of the closing of the sale of the Parcel. The report must describe the extent to which the conditions of the exemption have been complied with by the parties, the reasons for any non-compliance, and the steps that the Independent Fiduciary took on behalf of the Fund to enforce the rights of the Fund in respect to such non-compliance. The report should describe the documents reviewed or other steps taken in order for the Independent Fiduciary to make its determinations.

(k) The Fund's Trustees and the Independent Fiduciary maintain for a period of six (6) years from the date of any transaction related to the Sale, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (l)(1) below to determine whether conditions of this exemption, if granted, have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Fund's trustees and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Fund's trustees or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination.

(l)(1) Notwithstanding any provisions of sections (a)(2) and (b) of ERISA Section 504, the records referred to in paragraph (k) above shall be unconditionally available at their customary location during normal business hours to: (i) any duly authorized employee or representative of the Department or the Internal Revenue Service; (ii) the Fund's trustees or any duly authorized representative of the Fund's trustees; (iii) the Independent Fiduciary or any duly authorized representative of the Independent Fiduciary; (iv) any participant or beneficiary of the Fund, or any duly authorized representative of such participant or beneficiary; and (2) should the MACRC or any party refuse to disclose information to a person on the basis that such information is exempt from disclosure, such party shall provide a written notice advising that person of the reasons for the refusal and that the Department may request such information by the close of the thirtieth (30th) day following the request.

(m) All the material facts and representations made by the Applicant that are set forth in the Proposed Exemption's Summary of Facts and Representations are true and accurate at all times. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described by the Applicant in the application, the exemption will cease to apply as of the date of the change.

Exemption Date: This exemption will be in effect as of the date of publication of the final exemption in the **Federal Register**.

Signed at Washington, DC, this 28th day of July 2026.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2026–17144 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2026–05; Application Number D–12082]

Exemption Involving Hawai'i Pacific Health and Its Subsidiary: Straub Clinic & Hospital Located in Honolulu, Hawaii

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This exemption permits the Hawai'i Pacific Health Retirement Plan (the Plan) to sell property (the Property) to Straub Clinic & Hospital (Straub) for the greater of $16,247,000 or 110% of the Appraised Value of the Property as of the date of the sale (the Sale). Absent this exemption, the Sale would violate certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and/or the Internal Revenue Code of 1986 (the Code).

DATES: This final exemption is effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Nicholas Schroth, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8540 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Hawai'i Pacific Health (the Applicant) requested an exemption pursuant to ERISA section 408(a) and Code section 4975(c)(2) in accordance with the Department's exemption procedures set forth in 29 CFR part 2570, subpart B.[1] After reviewing the application, the Department tentatively determined that the Sale would be in the interest of, and protective of, the Plan and its participants and beneficiaries, and would also be administratively feasible, because, among other things: (1) a qualified independent fiduciary (QIF) would protect the Plan's interests with respect to the Sale; and (2) the Plan would receive at least 110% of the Appraised Value for the Property. The term Appraised Value means the greater of the Property's ''fair market value'' or its ''Investment Value,''[2] as of the date of the Sale, as determined by a Qualified Independent Appraiser (QIA).

On November 26, 2025, the Department proposed an exemption that would permit the Sale, subject to certain conditions (the Proposed Exemption),[3] and invited interested persons to submit written comments and/or requests for a public hearing. All comments and requests for a hearing were due to the Department by January 16, 2026. The Department received sixty-five written comments from individuals and one written comment from the Hawai'i Nurses' Association, OPEIU Local 50 (Local 50) (collectively, the Commenters). Discussed below are the issues raised by the Commenters and responses to these issues raised by Central Pacific Bank (CPB), the Plan's QIF. Also discussed below is the Commenters' request for a hearing and the Department's response to that request.

Comment #1. The Proposal does not explain why the Property was not put up for sale on the open market, which could produce a higher or better offer for the Plan than what the appraiser estimated the Property is worth.

CPB Response to Comment #1. The open market option was not preferred because Straub offered to buy the Property at a price that exceeded what the Property is expected to sell for on the open market. CPB's appraiser

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[1] 29 CFR part 2570, subpart B (76 FR 66637 (October 27, 2011)). The Department's exemption procedures regulation was amended at 89 FR 4662, on January 24, 2024, with an effective date of April 8, 2024. However, because the application was submitted on December 5, 2022, the procedures in effect as of that date govern. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested by the Applicant to the Secretary of Labor. Therefore, this notice of exemption is issued solely by the Department. For purposes of this exemption, references to ERISA section 406, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

[2] For purposes of this exemption, Investment Value means the value of a property to a particular investor or class of investors based on the investor's specific requirements.

[3] 90 FR 54387.

estimated that the fair market value of the Property was $13,030,000 as of April 1, 2024. At the Department's urging, CPB negotiated an increased Sale price of $14,770,000, based on the Property's appraised Investment Value. CPB further negotiated an additional amount over the Investment Value, which increased the purchase price of the Property to $16,247,000. CPB's appraiser also opined that an open market buyer would be unlikely to make an offer that exceeds the Property's fair market value due to the Property's features, such as the Property's irregular shape, its existing long-term lease, and its zoning restrictions.

Department Response to Comment #1. The Department considered this issue during its review of the exemption application. After reevaluating the merits of the Sale following the publication of the Proposed Exemption, including the written comment from Local 50, the Department remains of the view that the Sale would provide a greater return to the Plan than a sale of the Property on the open market. Importantly, the Plan will receive a price that is the greater of $16,247,000 or 110% of the Appraised Value of the Property as of the date of the Sale.

Comment #2. The appraisal relies on assumptions that may exclude strategic value unique to the affiliated buyer, and the Plan owning the land below the yet-to-be-built hospital would increase its value on the open market.

CPB Response #2. The increased value associated with Straub's intention to build a hospital is incorporated into the Investment Value estimate. Further, the assumptions set forth in the Property's appraisal were developed in accordance with recognized valuation methodologies and are consistent with prevailing professional standards. Each assumption in the appraisal reflected established industry norms and accepted analytical practices.

Department's Response #2. The Department considered this issue during its review of the exemption application. As noted above, in order to capture the unique value that the Property holds for Straub, the exemption requires that the Plan receive the greater of $16,247,000 or 110% of the Appraised Value of the Property as of the date of the Sale. For purposes of this exemption, the Appraised Value of the Property means the greater of the Property's ''fair market value'' or its ''Investment Value,'' as determined by a QIA. The Property's Investment Value takes into account the Property's unique value to Straub and, presently, increases the Property's value relative to its fair market value. In this way, the Plan will receive the unique value of the Property with respect to Straub.

Comment #3. The Commenters state that the Proposed Exemption does not show that the Sale is in the best interest of the Plan compared to reasonable alternatives, such as selling through a competitive process or continued ownership by the Plan.

Department's Response #3. The competitive process issue is discussed in Response #1 above. To assess the Commenter's argument that continued ownership of the Property by the Plan would be in the Plan's best interest as opposed to the Sale, the Department reviewed the Property's April 22, 2024, appraisal (2024 Appraisal). One of the valuation methodologies analyzed in the 2024 Appraisal was the Income Capitalization Approach (*i.e.,* valuing the present worth of anticipated future income projected to be derived from the Plan's continued ownership of the Property). To determine the likely highest dollar value to the Plan between continued leasing of the Property and selling the Property, the Department compared: (1) the QIA's estimated present value of future income to the Plan by continued ownership of the Property; with (2) the negotiated purchase price of the Property.

The 2024 Appraisal shows that the negotiated purchase price for the Property ($16,247,000) would likely be greater than the estimated value to the Plan due to its continued ownership of the Property ($14,770,000). Thus, the Sale would provide the estimated highest value to the Plan between the two options. The conditions of this exemption further protect the Plan by requiring the purchase price formula for the Sale to be the greater of $16,247,000 or 110% of the Appraised Value (*i.e.,* the higher of the market value or Investment Value) as of the date of the Sale. Finally, the record shows that CPB determined that the Sale was the most prudent course of action, given the Plan's objectives and financial situation.

Comment #4. The Commenters note that Straub has not paid back all the property expenses the Plan erroneously paid on Straub's behalf, in connection with the Plan's erroneous payment of Property taxes, utilities, and maintenance from 2006 to 2022 (Property Expenses). The Commenters state that this mistake means that Straub should not be trusted with a Sale without testing the open market to confirm the Property's value. Separately, one Commenter suggested that potential collusion exists between the Plan sponsor and related parties and notes that the Plan may be hiding additional operational failures.

CPB's Response #4. CPB notes that Condition (g) of the Proposed Exemption requires Straub (or Hawai'i Pacific Health) to repay the Plan all of the Property Expenses from 2006 to 2022.

Department's Response #4. Prior to publication of the Proposed Exemption: Straub repaid the Property Expenses owed to the Plan, plus interest, for years 2015 to 2022; and the Department confirmed that the amount repaid at least equaled the amount owed the Plan for years 2015 to 2022.

Following publication of the proposed exemption, Hawai'i Pacific Health repaid (on behalf of Straub) the Property Expenses owed to the Plan, plus interest, for years 2006 to 2014. Section III(b)(7) of this exemption requires the QIF to confirm in writing to the Department that the amount repaid at least equaled the amount owed the Plan for years 2006 to 2014.[4]

Comment #5. Local 50 states that by ''conducting a closed sale of the land to the plan sponsor the plan is providing a material benefit to the plan sponsor without receiving appropriate compensation'' and that the ''right of first refusal is a consideration that should require compensation in a transaction that places the Plan participants first.'' The Commenters further provide that the Sale should be disallowed and an investigation into the Sale, the trustees, and the Plan sponsor should be conducted.

CPB's Response #5. In response to the argument that the proposed Sale constitutes an ''uncompensated benefit to the plan sponsor,'' CPB notes that the proposed price includes both an Investment Value premium (which reflects the Property's enhanced value specifically to Straub due to Straub's unique position as the adjoining landowner) and an additional 10% above the Property's appraised Investment Value.

Department's Response #5. The terms of the Sale were closely evaluated by the Department during its processing of the application, including the Sale price and its component, Investment Value. The Comment did not raise any new facts that would lead the Department to question whether the Plan will receive appropriate compensation. Further, the Department has found no evidence that a right of first refusal exists on this Property—only that the Plan intends to sell the Property to Straub. Finally, the Commenters provided no additional

[4] Prior to publishing the Proposed Exemption, the Department confirmed that Hawai'i Pacific Health repaid the correct amount of Property Expenses and interest to the Plan for years 2015 to 2022.

facts that support an investigation into the Sale, the Trustees, or the Sponsor.

Hearing Request. Local 50 and the vast majority of the individual commenters requested a hearing to address the concerns above and to ensure the transaction's alignment with the interests of the Plan participants.

Department's Response to the Hearing Request. As noted in the Proposed Exemption, the Department's procedural regulations provide for a hearing when "necessary to fully explore material factual issues identified by the person requesting the hearing." [5] The Department's regulations also provide that it may decline to hold a hearing if, among other things, "the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form." None of the comments received raised any factual issues that were not already considered by the Department in its evaluation of the exemption application, and no commenter identified any issues that cannot be fully explored through the submission of evidence in written form. The Department therefore declines to hold a hearing.

The Department notes that in processing the Applicant's exemption request, it thoroughly reviewed the application, all materials submitted in support of the application, and all comments received during the comment period. A complete copy of the record supporting this exemption is available in the Department's Public Disclosure Room by referencing Application No. D–12082.

Other Changes

This final exemption also includes minor, non-substantive edits intended to correct scrivener's errors or make non-substantive clarifications.

Statutory Findings

Based on the entire record, including the comments discussed above, the Department has determined to grant the proposed exemption. In this regard, the Department makes the requisite findings under ERISA section 408(a), based on the Applicants' adherence to all the conditions and definitions of the exemption at all times. Accordingly, affected parties should be aware that the conditions and definitions incorporated in this exemption are, taken individually and as a whole, necessary for the Department to grant the relief requested by the Applicant. In granting this exemption, the Department has relied on the representations of the Applicant. If any material statement in the Application, supporting documents (including the Applicant's comment), Proposed Exemption or final exemption is not, or may no longer be, completely and factually accurate, the Applicant and recipients of the exemptive relief provided herein must immediately alert the Department.

The complete application file (D–12082) will remain available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 reachable by telephone at (202) 693–8673. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the Proposed Exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) and/or Code section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA section 404(a)(1)(B); nor does it affect the requirement of Code section 401(a) that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is (1) administratively feasible for the Department, (2) in the interests of affected plans and of their participants and beneficiaries, and (3) protective of the rights of participants and beneficiaries of such Plans;

(3) The exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption and are true at all times.

Accordingly, after considering the entire record developed in connection with the Applicant's exemption application, the Department has determined to grant the following exemption under the authority of ERISA section 408(a) and Code section 4975(c)(2) in accordance with the Department's exemption procedures regulation.

Exemption

Section I. Definitions

(a) "Appraised Value" means the greater of the Property's fair market value or its Investment Value, as determined by the QIA.

(b) "Investment Value" means the value of a property to a particular investor or class of investors based on the investor's specific requirements. In the instant case, Lesher, the Qualified Independent Appraiser, considered the potential benefit to Straub for purchasing the Property taking into account the fact that Straub owned an abutting parcel of real estate.

(c) "Plan" means the Hawai'i Pacific Health Retirement Plan, a defined benefit plan that provides retirement benefits to Hawai'i Pacific Health employees and the employees of Straub Clinic & Hospital. Hawai'i Pacific Health appointed the Hawai'i Pacific Health Retirement Plan Finance Committee (the Committee) to serve as the Plan's named fiduciary and plan administrator.

(d) The "Property" means the parcel of real property owned by the Plan and located at 888 South King Street, Honolulu, HI 96813.

(e) "Property Expenses" mean the expenses and costs relating to the Property that Straub was responsible to pay pursuant to several provisions in the lease between Straub and the Plan, dated January 2, 1969. These costs and expenses include taxes, utilities, and maintenance.

(f) "Purchase Price" means the price paid by Straub to the Plan for the Property, which must be the greater of $16,247,000 or 110% of the Appraised Value as determined by the QIA on the date of Sale. This amount may be further negotiated upwards by the QIF if necessary to determine that the Sale is in the best interest of the Plan.

(g) "Qualified Appraisal Report" means the report appraising the Property as of the Sale date that comports with the requirements of 29 CFR 2570.31(h).

[5] 29 CFR part 2570, subpart B (75 FR 66637, October 27, 2011).

(h) ''QIA'' means Lesher Chee Stadlbauer (Lesher), or such other ''Qualified Independent Appraiser,'' as defined in 29 CFR 2570.31(i), hired by the QIF to determine the Property's Appraised Value as of the date of the Sale. If the QIF replaces Lesher with a new entity to act as the QIA in connection with the Sale, the new entity must be approved in writing by the Department, and the Department must receive a copy of the new appraiser's appraisal report for the Property at least 60 days in advance of the Sale.

(i) ''QIF'' means Central Pacific Bank (CPB), or such other ''Qualified Independent Fiduciary,'' as defined in 29 CFR 2570.31(j), hired by the Plan to monitor, review, negotiate, and exercise the sole authority to approve the Sale of the Property in accordance with the requirements of ERISA section 404(a) and 404(b), and this exemption, if granted. If the Plan replaces CPB with a new entity to serve as the QIF in connection with the Sale, the new entity must be approved in writing by the Department at least 90 days in advance of the Sale.

(j) ''Straub'' means Straub Clinic & Hospital, a wholly controlled subsidiary of Hawaiʻi Pacific Health, the employees of which are participants in the Plan.

Section II. Transactions

This exemption provides relief from the prohibited transactions provisions of ERISA sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2), and Code sections 4975(c)(1)(A), (D), and (E) for Hawaiʻi Pacific Health and the Committee in connection with the sale of the Property by the Plan to Straub in exchange for a lump sum payment of cash equal to the Purchase Price (the Sale). To receive this relief, the conditions in Section III must be met in conformance with the definitions in Section I.

Section III. Conditions

(a) The Sale must be a lump sum payment in cash equal to the Purchase Price, and the Sale must take place within 60 days of the date of publication of the exemption in the **Federal Register**.

(b) The QIF must have the sole authority to approve the Sale and take any other fiduciary action on behalf of the Plan with respect to the Sale; and the QIF must take the following actions in accordance with its fiduciary responsibilities under ERISA Section 404(a) and (b):

(1) Determine whether it is prudent to go forward with the Sale and make a final determination on the record whether or not to proceed with the Sale;

(2) Approve the terms and conditions of the Sale;

(3) Retain the services of a QIA, review the Qualified Appraisal Report, approve the methodology used by the QIA, and ensure that such methodology is properly applied in determining the Property's fair market value and Investment Value on the date of the Sale;

(4) Negotiate a higher price than the current Purchase Price, if necessary, in order to determine that the Sale is in the best interest of the Plan and its participants and beneficiaries;

(5) Monitor the Sale throughout its duration on behalf of the Plan to ensure the parties' compliance with the terms of applicable sale agreements and related documents and enforce the rights of the Plan and its participants and beneficiaries in connection with such agreements;

(6) Monitor compliance with the conditions for this exemption and take any appropriate actions to safeguard the interests of the Plan and its participants and beneficiaries;

(7) Review and approve in writing, prior to approving the Sale, that the amounts of Property Expenses erroneously paid by the Plan from 2006 through 2014, with associated lost interest as calculated using the Department's VFCP Calculator, have been repaid on behalf of Straub to the Plan to make the Plan whole, using the Department's applicable correction procedures; [6]

(8) Create and deliver to the Department a report (i) justifying its conclusion that the Sale is, or is not, in the best interest of the Plan and its participants and beneficiaries, and was conducted in accordance with the terms of this exemption, (ii) confirming that the calculation and repayment of the Property Expenses described in the preamble to the notice of proposed exemption [7] and associated lost interest were, or were not, accurately repaid, and (iii) confirming that the conditions of the exemption have, or have not, been satisfied with copies of any applicable reports needed to make the confirmations. The report must be delivered to the Department within 60 days after the Sale, or the date the QIF determines that the Sale is not in the interest of the Plan, at *e-OED@dol.gov.*

(c) The Plan does not pay any costs associated with the Sale, including brokerage commissions, fees, appraisal costs, or any other expenses.

(d) The terms and conditions of the Sale are at least as favorable to the Plan as those it would have obtained in an arm's length transaction with an unrelated party.

(e) The QIF must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the QIF by the Plan or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the QIF's work; and the QIF may not seek or receive any waiver of any rights, claims, or remedies of the Plan under ERISA, state, or Federal law against the QIF with respect to the subject matter of the exemption;

(f) The QIA must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the QIA by the Plan or any other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the QIA's work; and the QIA may not seek or obtain any waiver of any rights, claims or remedies of the Plan or its participants and beneficiaries under ERISA, the Code, or other Federal and state laws against the QIA with respect to the subject matter of the exemption;

(g) Prior to the Sale, Hawaiʻi Pacific Health (on behalf of Straub) must pay back to the Plan the Property Expenses the Plan erroneously paid from 2006 through 2014, including lost interest, in violation of the Lease and PTE 81–71.[8] Straub or Hawaiʻi Pacific Health must pay the IRS the legally required excise tax for all prohibited transactions conducted by the Plan from 2006 until 2022;

(h) Straub and Hawaiʻi Pacific Health maintains for a period of six (6) years from the date of Sale, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (i)(1) below to determine whether conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred merely

[6] See 29 CFR parts 2560 and 2570, most recently amended in the **Federal Register** at 90 FR 4192 (January 15, 2025). The Department's VFCP Calculator can be found online at *https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/vfcp/calculator.*

[7] 90 FR 54387, 54388 (November 26, 2025).

[8] As noted above, Straub previously repaid the Plan the Property Expenses the Plan erroneously paid from 2015 through 2022, including lost interest.

because, due to circumstances beyond the control of Straub, Hawaiʻi Pacific Health, and/or the QIF, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than Straub, Hawaiʻi Pacific Health or the QIF shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (i) below;

(i)(1) Except as provided in Section (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of ERISA section 504, the records referred to in paragraph (h) above shall be unconditionally available at their customary location during normal business hours to:

(i) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Straub, Hawaiʻi Pacific Health or any duly authorized representative of Straub or Hawaiʻi Pacific Health;

(iii) the QIF or any duly authorized representative of the QIF;

(iv) any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary;

(j) Straub, Hawaiʻi Pacific Health and/or QIF must provide to the Department the records necessary to demonstrate that the conditions of the exemption have been met, within 30 days from the date the Department requests such records; and

(k) All the material facts and representations made by the Applicant that are set forth in the proposed exemption and this grant notice must be true and accurate at all times.

Exemption date: The exemption will be in effect as of the date the grant notice is published in the **Federal Register**.

Signed at Washington, DC, this 28th day of July 2026.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor

[FR Doc. 2026–17142 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2023–0009]

NASA Neutral Buoyancy Laboratory Operations Contract; Grant of Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA grants a permanent variance to NASA's Neutral Buoyancy Laboratory Operations Contract (NOC or the applicants) from a provision of the OSHA standard that regulates commercial diving operations.

DATES: The permanent variance specified by this notice becomes effective on August 21, 2026 and shall remain in effect until it is modified or revoked, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

*Copies of this **Federal Register** notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information are also available at OSHA's web page at *http://www.osha.gov.*

I. Overview

OSHA's standards in subpart T of 29 CFR 1910 govern commercial diving operations. On April 6, 2022, the eight companies comprising NASA's Neutral Buoyancy Laboratory Operations Contract, Vertex TTS, Oceaneering International Inc., Bastion Technologies, Inc., Rothe Enterprises, Rothe Development, International Preparedness Associates, Inc., MRI, and EPro (collectively NOC or the applicants), submitted an application for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 655) and 29 CFR 1905.11 (Variances and other relief under section 6(d)), from a provision of OSHA's commercial diving operations (CDO) standard that regulates the use of decompression chambers (Docket No. OSHA–2023–0009–0001). NOC's application also requested an interim order pending OSHA's decision on the variance application. NOC is located at 13000 Space Center Boulevard, Houston, Texas 77059.

This notice addresses NOC's application for a permanent variance and interim order from the provision of OSHA's CDO standard at 29 CFR 1910.423(b)(2) that requires the employer to instruct divers engaged in commercial diving operations to remain awake and in the vicinity of the decompression chamber at the dive location for at least one hour after the dive (including decompression or treatment as appropriate) for any dive outside the no-decompression limits, deeper than 100 feet of sea water (fsw), or using mixed gas as a breathing mixture.

OSHA reviewed NOC's application for the variance and interim order based on the alternate standard OSHA granted NASA on June 30, 2021, and determined that NOC were appropriately submitted in compliance with the applicable variance procedures in Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act, 29 U.S.C. 655(d)) and OSHA's regulations at 29 CFR 1905.11 (Variances and other relief under section 6(d)), including the requirement that the applicant inform workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

OSHA additionally reviewed the alternative procedures in NOC's application, along with the alternate standard granted to NASA on June 30, 2021, and preliminarily determined that NOC's proposed alternative, subject to the conditions in the request and imposed by the interim order, provides measures that are as safe and healthful as those required by the cited OSHA standard. On November 20, 2023, OSHA published a **Federal Register** notice announcing NOC's application for a permanent variance, stating the preliminary determination along with the basis of that determination, and granting the interim order (88 FR 80764). OSHA requested comments on each.

OSHA did not receive any comments or other information disputing the preliminary determination that the alternative was at least as safe as OSHA's standard, nor any objections to