/travel/accessibility-and-assistance/unaccompanied-minors.html>, <https://www.aa.com/i18n/travel-info/special-assistance/unaccompanied-minors.jsp>, <https://customersupport.spirit.com/en-us/category/article/KA-01160>, and <https://faq.flyfrontier.com/help/traveling-with-children-or-pets>. Hawaiian and Southwest allow children ages 12 and up to travel alone. See <https://www.southwest.com/help/flying-with-children/unaccompanied-minors-flying-alone>, and <https://www.hawaiianairlines.com/legal/domestic-contract-of-carriage/rule-12>.

support for why a particular age group is appropriate.

The Department also recognizes that there may be situations where there are multiple young children traveling on the same reservation record as an accompanying adult. This rule seeks to ensure, to the extent feasible given the layout of an aircraft, that young children are seated adjacent to an accompanying adult. We request comment on whether the Department should specify that airlines must seat the children across the aisle from, or directly in front of or directly behind the accompanying adult, when multiple young children are traveling with an accompanying adult.

#### 3. Accompanying Adult and Booking Party

The Department is proposing to define “accompanying adult” as an individual age 14 or over on the date of the scheduled departure who is traveling with a young child or young children on the same reservation record. The Department uses “individual,” rather than family member, when defining an accompanying adult because the adult may not be related to the young child. For example, the accompanying adult may be a family friend or caretaker.

When considering the appropriate age to use in the definition of an accompanying adult, the Department took into account airline policies on the minimum age for children to travel unaccompanied as young adults. A review of the policies of the 10 largest U.S. airlines revealed that airlines’ policies vary and that there is no universally agreed upon age when a child is considered a young adult. Airlines use 12, 13, 14, and 15 as the cutoff for children to travel alone as young adults.<sup>51</sup> The Department also considered the cognitive ability of children and the ages that children are given greater responsibility. The Federal Aviation Administration (FAA) allows individuals who are 15 years of age or older to be seated in an exit seat. This means that the FAA has determined that a 15-year-old has the capacity to understand and follow the crew’s instruction and perform safety functions without the assistance of an adult companion or parent. The Department also considered the Fair Labor Standards Act (FLSA), which sets 14 years old as the minimum age for

<sup>51</sup> Children who are 12 years old or older can fly alone on Hawaiian and Southwest, children who are 13 years old or older can fly alone on Alaska, children who are 14 years old or older can fly alone on JetBlue, and children who are 15 years old or older can fly alone on Allegiant, American, Delta, Frontier, Spirit, and United.

employment. A 14-year-old is deemed to have the capacity to take on certain paid responsibilities outside of the home.<sup>52</sup>

In evaluating whether to propose an accompanying adult to be a 14- or 15-year-old, the Department factored in the benefit of avoiding an age gap between the age of a young child and accompanying adult. Avoiding such a gap would ensure that the family seating protections would also apply to a young child traveling with an older teenager, like a sibling. For these reasons, the Department is proposing to define an accompanying adult to be an individual age 14 or over on the scheduled departure date.

The Department requests comment on its definition of an accompanying adult. Specifically, is a 14-year-old too young to act as an accompanying adult to a young child? And if so, what should be the appropriate minimum age of an accompanying adult? Comments that are most useful provide information regarding the reasons why a particular age is appropriate. We also seek comment on the proposed use of the term “accompanying adult.”

The Department is proposing to define the term “booking party” as the person who booked the reservation for air travel. Since the booking party may or may not be an accompanying adult, we believe that it is important to define “booking party” to draw a distinction between the roles, rights, and responsibilities of the booking party versus the accompanying adult. For example, a parent may book tickets for her two children aged 11 and 16 without the intent for the parent to travel. The Department seeks comment on its definition of booking party and defining the booking party separate from an accompanying adult.

#### 4. No Additional Cost

The Department is proposing to define “no additional cost” to mean no added charge beyond the fare. Additionally, the Department is proposing to define “fare”, a term used in the Department’s definition of no additional cost, to mean the price paid for air transportation, including all basic

services and all mandatory government taxes and carrier-imposed fees. The proposed definition of “fare” does not include ancillary service fees for optional services that have been determined by the Department not to be basic services. Furthermore, the Department is proposing to define the term “ancillary service fee” as a fee charged for any optional service that a carrier provides beyond passenger air transportation. Such fees may include, but are not limited to, charges for checked or carry-on baggage, canceling or changing a reservation, advance seat selection, in-flight beverages, snacks and meals, lounge access, bedding or other amenities, or seat upgrades so long as the fees are not for basic services.

The Department’s proposed definition of “no additional cost” is consistent with the 2024 FAA Reauthorization Act, which “prohibits an air carrier from charging a fee, or imposing an additional cost beyond the ticket price of the additional seat, to seat each young child adjacent to an accompanying adult within the same class of service.” Under this proposal, airlines would be prohibited from charging parents traveling with young children any additional fees to sit with their children beyond what they would pay for the tickets. While this proposed rule would require airlines to provide adjacent seats for a young child and an accompanying adult at no additional cost beyond the fare, airlines would have the flexibility to select which adjacent seats to provide. To the extent that a family with a young child wanted specific seats or wanted to be seated in a specific area of the aircraft, nothing in the proposal would prohibit an airline from charging for those seats.

The Department’s proposed definition of “fare” in this rulemaking is consistent with the meaning of that term in other aviation consumer protection regulations.<sup>53</sup> This definition does not consider ancillary service fees for optional services paid by passengers, such as baggage fees, to be part of the fare. However, this definition clarifies that the term fare includes all basic services. “Basic service” is a defined term under this proposal and is discussed below. In addition, the proposed definition of “ancillary service fee” is consistent with the Department’s existing definition of “optional services” in 14 CFR 399.85(d),<sup>54</sup>

although the proposed definition of ancillary service fee clarifies that the term does not include fees for basic services.

The Department seeks comment on its proposed definitions of “no additional cost”, “fare”, and “ancillary service fee.” The Department also requests comment on continuing to permit airlines to charge fees to families who wish to secure specific seats. Comments that are most helpful will provide information and explain why a particular definition or action is best.

#### 5. Class of Service

The Department is proposing to define class of service as seating in the same cabin class such as First, Business, Premium Economy, or Economy class, based on seat location in the aircraft and seat characteristics such as pitch size, features, or amount of legroom. Under this proposal, Premium Economy would be considered a different class of service from standard Economy, while Basic Economy would not. Consumers who purchase Premium Economy seats are often physically separated from other seats by a partition or bulkhead, they are provided seats with extra legroom than standard Economy, and their seats are often wider and recline further than standard Economy seats. They may also receive perks like free checked bags, special meals, or priority boarding. However, Basic Economy seats do not differ in pitch size or legroom from standard Economy. Typically, consumers who purchase a Basic Economy ticket face restrictions that those who purchase standard Economy do not, such as not being allowed to change or cancel tickets, select seats, or check-in bags. The Department seeks comment on whether Premium Economy or Basic Economy should be considered as a separate class of service from standard Economy under the proposed rule. The 2024 FAA Reauthorization Act prohibits fees “to seat each young child adjacent to an accompanying adult within the same class of service” but does not define class of service. Under this proposal, carriers would be obligated to provide family seating within the same class of service, at no additional cost. Carriers would not be required to upgrade the family to a higher class of service, like First, Business, or Premium Economy, to ensure family seating.

Furthermore, the Department is proposing a requirement that family seating must be provided in every class of service. This would mean that

and meals, pillows and blankets and seat upgrades. 14 CFR 399.85(d).

<sup>52</sup> The FLSA allows for the employment of minors between 14 and 16 years of age subject to limitations and if it does not interfere with their schooling or with their health and well-being. 29 CFR 570.31. Minors 14 and 15 years of age are restricted from employment in occupations that involve certain tasks, including, but not limited to, manufacturing, mining, operating a motor vehicle, working in a boiler room, etc. 29 CFR 570.33. Minors 14 and 15 years of age may be employed in occupations involving office and clerical work, cashiering, bagging and carrying out customers’ orders, etc. 29 CFR 570.34.

<sup>53</sup> 14 CFR 250.1; 76 FR 23161 (April 25, 2011); See also 14 CFR 399.84.

<sup>54</sup> “Optional services” is defined as any service the airline provides, for a fee, beyond passenger air transportation. Such fees include, but are not limited to, charges for checked or carry-on baggage, advance seat selection, in-flight beverages, snacks

carriers cannot define classes of service in a way that would limit the availability of family seating, such as by defining a class of service as consisting of only middle seats, only aisle seats, or only window seats. The Department wants to ensure that carriers do not intentionally limit the ability for passengers to achieve family seating in all classes of service. At the same time, the Department is concerned that a proposal that adjacent seats be available in all classes of service may not always be feasible. For example, a carrier's first-class cabin may consist of single seats that are separated by an aisle, which would make providing adjacent seats as defined in this rulemaking impossible. For this reason, the Department has included as an exception for circumstances when an aircraft seating configuration would make it impossible to provide adjacent seating to a young child and an accompanying adult. The Department solicits comment on whether there are instances when family seating may not be physically possible in all classes of service and what remedial efforts could be made to address these constraints.

#### 6. Available Family Seating

The Department is proposing to define "available family seating" as two or more adjacent seats located in the purchased class of service that have not been assigned to other passengers, and to which a young child or children and an accompanying adult may be assigned. Under this definition, an airline would not be required to seat a young child with both child's parents to accomplish the family seating requirements in the proposed rule. So long as the airline seats the young child with at least one accompanying adult, the airline would fulfill its responsibility to provide family seating. The Department seeks comment on its decision to define family seating as seating each child with one accompanying passenger, which may result in a child sitting with only one parent, as opposed to the entire party.

Also, the Department is proposing to define available family seating, rather than just using the term "available", to create a distinction between seats that are available for families (capable of assignment to a young child and an accompanying adult) and seats that are vacant but may not be available for seating a young child. For example, young children are not permitted to sit in certain seats on an aircraft. The Federal Aviation Administration (FAA) regulations on exit row seating prohibit a carrier from seating children under the age of 15 in an exit row because they are

unable to perform certain duties that a passenger seated in an exit row may be called upon to perform in an emergency.<sup>55</sup> Thus, although these seats may be vacant and capable of assignment when a passenger makes a reservation for air transportation, a carrier would not be able to assign a young child to a seat in the exit row of an aircraft given the age requirements to sit in these seats. We note that, if exit row seats are the only vacant adjacent seats in the purchased class of service, we would consider family seating to be unavailable for purposes of this proposed rule.

The proposed definition of "available family seating" would also not include seats that are in a different class of service or have already been assigned to other passengers. Specifying that the seat must be in the same class of service is consistent with the 2024 FAA Reauthorization Act prohibits fees "to seat each young child adjacent to an accompanying adult within the same class of service." The Department also does not require carriers to move other passengers who have been assigned seats, some of whom have paid for the seats, as those passengers are entitled to the seats assigned to them. The Department seeks comment on the definition of available family seating as seats that are in the same class of service, are capable of assignment to a young child, and have not already been assigned to other passengers.

#### C. Assigned Seating Carriers

Under this rulemaking, the specific requirements that U.S. and foreign air carriers would be required to follow to ensure a young child is seated adjacent to an accompanying adult differ depending on the carrier's seating method. There are different requirements for an open seating carrier and an assigned seating carrier. The Department is proposing that the following requirements apply to assigned seating carriers, which are carriers that assign seats or allow individuals to select seats on a flight, in advance of the date of departure of a flight.

##### 1. Available Family Seating at Time of Booking

When there is available family seating at the time of booking, assigned seating carriers would be required to make every reasonable effort to assign adjacent seats to a young child and accompanying adult at the time of booking the reservation, but no later than 48 hours after the tickets are

purchased, at no additional cost, unless an exception applies. The proposed rule provides carriers up to 48 hours to assign family seating if the carrier is unable to assign the seats during the booking process (e.g., the carrier does not have an automated reservation system to assign seats, ticket was purchased through a ticket agent). The Department seeks comment on its proposal to require airlines to make every reasonable effort to assign adjacent seating assignments at the time of booking, and, if the airline is unable to assign the seats at the time of booking, to allow airlines up to 48 hours after a ticket has been issued to assign adjacent family seating. Specifically, is 48 hours too long for families to wait to receive an assigned seat if the carrier is unable to assign the seats during the booking process? Alternatively, should carriers be given more time to provide advance family seating assignments if the carrier is unable to assign the seats during the booking process? If so, how long, and based on what rationale? Should families be allowed to select their seats at no additional charge during the booking process? The Department also seeks comment on whether passengers would be able to determine that there is available family seating at booking by looking at a carrier's seat map or if carriers would block certain seats, including those a carrier may put aside for families with young children, as unavailable on its seat map.

##### 2. No Available Family Seating at Booking

###### a. Options Provided by Carrier

When there is no available family seating at the time of booking/when the passenger purchases the reservation, the proposed rule would require assigned seating carriers to offer passengers the option to either: (1) obtain a refund, or (2) wait for adjacent seating to become available. The Department is proposing different time periods for assigned seating carriers to notify passengers of these options and for passengers to notify the carriers of their choice based on when the tickets were purchased. For tickets purchased two or more weeks prior to departure, the Department is proposing that assigned seating carriers contact the booking party within 48 hours after the tickets were purchased to offer passengers a choice between a full refund and waiting for available family seating on that flight. The booking party would then have a minimum of seven days to choose between the options. For tickets purchased less than two weeks prior to departure, the Department is

<sup>55</sup> See Exit Seating, 14 CFR 121.585(b)(2).

proposing that carriers contact the booking party as soon as practical after the tickets have been purchased and provide the booking party a reasonable amount of time to choose between receiving a full refund or waiting for available family seating on that flight. If the booking party fails to make a choice within the specified period, carriers would be able to proceed with the reservation as though the passenger chose to wait for available family seating on that flight.

The Department seeks comment on whether providing passengers the choice between a refund or waiting for available family seating on that flight are sufficient options for carriers to provide to families if there is no available family seating at the time of booking. For example, should carriers be required to reserve a seating option that places the young child as close as possible to an accompanying adult, while a family waits for available family seating? If so, what should constitute “as close as possible”? Must the carrier seat the young children and accompanying adult across the aisle from each other, or seat the young children directly in front of or directly behind the accompanying adult, or some other option?

Under the proposal, if the family chooses to wait for adjacent seats to become available before the first passenger boards the aircraft, the carrier would not be required to offer the family an additional opportunity to receive a refund if adjacent seats do not become available later. Should carriers be obligated to disclose, before the passenger makes the choice between a refund and waiting for available family seating, that they may not have another opportunity to receive a refund? Further, should airlines be required to inform passengers about the probability of their obtaining available family seating before boarding based on historical data about previous similar flights? If so, what process, if any, should carriers be required to follow to make this disclosure?

The Department also seeks comment on its proposal to give passengers a minimum of seven days to choose which option to accept for tickets purchased more than two weeks prior to departure as well as its proposal for airlines to determine what a reasonable time is for passengers to choose their preferred option when tickets are purchased less than two weeks prior to departure. Finally, in those situations where the booking party fails to decide whether to receive a refund or wait for available family seating within the specified timeframe, the Department

seeks comment on whether the default option should be that the reservation stays in place and the carrier would proceed as though the booking party chose to wait for available family seating on that flight.

#### b. Choosing a Refund

If there is no available family seating at the time of booking and the booking party chooses to receive a full refund for their reservation under the proposed rule, a carrier would be required to refund any ancillary service fees paid under that reservation, in addition to the fare. Furthermore, the proposed rule also specifies that each individual in the booking party has the option to receive a refund, or to travel on the reservation, regardless of whether the accompanying adult and young child choose to receive a refund. The Department seeks comment on its proposal to allow the entire booking party to receive a refund if there is no available family seating at booking. The Department also requests comment on its proposal to allow passengers to recoup the entire cost of the reservation, including any ancillary service fees that the passenger paid.

#### c. Choosing To Wait for Available Family Seating

If the booking party chooses to wait for available family seating in lieu of a refund and adjacent seats become available before the first passenger boards the aircraft, the carrier would be required to notify the booking party and assign the adjacent seats to the young child and accompanying adult as soon as the seats become available. Conversely, if adjacent seating does not become available before the first passenger boards the aircraft, the proposed rule would require carriers to provide passengers the option to rebook seats on the next flight with available family seating at no additional cost, or to travel on their originally scheduled flight in non-adjacent seats. Under this proposal, passengers would not have the option to receive a refund at this point. The Department is of the tentative view that passengers chose to wait for available family seating in lieu of receiving a refund and carriers should not be required to provide a refund at this late date because they would not have sufficient time to sell the seats to other passengers.

The Department seeks comment on its proposal not to require airlines to provide refunds to passengers who initially refused a refund and, instead, opted to wait for available family seating when there was no available family seating at booking. The Department also seeks comment on its

proposal to require air carriers to offer passengers waiting for available family seating the option to either rebook on the next available flight with adjacent seats, or travel on their originally scheduled flight without adjacent seats.

In addition, this proposed rulemaking is intended to avoid, as much as possible, last-minute scrambles for seats at the gate or carriers having to ask other passengers to give up their seat to allow a parent and child to sit together. The Department is of the tentative view that the proposed requirements would make it unnecessary for carriers to ask passengers in the cabin to shift seats to allow the child and accompanying adult to sit together or be in seats located as close together as possible. Nevertheless, should there be a requirement for carriers to make best efforts to seat families traveling with young children together even after passengers are on the aircraft? Why or why not?

In the event that there is no available family seating by the time the first passenger boards the aircraft and the family chooses to continue travel in seats that are not adjacent, should carriers be required to provide a seating option that places the young child as close as possible to an accompanying adult? If so, what should constitute “as close as possible”? Must the carrier seat the young children and accompanying adult across the aisle from each other, or seat the young children directly in front of or directly behind the accompanying adult, or some other option?

The Department also recognizes that allowing passengers to wait for available family seating until the first passenger boards the aircraft may further complicate the boarding process on the day of travel for families and airlines. Airline gate agents may work various gates as needed and have many responsibilities including checking boarding passes, helping passengers onto the flight, accommodating late passengers and may not have sufficient time to adequately assist families at the gate before a flight. Allowing passengers to wait for available family seating until the first passenger boards the aircraft may also be problematic for passengers since passengers would be required to show up at the airport and wait for available family seating, which they may or not receive. As such, the Department seeks comment on whether it should require airlines to provide passengers with the option to wait for available family seating until 24 hours before the flight, as opposed to allowing passengers to wait until the first passenger boards the aircraft. DOT seeks comment on whether the Department

should alternatively require airlines to provide passengers with a refund or the option to travel on the flight in seats that are not adjacent when family seating is not available, instead of giving passengers the option to wait for available family seating for any duration.

#### d. Disclosure of Family Seating Policies for Assigned Seating Carriers

The Department is proposing to require assigned seating carriers to disclose to consumers that the carriers will provide available family seating at no additional cost. This disclosure would be required to be displayed clearly and conspicuously on carriers' online platforms and the carrier must notify customers of these disclosures when the customers call the carrier's reservation center to inquire about a fare or seating or to book a ticket. Under this proposal, carriers would be required to ask customers if they are traveling with young children, and would only be required to provide family seating information to those customers who indicate they are or might be. The airline would also be required to disclose any exceptions to the airline's family seating policy permitted under the rule, including carrier requirements for check-in or boarding. The Department seeks comment on its proposal to require airlines to disclose their family seating policy on their online platform and on the telephone and whether there are additional ways for assigned seating carriers to provide information to passengers about their family seating policy.

#### E. Open Seating Carriers

##### 1. General Requirement for Open Seating Carriers

The Department's proposed family seating rule also proposes requirements for open seating carriers, or carriers that do not assign or allow individuals to select seats on a flight in advance of the day of departure. For open seating carriers, the Department proposes to require that passengers be boarded in a manner that allows passengers to secure family seating at no additional cost, subject to specified exceptions. While open seating carriers do not charge fees for advance seat assignments or fees to book seats in a higher class of service to ensure family seating, families traveling on open seating carriers may be advised to pay a fee to board the aircraft early to ensure family seating.

The Department understands that there is concern that any potential family seating requirements imposed on open seating carriers would impact the

boarding and open seating models that have been employed by these carriers for several years. The Department has also been made aware of concerns that a regulatory proposal that would require open seating carriers to preboard families or provide early boarding to families for free may have a disproportionately negative impact on open seating carriers in comparison to assigned seating carriers because assigned seating carriers would have no obligation to seat families together if there is no available family seating at the time of booking, but an open seating carrier would still have an obligation to provide family seating on a full flight. There also appears to be concern that a family seating requirement could diminish the incentive for non-families to travel on open seating carriers since they would be forced to board the aircraft after families and the available seating options for individuals traveling without young children would be limited.

To address the concerns expressed about the potential negative impacts of a family seating regulation on open seating carriers, the Department proposes a generalized requirement that open seating carriers board passengers in a manner that allows passengers to secure family seating at no additional cost. This broad requirement is designed to provide open seating carriers with the flexibility to determine a way for families to be seated together without impacting the long-standing open seating model. An airline may consider adopting various options that would fulfill this proposed requirement. For instance, carriers could section off a block of seats in a specific section of the aircraft that would be dedicated to passengers traveling with families because the carrier would already be aware of how many families with young children would be traveling on the flight. The carriers could also require that families be present at the gate at a certain time in advance of boarding and board them first. The Department notes that the proposed rule includes as an exception to the proposed family seating requirement for the failure by passengers to comply with carriers' check-in and boarding policies, provided that those policies do not create unreasonably burdensome processes for individuals traveling with young children. The Department seeks comment on whether the proposed requirement for open seating carriers to board families in a manner that allows passengers to secure adjacent family seating at no additional cost is flexible enough to allow open seating carriers to

fulfill the requirements while preserving traditional open seating models.

##### 2. Disclosure of Family Seating Policies for Open Seating Carriers

The Department proposes to require open seating carriers to disclose to consumers that they will board passengers in a manner that will allow a young child and an accompanying adult to secure adjacent seats at no additional cost. All other aspects of the disclosure would mirror the disclosure that assigned seating carriers would be required to provide to consumers. The Department seeks comment on the disclosure proposal and whether there are additional ways for open seating carriers to provide information to passengers about their family seating policies.

#### F. Exceptions to the Family Seating Requirements

In this NPRM, the Department proposes four exceptions to the proposed family seating requirements that apply to both assigned seating carriers and open seating carriers. These exceptions define how carriers can provide family seating, as proposed, to the maximum extent practicable.

The first exception would apply when a young child is not traveling with an accompanying adult. If a young child is traveling alone, the young child would be traveling as an unaccompanied minor, and the family seating provisions in this proposed rule would not apply.

The second exception would apply when a booking party declines to accept the family seating provided by the carrier or selects a seat for the young child that is not adjacent to an accompanying adult traveling on the flight reservation or the aircraft. If the family intentionally chooses seats on the aircraft that are not adjacent, the airline would not be responsible for providing family seating. The Department solicits comment on whether a young child should ever be seated separately from an accompanying adult even if a family does not wish to sit in the adjacent seats assigned by the airline.

The third exception would apply when the number of young children traveling under a reservation or the seating configuration makes it impossible for the carrier to provide family seating based on the seat layout of the aircraft. For example, if one accompanying adult is traveling with three young children, it may not be possible for the carrier to provide seats adjacent to one another with no aisle separating the seats. Further, the family's chosen cabin class may not



contain two adjacent seats that are not separated by an aisle. In these situations, the carrier should provide adjacent seating for the maximum possible number of children and seat the accompanying adult and any other young children on the reservation across the aisle from, or directly in front of or directly behind the accompanying adult. The Department requests comment on whether it should impose such an additional requirement. Also, are there any other seating arrangements that the Department should consider when adjacent seating is impossible?

The fourth exception would apply if the young child and accompanying adult do not comply with the carrier's applicable check-in or boarding process requirements. Carriers require passengers to check in at a certain time before the scheduled departure time of the flight. Additionally, carriers require passengers to be at the gate and ready to board at a specified time. These airline requirements apply to all passengers, including families traveling with young children. Passengers who fail to meet the minimum check-in time or boarding requirements, including families traveling with young children, may have their seats reassigned or may not be able to fly. However, carriers would not be permitted to create specific check-in or boarding process requirements that are unreasonably burdensome for families. This rulemaking would not impact airlines' ability to set their own check-in and boarding process requirement for all passengers, including for families with young children.

The Department seeks comments on the proposed four exceptions to its family seating requirements. The Department also seeks comment on whether there should be any other exceptions. For example, the Department is of the tentative view that carriers should still be obligated to provide adjacent family seating, as proposed, when a larger aircraft is substituted for a smaller aircraft. The Department's Family Seating Dashboard, however, allows carriers to condition their family seating guarantee on a larger aircraft not being substituted for a smaller aircraft. The Department seeks comment on whether it should include substitution of a larger aircraft for a smaller aircraft as an exception in this rulemaking. Regardless of whether aircraft substitution is included as an exception to the family seating requirements, what procedures, if any, should carriers follow to ensure that young children are seated adjacent to an accompanying adult or as close as possible to an accompanying adult?

### *G. Mitigating Passenger Harm*

Under this proposed rule, carriers would be required to take certain steps to mitigate passenger harm if they fail to provide family seating at no additional cost as required by the proposed rule. Specifically, carriers would be obligated to offer the booking party and/or the accompanying adult(s) a choice between free rebooking on the next available flight with adjacent seats, continuing travel without adjacent seats, or receiving a refund.

In the event that a passenger elects to continue travel on the flight without available family seating, the Department seeks comment on whether airlines should be required to provide a seating option that places a young child as close as possible to an accompanying adult. If so, what should constitute "as close as possible"? Must the carrier seat the young children and accompanying adult across the aisle from each other, seat the young children directly in front of or directly behind the accompanying adult, or some other option?

Under this proposal, the choice to rebook at no additional cost would be available to every individual on the reservation with the young child if the young child and accompanying adult decide to rebook. This way, a family that wishes to travel together would be able to do so. At the same time, if a young child and an accompanying adult choose to be rebooked, but the other passengers on the reservation choose to remain on the flight, the carrier would be required to accommodate this choice. The Department believes that it is important for the individuals on the reservation to have the freedom to decide whether to travel on their original scheduled flight without adjacent seats or rebook on the next available flight with available family seating when the child and accompanying adult chose to be rebooked. The Department seeks comment on allowing every individual on the reservation to make this choice.

A carrier that fails to comply with the proposed family seating requirements must also offer the young child and an accompanying adult the option to travel on their original flight in seats that are not adjacent. Although this option may not be preferred, the Department is of the tentative view that families should be able to decide the choice that best meets their needs even if that choice is to continue on a flight without adjacent seats. For example, a parent traveling with a 12-year-old child may decide the best option is to continue on the flight even though adjacent seats are not available because the child is seated

near the parent and the reason for travel is time sensitive such as a wedding or funeral. However, if this option is chosen, all passengers on the reservation would remain on their originally ticketed flight segment. The Department seeks comment on whether carriers should be encouraged or required to make best efforts to seat families with young children together even after boarding by asking other passengers to switch seats. Although the Department intends for this rulemaking to prevent last-minute scrambles for seats at the gate or carriers having to ask other passengers to give up their seat to allow a parent and child to sit together, are there times when it is beneficial to do so?

Additionally, if the carrier fails to follow the family requirements as proposed, the carrier would also be required to offer every individual on the reservation the option to receive a refund of the airline ticket and any unused ancillary service fees, *e.g.*, baggage fees, lounge access. Furthermore, if a young child and an accompanying adult choose to receive a refund, but the other passengers on the reservation choose to remain on the flight, the carrier would be required to accommodate this choice.

The refund requirement would apply to the entire cost of the reservation if a family is unable to receive family seating on any outbound leg of a trip or a family is informed about the unavailability of family seating before the start of travel. For example, if a mother books a roundtrip flight from Richmond, Virginia to Los Angeles, California with a connection in Chicago, Illinois for her and her young child and the mother is informed that family seating is available from Richmond to Chicago but not from Chicago to California, then the mother would be entitled to a refund for the entire reservation if she decides not to travel with her child. Similarly, if prior to beginning travel, the mother is informed that family seating is available on the outbound but not inbound flights, the mother would be entitled to a refund for the entire reservation if she decides not to travel with her child. However, on a direct return flight, or a return flight with a connection, the carrier would only be required to refund the cost of the unused portion of the return trip; the carrier would not need to refund the outbound portion of the ticket if the family already traveled on this portion of the reservation. For instance, if the mother and her young child traveled to Los Angeles but adjacent seating was not available on their return, then the mother would be entitled to a refund for

the return trip and not the entire reservation. If a carrier fails to comply with the family seating requirements as proposed, and a family is impacted at a connecting airport while on the outbound portion of their trip, and the family chooses to no longer travel, the carrier would also be required to provide return transportation to the family's origination airport, in addition to providing the refund.

The Department seeks comment on its proposal that carriers provide a full refund of the cost of the reservation to passengers who choose this option if family seating is not available on any portion of the outbound trip, and a refund for the cost of the unused portion of the return flight if family seating is not provided on any leg of the return reservation. The Department also seeks comment on its proposal to require carriers to provide return transportation to the family's origination airport if family seating is not provided on the outbound trip at a connecting airport.

#### *H. Removal or Reseating of Passengers for Safety or Operational Reasons*

Under this proposed rule, carriers would not be prohibited from removing passengers from the aircraft or reseating passengers, including a young child and an accompanying adult, for safety reasons or if failing to do so would be in violation of operational requirements. The proposal seeks to specify that removal in such cases must be non-discriminatory. For example, the airline would select the last passenger to check in for the flight to be removed from the aircraft.

The Department seeks comment on its proposal to allow airlines to remove or reseat a young child and their accompanying adult for aircraft safety or operational issues. The Department also seeks comments on whether, and if so, what remedies for, or mitigations of harms to, impacted passengers should be required in the event that airlines remove or reseat a young child and their accompanying adult for aircraft safety or operational issues.

#### *I. Customer Service Plans*

This NPRM also proposes to amend 14 CFR 259.5 to require carriers to address family seating in their customer service plans. Specifically, the rule would require carriers to update their customer service plans to include a commitment to notify passengers that the carrier will provide adjacent seats to a young child and an accompanying adult at no additional cost. The Department believes young children being able to sit adjacent to an accompanying adult is a basic service

that all carriers should provide at no additional cost beyond the fare. Carriers notifying passengers that family seating is provided at no additional cost in their customer service plans would reduce the chance of customer confusion and better ensure that parents traveling with young children are able to sit together at no additional cost. We seek comment on the proposed requirement that carriers must include a family seating provision in their customer service plans.

#### *J. Civil Penalties*

In this NPRM, the Department proposes to include a provision notifying airlines that violations of the Department's family-seating requirements subject an airline to civil penalties. The Department proposes that a carrier's failure to provide family seating as required by the proposal would subject it to civil penalties on a per passenger (child) basis. Further, if the carrier imposes fees for family seating, the carrier would be subject to civil penalties for each fee imposed.

The Department's Office of Aviation Consumer Protection (OACP), a unit within the Office of the General Counsel, has the authority to assess civil penalties against airlines and travel agents up to \$40,272 per violation pursuant to 49 U.S.C. 46301 and 14 CFR 383.2. Further, the statute provides that "a separate violation occurs under this subsection for each day the violation . . . continues or, if applicable, for each flight involving the violation. . . ." When OACP has evidence of systemic violations, or a single or a few egregious violations, it will take enforcement action.

The Department seeks comment in its proposal to include a provision in the regulation that notifies airlines that they are subject to civil penalties for violating any requirement in the family seating rule. The Department also seeks comment on its proposal that a violation exists each time a young child and accompanying adult do not have the opportunity to secure adjacent seats. For example, if two parents are traveling with three young children and only one parent is provided the opportunity to be seated adjacent to one of the young children, but a parent is not provided the opportunity to be seated adjacent to either of the other two children, should there be two violations? The Department also seeks comments on whether the accompanying adult suffers a separate violation when denied the opportunity to sit adjacent to a young child. As noted above, accompanying adults may suffer significant stress and anxiety

when they are not seated adjacent to a young child.

#### *K. Inclusion of Fees for Basic Services in Advertised Fare*

The Department is examining whether fees for basic airline services such as booking a ticket<sup>56</sup> should be required to be included in the advertised fare. The Airline Deregulation Act of 1978 (ADA), which preempted State regulation of airlines, removed Federal authority to set airline fares and fees and ended most regulation of airline rates, routes, and services. Under the ADA, DOT must consider as being in the public interest, among other things, having an air transportation system that relies on competition to determine the price of air transportation services. The ADA maintained the Department's statutory authority to prohibit unfair and deceptive practices. DOT continues to regulate and enforce consumer protections for airline passengers under its authority to prohibit unfair and deceptive practices. DOT also has the authority to ensure U.S. carriers provide safe and adequate interstate air transportation. The Department is relying on these and other authorities in issuing this rulemaking proposing to require U.S. and foreign air carriers to seat young children adjacent to at least one accompanying adult at no additional cost beyond the fare subject to limited exceptions. The Department is also considering whether, like family seating, it would be an unfair and deceptive practice to charge fees beyond the fare for other basic airline services.

Over the years, airlines have developed a variety of ways to charge passengers fees for air transportation-related services that were once included in the ticket price. The airline industry has unbundled services that traditionally came with a ticket, such as checked bags and seat reservations. The Department has noticed that the unbundling of service has continued to expand, with some airlines now charging for carry-on bags, printing boarding passes<sup>57</sup> at the airport,

<sup>56</sup> See <https://www.spirit.com/optional-services> (displays a "passenger usage fee" of \$3.99 to \$22.99 per segment for consumers who book online and a "Reservations Center Booking" fee of \$35 per booking for consumers who book over the phone).

<sup>57</sup> See <https://www.spirit.com/optional-services> (displays a fee of \$25 per boarding pass printed), <https://www.allegiantair.com/popup/taxes-and-fees> (states that a "\$5.00 per boarding pass fee will apply to passengers who choose to have a boarding pass printed out at select domestic airport locations.") <https://help.ryanair.com/hc/en-us/articles/12889667116433-What-if-I-do-not-have-access-to-a-printer-to-print-my-boarding-pass> (explains that consumers will be charged for airline printing boarding pass for them at the check-in desk).

receiving a paper ticket or a receipt, using a credit card to make a ticket purchase,<sup>58</sup> or redeeming, transferring, or redepositing rewards earned by the customer. Additionally, while most airlines still provide complimentary water along with other non-alcoholic drinks and snacks to passengers, some airlines today charge passengers to receive water<sup>59</sup> on the aircraft. The Department has also noticed that carriers are adding charges like a “carrier interface charge,” “passenger interface charge,” “electronic carrier usage charge,” “ticketing fee,” or a “technology development charge,” for booking online or over the phone, and the fees are avoidable only if customers purchase the ticket in person. Other airlines charge a ticketing fee for purchasing the ticket at the airport. The Department is concerned that this unbundling of services will continue to the detriment of consumers and seeks comment on this issue.

The Department proposes to define “basic service” as a service that is essential for a carrier to provide adequate air transportation to a passenger as determined by the Department after notice and comment. The Department is of the tentative view that seating a young child adjacent to an accompanying adult is a basic service.

This NPRM is seeking comment on fees charged by airlines for basic services that used to be included in the ticket price, as well as prospective fees that airlines may charge passengers that the airlines currently include in the ticket price. For instance, carriers

currently do not charge passengers for the use of lavatories onboard the aircraft, nor do they charge passengers to carry a small purse or laptop onto the aircraft, but the Department or the public cannot be assured that carriers would not do so in the future. Carriers also do not generally charge for customer service assistance should there be a flight disruption, though at least one airline charges passengers if they choose to receive assistance from airport agents when checking in. Neither the Department nor the public can be assured that airlines would not charge for all types of customer service assistance in the future.

The Department seeks comment on its proposed definition of basic service, and whether seating a young child adjacent to an accompanying adult is a basic service. What, if any, other services beyond adjacent family seating should be considered a basic service? Should services related to the consumers’ physical well-being such as access to the lavatory and the availability of drinking water upon request be considered basic services? Should services necessary for air transportation such as booking or paying for a ticket, checking in online, printing a boarding pass for those unable to do so themselves, or receiving customer service be considered basic services? Are there other types or categories of services that should be considered basic beyond those mentioned? The Department is considering prohibiting carriers from unbundling and charging

passengers separately for basic services. The information provided by stakeholders—airlines, ticket agents, consumers, and other affected parties—will assist the Department in determining what, if any, additional services should be considered basic services that carriers and ticket agents must include as part of the fare to avoid engaging in an unfair or deceptive practice and to ensure safe and adequate service is being provided.

**B. Regulatory Analysis and Notices**

*A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) require agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” The Office of Management and Budget has determined that this proposed rulemaking is a significant regulatory action as defined in section (3)(f)(1) of Executive Order (E.O.) 12866, as amended by E. O. 14094, “Modernizing Regulatory Review.” Accordingly, the Department has prepared an RIA for the proposed rule, summarized in this section and available in the docket. Table 1 below provides a summary of the costs and benefits of this proposed rulemaking.

TABLE 1—SUMMARY OF ECONOMIC IMPACTS, FIRST YEAR  
[2022 Dollars, millions]

<i>Benefits (+):</i> Reduced disutility to passengers from separation of families traveling by air.	Unquantified.	<i>Benefits (+).</i>
<i>Costs (-):</i> Implementation costs .....	\$5–21 .....	<i>Costs (-):</i> Implementation costs.
<i>Net societal benefits (costs):</i> .....	Not applicable .....	<i>Net societal benefits (costs).</i>
<i>Transfers (0):</i> Increase in consumer surplus from elimination of seating fees for families (airlines to families).	\$910 .....	<i>Transfers (0):</i> Increase in consumer surplus from elimination of seating fees for families (airlines to families).
Decrease in consumer surplus for solo air passengers (solo passengers to airlines).	\$760.	
Decrease in consumer surplus for families who do not pay for seat reservations in the baseline (families to airlines).	\$51 .....	Decrease in consumer surplus for families who do not pay for seat reservations in the baseline (families to airlines).
Airline revenue loss (airlines to consumers) .....	\$85 .....	Airline revenue loss (airlines to consumers).
<i>Benefits (+):</i> Reduced disutility to passengers from separation of families traveling by air.	Unquantified .....	<i>Benefits (+):</i> Reduced disutility to passengers from separation of families traveling by air.
<i>Costs (-):</i> Implementation costs .....	\$5–21 .....	<i>Costs (-):</i> Implementation costs.
<i>Net societal benefits (costs)</i> .....	Not applicable .....	<i>Net societal benefits (costs).</i>

<sup>58</sup> Various European carriers charge fees for paying for airline tickets with credit cards if you commence your journey in certain countries and your credit card was issued outside the European

Economic Area. E.g., <https://www.lufthansa.com/ge/en/opc>, <https://www.austrian.com/us/en/service-charges>.

<sup>59</sup> [https://content.spirit.com/Shared/en-us/Documents/InFlightMenu\\_033020.pdf](https://content.spirit.com/Shared/en-us/Documents/InFlightMenu_033020.pdf) (no complimentary beverage or snack service on Spirit flights—\$4.49 for bottled water).

This rulemaking would require U.S. and foreign air carriers to seat children aged 13 and under adjacent to at least one accompanying adult without a separate charge. Benefits of the proposed rule, which we did not quantify, are due to the reduction in disutility to passengers from separation of families traveling by air. Families can be reassured that they will be seated together during air travel. Some families could experience a reduction in stress and anxiety associated with air travel. Passengers who do not travel with children will no longer be burdened with being seated next to children who are separated from their parents and will no longer fear being relocated from their seat to accommodate families. Airlines will incur implementation costs, which are quantified. Because benefits are not quantified, it is not possible to estimate net benefits.

Most quantifiable economic impacts are transfers, which are benefits and costs that have exactly offsetting effects and do not contribute to the net benefits calculation. The total price of air travel for families who currently purchase seat reservations will decrease, which creates a transfer of consumer surplus to them. The elimination of seating fees for families encourages additional travel, and airfares will increase. Solo passengers and families who do not currently purchase seat reservations will lose consumer surplus due to the airfare increase. The increase in airfare offsets the increase in consumer surplus to families who pay for seat reservation in the baseline, but the effect is small. Airlines initially will incur revenue losses as well.

An important determinant of the quantifiable impacts is the percentage of passengers who purchase seat assignments in the baseline. This percentage is not known with certainty, and we apply market research that suggests about 37 percent of consumers might be willing to pay for a seat reservation. The 37 percent is applied to the estimated 9.7 percent of passengers who travel as families as well as the remaining 90.3 percent of passengers who travel solo.

#### B. Privacy Act

Anyone can search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

#### C. Executive Order 13132 (Federalism)

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This NPRM does not include any provision that: (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

#### D. Executive Order 13175

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this rulemaking does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to conduct an initial regulatory flexibility analysis (IRFA) to assess the impact of a proposed rule on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The Department has conducted an IRFA for this rulemaking as required by 5 U.S.C. 603 and provides a summary of that analysis in the paragraphs that follow. A description of the reasons the agency is considering the action and a statement of the objectives and legal basis of the rule are described elsewhere in the preamble for this proposed rule and not repeated here.

##### 1. A Description and Estimate of the Number of Small Entities to Which the Rule Will Apply (or an Explanation of Why No Such Estimate Is Available)

A carrier is a small entity if it provides air transportation exclusively with small aircraft, defined as any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less, as described in 14 CFR 399.73. In 2020, 28 carriers meeting these criteria reported

passenger traffic data to the Bureau of Transportation Statistics.<sup>60</sup>

##### 2. A Description of the Compliance Requirements of the Rule and Their Costs

The proposed rule would require that airlines distinguish families from other passengers in assessing seating fees, which will involve some upfront costs. A system to ensure family seating would identify bookings with children under 14 and accompanying adults and allow those individuals to reserve seats together in advance with no separate charge. Airlines would need to personalize the pricing of seats based on the ages of the individuals in a reservation. Once this capability is implemented, there should not be other ongoing costs.

The RIA for the proposed rule presented an upper bound cost estimate for making the necessary changes to ticketing systems as 10 percent of \$2.02 per passenger. The analysis also reports that revenue per passenger, or ticket price, is \$248.64 for a domestic fare. Average ticket prices for small carriers tend to be higher than the market average and thus, \$248.64 underestimates revenue per passenger for small carriers. From this information, implementation costs as a percent of revenue amount to 0.008 percent ( $0.10 * \$2.02 / \$248.64$ ), which is much smaller than the one percent threshold that the Department generally applies for determining significant economic impact. This cost estimate is based upon the assumption that small airlines will make IT adjustments to automate family seating. However, given the small size of the affected aircraft, automation might not be needed. The Department requests comment on the costs to small airlines.

##### 3. A Description of Relevant Federal Rules, if Any, That May Duplicate, Overlap, or Conflict With the Proposed Rule

The Department is not aware of any other Federal rules that duplicate, overlap, or conflict with the proposed rule to prohibit airlines from charging family seating fees.

<sup>60</sup>Bureau of Transportation Statistics No date. "T1: U.S. Air Carrier Traffic and Capacity Summary by Service Class." <https://transtats.bts.gov/>.

#### 4. A Description of Any Significant Alternatives to the Proposed Rule That Would Accomplish the Stated Objectives of the Rule While Minimizing Any Significant Economic Impact of the Proposed Rule on Small Entities

The Department considered continuing to rely on current industry voluntary efforts. As discussed elsewhere in the preamble, on July 8, 2022, the Department issued a notice that urged airlines “to do everything in their power to ensure that children who are age 13 or younger are seated next to an accompanying adult with no additional charge.” The Department launched the Family Seating Dashboard on March 6, 2023. The Dashboard currently shows four airlines (Alaska, American, and Frontier, and JetBlue) as having committed to guaranteeing family seating without a separate fee. As outlined above, all other large domestic carriers have policies to do their best to seat families together, but they stop short of guaranteeing it.

Given that six of the ten large airlines have chosen not to guarantee family seating despite the Department’s efforts to encourage the practice and calls from consumer advocacy groups,<sup>61</sup> it is unlikely that they would issue such guarantees in the absence of additional pressure from the market or the government. The four airlines with family seating policies in line with the proposed rule could change their policies at any time. The experience with checked baggage fees shows that airlines adopted baggage fees at a time when they were under financial pressure and when competition from low-cost carriers pushed them to unbundle their services and advertise lower ticket prices. It is possible that airlines would re-consider family seating policies in the future in times of financial or competitive pressure. Thus, the no action alternative would not meet the objectives of the proposed rule.

A second alternative would be to adopt the requirement for airlines to guarantee family seating but to not impose a requirement that the airlines eliminate seating fees for families. Airlines would still incur implementation costs. Families who currently pay seating fees because they believe that the only way to assure being seated together is to pay a seating fee could simply stop paying the fees and still be guaranteed seats together. In general, this alternative would yield the same result as the proposed rule. The Department did not propose this option,

however, because as described in the proposed rule, the Department believes that charging families to sit together is an unfair practice, and if a ban on family seating is adopted in final then it would also be an unfair and deceptive practice, as described elsewhere in the preamble, not to disclose that paying additional fees or purchasing a higher fare ticket to secure adjacent seating for a young child and accompanying adult is unnecessary.

The Department invites comment on its analysis and the potential economic impact of this rulemaking on small entities.

#### F. Paperwork Reduction Act

This NPRM does not propose any new collections of information that would require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 49 U.S.C. 3501 *et seq.*).

#### G. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. While this proposed rule would not have such an effect on State, local, and tribal governments, this proposed rule is estimated to have an annual cost of over 100 million dollars. Agencies may include the assessment required by UMRA in conjunction with other assessments, and the Department has prepared RIA that provides the anticipated cost and benefits of the NPRM.

#### H. National Environmental Policy Act

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency’s NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of

an EA or EIS. Id. Paragraph 3.c.6.i of DOT Order 5610.1C categorically excludes “[a]ctions relating to consumer protection, including regulations.” Because this rulemaking relates to ensuring that families traveling with children are seated together, this rulemaking is a consumer protection rulemaking. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

#### I. Executive Order 12988, “Civil Justice Reform”

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOT has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

#### J. Short Summary of the Rule Under 5 U.S.C. 553(b)(4)

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at the entry for RIN 2105–AF15 in the Department’s portion of the Unified Agenda, available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=2105-AF15>.

<sup>61</sup> See Airlines: Kids should sit with their parents! ([consumerreports.org](https://consumerreports.org)), accessed on 10/27/2023.

*K. Pay-As-You-Go Act of 2023 (Fiscal Responsibility Act of 2023, Pub. L. 118–5, Div. B, Title III)*

In accordance with Compliance with Pay-As-You-Go Act of 2023 (Fiscal Responsibility Act of 2023, Pub. L. 118–5, div. B, title III) and OMB Memorandum (M–23–21) dated September 1, 2023, the Department has determined that this final rule is not subject to the Pay-As-You-Go Act of 2023 because it will not increase direct spending beyond specified thresholds.

#### List of Subjects

##### 14 CFR Part 259

Air Carriers, Consumer Protection, Reporting and Recordkeeping Requirements.

##### 14 CFR Part 261

Air Carriers, Consumer Protection.

For the reasons stated in the preamble, DOT proposes to amend 14 CFR part 259 and add part 261 as follows:

#### PART 259—ENHANCED PROTECTIONS FOR AIRLINE PASSENGERS

■ 1. The authority citation for part 259 is revised to read as follows:

**Authority:** 49 U.S.C. 40101(a)(4), 40101(a)(9), 40113(a), 41702, 41708, 41712, 42301, and FAA Reauthorization Act of 2024, Pub. L. 118–63, 516, 138 Stat. 1025, 1197–1198 (2024).

■ 2. Amend § 259.5 by revising paragraph (b) introductory text and adding paragraph (b)(16) to read as follows:

##### § 259.5 Customer Service Plan.

\* \* \* \* \*

(b) *Contents of Plan.* Each Customer Service Plan shall address the following subjects and comply with the minimum standards set forth:

\* \* \* \* \*

(16) Disclosing clearly and conspicuously on the carrier's online platform that the carrier will seat a young child adjacent to an accompanying adult at no additional cost, as required by 14 CFR Part 261. Requiring carriers to ask whether the customer is traveling with a young child when the customer calls the carrier's reservation center to inquire about a fare or seating or to book a ticket, and disclosing to a customer who answers affirmatively that the carrier will seat a young child adjacent to an accompanying adult at no additional cost, as required by 14 CFR Part 261.

\* \* \* \* \*

#### PART 261—FAMILY SEATING

■ 3. Add part 261 to read as follows:

Sec.

- 261.1 Purpose.
- 261.2 Applicability.
- 261.3 Definitions.
- 261.4 Assigned Seating Carriers.
- 261.5 Open Seating Carriers.
- 261.6 Exceptions to Family Seating Requirements for Assigned Seating and Open Seating Carriers.
- 261.7 Traveling with Multiple Children.
- 261.8 Class of Service.
- 261.9 Mitigating Passenger Harm.
- 261.10 Removal or Reseating of Passengers for Safety or Operational Reasons.
- 261.11 Violations and Civil Penalties.

**Authority:** 49 U.S.C. 41702 and 41712, and the FAA Reauthorization Act of 2024, Pub. L. 118–63, 516, 138 Stat. 1025, 1197–1198 (2024).

##### § 261.1 Purpose.

The purpose of this Part is to ensure that U.S. and foreign air carriers allow young children to be seated adjacent to an accompanying adult on a flight at no additional cost. This Part clarifies seating a young child adjacent to an accompanying adult is a basic service that must be included in the advertised fare.

##### § 261.2 Applicability.

This Part applies to all U.S. and foreign air carriers that operate and market scheduled passenger flights to or from a U.S. airport using at least one aircraft that has a designed capacity of 30 or more passenger seats.

##### § 261.3 Definitions.

*Accompanying Adult* means an individual age 14 or over on the date of the scheduled departure who is traveling with a young child or young children on the same reservation record.

*Adjacent Seats* mean two or more seats positioned next to each other in the same row of the aircraft and not separated by an aisle.

*Ancillary Service Fee* means a fee charged for any optional service that a carrier provides beyond passenger air transportation. Such fees may include, but are not limited to, charges for checked or carry-on baggage, canceling or changing a reservation, advance seat selection, in-flight beverages, snacks and meals, lounge access, bedding or other amenities, or seat upgrades so long as the fees are not for basic services.

*Assigned Seating Carrier* means a carrier that assigns seats, or allows individuals to select seats on a flight, in advance of the date of departure of a flight.

*Available Family Seating* means two or more adjacent seats located in the purchased class of service that have not

been assigned to other passengers and to which a young child or children and an accompanying adult may be assigned.

*Basic Service* means a service that is essential for a carrier to provide adequate air transportation to a passenger as determined by the Department after notice and comment.

*Booking Party* means the person who booked the reservation for air travel. The booking party may or may not also be an accompanying adult.

*Class of Service* means seating in the same cabin class such as First, Business, Premium Economy, or Economy class, based on seat location in the aircraft and seat characteristics such as pitch size, features, or amount of legroom.

*Fare* means the price paid for air transportation including all basic services and all mandatory government taxes and carrier-imposed fees. It does not include ancillary service fees for optional services that have been determined by the Department not to be basic services.

*No Additional Cost* means no added charge for a seat beyond the fare.

*Online platform* means any interactive electronic medium, including, but not limited to, websites and mobile applications, that allow the consumer to search for or purchase air transportation from a carrier or ticket agent.

*Open Seating Carrier* means a carrier that does not assign seats or allow individuals to select seats on a flight in advance of the date of departure of the flight.

*Young Child* or *Young Children* means individual(s) age 13 or under on the date of scheduled departure of the purchased flight.

##### § 261.4 Assigned Seating Carriers.

(a) *Available family seating at booking.* An assigned seating carrier must make every reasonable effort to assign available family seating to a young child and an accompanying adult at the time of booking a reservation for air transportation on each flight segment of the reservation at no additional cost, unless an exception in § 261.6 applies. If the carrier is unable to assign available family seating at the time of booking the reservation and no exceptions in § 261.6 apply, the carrier must assign available family seating no later than 48 hours after the tickets are purchased.

(b) *When there is no available family seating at booking.* For tickets purchased two or more weeks prior to a flight's departure, an assigned seating carrier must contact the booking party within 48 hours after the ticket for air transportation has been purchased and

provide the booking party a minimum of seven days to choose between the options in paragraphs (b)(1) and (b)(2) of this section. For tickets purchased less than two weeks prior to a flight's departure, an assigned seating carrier must contact the booking party as soon as is practical after the ticket for air transportation has been purchased and provide the booking party a reasonable amount of time based on the circumstances to choose between the options in paragraphs (b)(1) and (b)(2) of this section.

(1) A full refund to the booking party within the timeframe required in 14 CFR parts 259, 260 and 399 of the airline ticket and any ancillary service fees paid for the young child and accompanying adult as well as any other person on the same reservation who chooses not to fly; or

(2) The option to wait for the possibility of available family seating on the flight before the first passenger boards the aircraft. If the booking party chooses to wait as specified in this paragraph, an assigned seating carrier must comply with paragraph (i) or (ii) of this paragraph, whichever is applicable.

(i) *Available family seating before first passenger boards aircraft.* An assigned seating carrier must assign adjacent seats to a young child and an accompanying adult if the seats are available before the first passenger boards the aircraft and must notify the booking party and/or the accompanying adult of the new seat assignments as soon as the seats are assigned.

(ii) *No available family seating before first passenger boards aircraft.* An assigned seating carrier must offer the booking party and/or an accompanying adult the choice between the following options:

(A) Rebooking the young child and accompanying adult as well as any other person on the same reservation who chooses to fly on the next flight with available family seating to the same destination at no additional cost; or

(B) Transporting the young child and accompanying adult as well as any other person on the same reservation on their original ticketed flight in seats that are not adjacent.

(c) *Family Seating Policy Notifications.* (1) *Online Platform Disclosure.* An assigned seating carrier must disclose clearly and conspicuously on its public-facing online platforms that markets air transportation to the general public in the United States:

(i) That the carrier will provide available family seating at no additional cost, as required by this Part, and

(ii) Any exceptions permitted by § 261.6, including any carrier check-in or boarding requirement that may impact the ability to secure adjacent seats for the young child and accompanying adult.

(2) *Oral Disclosure.* When a customer calls the carrier's reservation center to inquire about a fare, seating, or to book a ticket, an assigned seating carrier must ask whether the customer is traveling with a young child. If the customer answers affirmatively, the carrier must disclose:

(i) That it will provide available family seating at no additional cost, as required by this Part, and

(ii) Any exceptions permitted by § 261.6 that would apply to that consumer, including any carrier check-in or boarding requirement that may impact the ability to secure adjacent seats for the young child and accompanying adult.

#### § 261.5 Open Seating Carriers.

(a) *Boarding.* Open seating carriers must board passengers in a manner that allows a young child and an accompanying adult to secure adjacent seats on the flight at no additional cost, unless an exception in § 261.6 applies.

(b) *Family Seating Policy Notifications.* (1) *Online Platform Disclosure.* An open seating carrier must disclose clearly and conspicuously on its public-facing online platforms that markets air transportation to the general public in the United States:

(i) That the carrier will board passengers in a manner that will allow a young child and an accompanying adult to secure adjacent seats at no additional cost as required by this Part, and

(ii) Any exceptions permitted by § 261.6, including any carrier check-in or boarding requirement that may impact the ability to secure adjacent seats for the young child and accompanying adult.

(1) *Oral Disclosure.* When a customer calls the carrier's reservation center to inquire about a fare, seating, or to book a ticket, an open seating carrier must ask whether the customer is traveling with a young child. If the customer answers affirmatively, the carrier must disclose:

(i) That it will board the passengers in a manner that will allow a young child to be seated adjacent to an accompanying adult at no additional cost as required by this Part, and

(ii) Any exceptions permitted by § 261.6 that would apply to that consumer, including any carrier check-in or boarding requirement that may impact the ability to secure adjacent

seats for the young child and accompanying adult.

#### § 261.6 Exceptions to Family Seating Requirements for Assigned Seating and Open Seating Carriers.

The family seating requirements in sections § 261.4 and § 261.5 do not apply if:

(a) The young child is not traveling with an accompanying adult;

(b) The booking party declines to accept the adjacent seats for the young child and accompanying adult offered by the carrier or selects a seat for the young child that is not adjacent to any accompanying adult traveling on the flight reservation;

(c) The number of young children traveling under the reservation or an aircraft seating configuration makes it impossible for the carrier to provide adjacent seats to young children and the accompanying adult based on the seat layout of the aircraft; or

(d) The young child and/or accompanying adult do not comply with the carrier's applicable check-in or boarding requirements, provided that these requirements do not impose unreasonably burdensome requirements on families traveling with young children.

#### § 261.7 Traveling with Multiple Children.

In situations where the number of young children traveling under the reservation make it impossible for the carrier to provide adjacent seats to the young children and the accompanying adult as provided in § 261.6(c), carriers must seat the young children and accompanying adult across the aisle from each other, or seat the young children directly in front of, or directly behind the accompanying adult.

#### § 261.8 Class of Service.

A carrier must provide adjacent seats to a young child and accompanying adult in the same class of service as the tickets purchased. A carrier may not construct its classes of service in such a way that would unreasonably limit the availability of adjacent seats for a young child and an accompanying adult.

#### § 261.9 Mitigating Passenger Harm.

(a) A carrier that fails to meet the family seating requirements in § 261.4 or § 261.5 or that reseats a young child and an accompanying adult in seats that are not adjacent for aircraft safety or operational reasons under § 261.10 must, unless an exception in § 261.6 applies, provide the booking party and/or the accompanying adult the choice between the following options:

(1) Rebooking the young child and accompanying adult as well as any other



person on the same reservation who chooses to fly on the next flight with available family seating to the same destination at no additional cost;

(2) Transporting the young child and accompanying adult as well as any other person on the same reservation on their original ticketed flight segment in seats that are not adjacent; or

(3) Refunding the booking party within the timeframe required in 14 CFR parts 259 and 399 as follows:

(i) The entire cost of the ticket and ancillary service fees paid if a young child and an accompanying adult as well as any other person on the same reservation chooses not to travel on any portion of an outbound trip.

(ii) The cost of the unused portion of the ticket and ancillary service fees paid if a young child and an accompanying adult as well as any other person on the same reservation chooses not to travel on any portion of a return trip.

(b) If the carrier fails to meet the family seating requirements in § 261.4 or § 261.5 or reseats a young child and an accompanying adult in seats that are not adjacent under § 261.10, absent an exception in § 261.6, and it impacts a young child and an accompanying adult as well as any other person on the same reservation at a connecting airport on the outbound trip and they choose to no longer travel, then the carrier must provide return transportation to the origination airport at no cost.

#### **§ 261.10 Removal or Reseating of Passengers for Safety or Operational Reasons.**

Nothing in this Part prohibits a carrier from removing passengers from the aircraft or reseating passengers, including a young child and an accompanying adult, for safety reasons or if failing to do so would be in violation of operational requirements. Removal in such cases must be non-discriminatory.

#### **§ 261.11 Violations and Civil Penalties.**

A carrier that violates any requirement in this Part is subject to civil penalties as set forth in 49 U.S.C. 46301. In instances when a young child and an accompanying adult do not have the opportunity to secure adjacent seats as required in this Part, a separate violation occurs for each child. In instances when a fee beyond the fare is imposed to secure adjacent family seating, a separate violation occurs for each fee imposed.

Issued July 31, 2024, in Washington, DC.

**Peter Paul Montgomery Buttigieg,**  
*Secretary of Transportation.*

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Chapter I**

[Docket No. FDA-2024-D-2977]

#### **Food and Drug Administration Enforcement Policy for Association of American Feed Control Officials—Defined Animal Feed Ingredients; Draft Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, Department of Health and Human Services (HHS).

**ACTION:** Notification of availability.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry (GFI) #293 entitled “FDA Enforcement Policy for AAFCO-Defined Animal Feed Ingredients.” This draft guidance, when finalized, will communicate FDA’s enforcement policy regarding ingredients listed in chapter six of the 2024 Association of American Feed Control Officials (AAFCO) Official Publication (OP) after the expiration of the Agency’s memorandum of understanding (MOU) with AAFCO. The current MOU, which expires in October 2024, will not be renewed.

**DATES:** Submit either electronic or written comments on the draft guidance by September 9, 2024, to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

*Instructions:* All submissions received must include the Docket No. FDA-2024-D-2977 for “FDA Enforcement Policy for AAFCO-Defined Animal Feed Ingredients.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- *Confidential Submissions—*To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.regulations.gov>