

Rules and Regulations

Federal Register

Vol. 90, No. 176

Monday, September 15, 2025

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 430

[Docket ID: OPM-2025-0006]

RIN 3206-A081

Assuring Responsive and Accountable Federal Executive Management

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this final rule to remove the prohibition of a forced distribution of performance rating levels within the Senior Executive Service (SES) as well as eliminate diversity, equity, and inclusion (DEI) language within SES performance management regulations. Governmentwide SES ratings data have consistently shown that most SES receive the highest rating levels (*i.e.*, Levels 4 and 5) despite documented reports of SES failings. Allowing agencies to limit the highest SES rating levels will increase rigor in SES appraisal and lead to a more normalized distribution of SES ratings across the Federal Government.

DATES: Effective October 15, 2025.

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SUPPLEMENTARY INFORMATION:

Background

The Senior Executive Service (SES), established by the Civil Service Reform Act (CSRA) of 1978, was designed to form a corps of top-level Federal executives who provide leadership and continuity between political appointees and career civil servants. The SES operates under a unified personnel system with standardized executive qualifications and provides agencies flexibility in managing executive

resources, all while preserving the public interest.

In 2004, the SES transitioned to a pay-for-performance system under Section 1125 of Public Law 108-136 (November 24, 2003). This change replaced the prior six-level pay system with an open-range structure tied to individual performance. Automatic pay increases were eliminated, and compensation became contingent upon rigorous performance evaluations. Agencies had to obtain certification of their appraisal systems from the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB) to exceed the standard SES pay cap of level III of the Executive Schedule. The intent of the pay-for-performance system is to attract top talent, reward high performers, and improve accountability.

SES performance is assessed annually based on individual and organizational outcomes, as specified in 5 CFR part 430, subpart C. Ratings range from Level 1 “Unsatisfactory” to Level 5 “Outstanding.” In 2012, OPM issued a model SES performance appraisal system referred to as the “Basic SES Performance Appraisal System,”¹ which created a consistent and uniform framework to communicate expectations and evaluate the performance of SES members across agencies. The Basic SES Performance Appraisal System was later refined in 2016 following a 2015 Government Accountability Office (GAO) report² and OPM updates to SES performance management regulations.

Despite OPM’s efforts to drive uniformity and consistency in the SES appraisal system, agencies have continuously struggled to ensure meaningful distinctions are made in SES performance ratings. According to the 2015 GAO report, about 85% of SES members received ratings of “Outstanding” or “Exceeds Fully Successful” from 2010 to 2013 while only 0.1% of senior executives in Chief Financial Officers Act agencies (see 31

¹ OPM, “Senior Executive Service Performance Appraisal System,” (January 4, 2012), available at https://www.opm.gov/chcoc/transmittals/2012/senior-executive-service-performance-appraisal-system_508.pdf.

² Government Accountability Office, “OPM Needs to Do More to Ensure Meaningful Distinctions Are Made in SES Ratings and Performance Awards,” *GAO Report to Congressional Requesters* (January 2015), available at <https://www.gao.gov/assets/gao-15-189.pdf>.

U.S.C. 901) were rated at the lowest rating level. Similar patterns have continued; for the 2023 performance cycle, approximately 96% of SES members received top ratings (*i.e.*, Levels 4 and 5), while fewer than 0.5% were rated below “Fully Successful.”³

This inflation in ratings undermines the SES appraisal system’s integrity and the statutory requirement at 5 U.S.C. 4312(a)(3) to encourage excellence in performance. For instance, in 2014, despite a national scandal involving manipulated wait times and mismanagement at the Department of Veterans Affairs (VA),⁴ 80% of VA SES members received an “Outstanding” or “Exceeds Fully Successful” rating.⁵ OPM and GAO have both recognized the lack of meaningful distinctions in performance ratings as a critical issue.

Efforts to improve performance management, such as OPM’s 2019 memorandum⁶ to agencies on how to increase rigor in performance management through well-developed performance standards, have not been successful. The 2024 Federal Employee Viewpoint Survey showed that just 47% of employees agreed with the statement, “In my work unit, differences in performance are recognized in a meaningful way.” This was the lowest positive response rate for any question and has consistently been the lowest over the past three years.⁷ These patterns suggest a disconnect between executive performance ratings and actual organizational outcomes, raising concerns about accountability in key public service areas.

This final rule removes the regulatory prohibition of forced distribution of

³ SES ratings data submitted by individual agencies for SES performance appraisal system certification purposes. OPM manually compiled individual agency data to produce the fiscal year 23 SES ratings distribution data.

⁴ Department of Veterans Affairs Office of Inspector General, “Review of Alleged Patient Deaths, Patient Wait Times, and Scheduling Practices at the Phoenix VA Health Care System,” Report #14-02603-267, available at <https://www.vaogiv.gov/sites/default/files/reports/2014-08/VAOIG-14-02603-267.pdf>.

⁵ See, *supra*, footnote 2.

⁶ OPM, “Applying Rigor in the Performance Management Process and Leveraging Awards Programs for a High-Performing Workforce,” available at https://www.opm.gov/chcoc/transmittals/2019/applying-rigor-performance-management-process-and-leveraging-awards-programs-high-performing_508_0.pdf.

⁷ FEVS Results for 2022 to 2024 available at <https://www.opm.gov/fevs/reports/governmentwide-reports/>.

performance ratings at 5 CFR 430.305(a)(5) and provides that OPM may establish a forced distribution of SES rating levels. Forced distribution involves assigning ratings based on pre-determined limits, such as reserving top ratings for a fixed percentage of performers. This approach aligns with performance practices in the private sector, where companies have used forced distribution of some sort in their performance evaluations.^{8 9}

Several foreign civil service systems including those in the UK, Germany, Portugal, and Indonesia have also implemented similar models.¹⁰ Research indicates that forced distribution, when implemented with appropriate oversight can promote merit-based rewards and increase organizational performance.¹¹ This is particularly pertinent for the Federal Government because, unlike the private sector, the Federal Government lacks a profit motive to ensure meaningful evaluations of its executives. As such, the Federal Government must rely on accurate appraisals and meaningful distinctions in performance to ensure accountability, uphold public trust, and meet statutory obligations.

On January 20, 2025, President Trump issued a Presidential Memorandum titled “Restoring Accountability for Career Senior Executives,” (90 FR 8481; Jan. 30, 2025) (“Restoring Accountability Memo”), directing OPM and OMB to issue SES performance plans that agencies must adopt. The Memorandum’s goal is to ensure SES members are held accountable to the President and the public and to reinvigorate the SES system by prioritizing merit and performance. In line with the Restoring Accountability Memo, on February 25, 2025, OPM issued a new SES performance appraisal system and plan.¹²

⁸ See, e.g., “Should a company rate its staff? A former Amazon exec says ‘stack ranking’ is useful when done right,” CNBC, December 5, 2023, available at <https://www.cnbc.com/2023/12/05/stack-ranking-ex-amazon-exec-explains-the-performance-review-system.html>.

⁹ “Stack Ranking—All You Need to Know,” Medium (April 3, 2020) available at <https://medium.com/@corvisio/stack-ranking-all-you-need-to-know-a5339c27ad83>.

¹⁰ “Performance Appraisal in the EU Member States and the European Commission,” URAD VLÁDY SLOVENSKEJ REPUBLIKY (2017) available at https://www.eupan.eu/wp-content/uploads/2019/02/2016_2_SK_Performance_Appraisal_in_the_EU_Member_States_and_the_European_Commission.pdf.

¹¹ Wijayanti, A., Sholihin, M., Nahartyo, E., & Supriyadi, S., *What do we know about the forced distribution system: A systematic literature review and opportunities for future research*, Management Quarterly Review (2024).

¹² OPM, “New Senior Executive Service Performance Appraisal System and Performance

On January 20, 2025, President Trump also signed Executive Order (E.O.) 14151, “Ending Radical and Wasteful Government DEI Programs and Preferencing,” 90 FR 8339 (Jan. 29, 2025). This order directs the termination of all DEI policies, programs, and preferences in the Federal Government, under whatever name they appear. OPM proposed several regulatory changes in conformance with this E.O.

Summary of Changes

OPM has reviewed the performance management regulations governing the SES and is issuing this final rule in response to both of the President’s January 2025 directives and pursuant to its regulatory authority in 5 U.S.C. 4315. OPM is amending 5 CFR 430.305(a)(5) by removing the prohibition on the use of a forced distribution of ratings and adding a provision at 5 CFR 430.305(d), allowing OPM to require and enforce a pre-established agency-wide and Governmentwide distribution of performance ratings among SES members for covered agencies and personnel. OPM expects agencies to implement a forced distribution limiting the highest rating levels (*i.e.*, Levels 4 and 5) only, as opposed to implementing any requirements with respect to the number of executives rated at Levels 1 through 3. In response to public comment, OPM is also adding a provision to 5 CFR 430.305(d) in this final rule, specifying that OPM may exclude noncareer SES appointees from such forced distribution requirements. This provision helps alleviate a concern described in the Public Comment section—that noncareer SES appointees might receive preferential consideration for high rating levels at the expense of career SES members’ ratings.

As discussed in more detail in a subsequent discussion of comments, OPM is making additional revisions to eliminate diversity, equity, and inclusion (DEI) language within SES performance management regulations, consistent with E.O. 14151.

Public Comment

In response to the proposed rule, OPM received 26 comments during the 30-day public comment period from multiple individuals, multiple labor organizations, a professional organization representing employment

Plan, and Guidance on Next Steps for Agencies to Implement Restoring Accountability for Career Senior Executives” (February 25, 2025), available at <https://www.opm.gov/policy-data-oversight/latest-memos/new-senior-executive-service-performance-appraisal-system-and-performance-plan-and-guidance-on-next-steps-for-agencies-to-implement-restoring-accountability-for-career-senior-executives.pdf>.

law lawyers, and six Federal agencies. At the conclusion of the public comment period, OPM reviewed and analyzed the comments. In general, the comments on the rule change were mixed, with some expressing support and others expressing opposition, and one comment that was outside the scope of the rulemaking. The comments are summarized below, along with the suggestions for revisions that were considered and either adopted, adopted in part, or declined, and the rationale therefor.

In the first section below, we address general or overarching comments. In the sections that follow, we address comments related to the specific portions of the regulation that OPM proposed to revise.

General Comments

OPM received several comments from individuals and agencies expressing general support for the proposed regulatory changes. For example, one commenter stated, “I think it is ridiculous that 95 percent of SES members get rated four or five out of five. And nearly two-thirds are rated as five out of five.” The same commenter went on to say “OPM should do this. It is just common sense.” Comment 06.¹³ Additionally, two commenters at one agency conveyed that their agency fully supports the OPM proposed rule, acknowledging that it aligns with the Trump Administration policy priorities around restoring accountability in the career SES and ending radical and wasteful government DEI programs. Comments 14 and 17.

OPM also received responses that expressed general opposition to the changes. One commenter stated: “I recommend we do not change the SES rating system. It is important that we have professionals in the SES and other agencies who have the Knowledge, Skills, and abilities to keep progressing in the mission of the agencies.” Comment 02. Another commenter stated, “Please do not change the existing evaluation process for Federal employees due to the whims of the current administration.” Comment 10.

Section-by-Section Analysis

In the following sections, we address the public comments related to the specific portion of the regulation to which each comment applied.

¹³ A reference to a comment provides the location of the item in the public record (*i.e.*, the two-digit number associated with the location in the docket). Comments filed in response to the proposed rule are available at <https://www.regulations.gov/comment/OPM-2025-0006-00nn>, where nn is the comment number.

Forced Distribution

OPM received a wide range of comments in response to its proposal to remove the prohibition of a forced distribution of performance rating levels within the SES. Comments ranged from strong support to strong opposition, while others agreed that, although something should be done to address inflated ratings in the SES, there are alternatives to forced distribution that could be pursued.

Members of the public and several agencies expressed support for removing the prohibition of a forced distribution due to the large number of high-level ratings issued under the current SES rating system, resulting in a lack of differentiation between the higher and lower performers. One commenter stated, "I support this proposed rule to limit the number of Federal executives who can receive the highest performance ratings. Currently, too many top-level managers receive 'outstanding' or 'great job' ratings, which makes it difficult to hold leaders accountable or recognize who is truly excelling." Comment 20.

Notably, all the agencies that provided comments supported removing the prohibition on forced distribution. One agency in particular stated that the proposed change "would fundamentally elevate the standard of accountability within the Executive Branch, ensuring that only the truly deserving performers are rewarded for their performance." Comment 27. Several other agencies agreed that removing the prohibition on forced distribution would lead to a more normalized ratings distribution and would result in greater recognition for the truly exceptional performers. *See, e.g.*, Comments 18, 24, 25.

Another agency suggested that the implementation of a forced distribution will better serve the merit system principle at 5 U.S.C. 2301(b)(1), which requires that advancement be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. The agency asserted that the statute's use of the term "relative" is not accidental. The agency stated that, "It is a recognition of the fact that assessing the ability, knowledge, and skill of a Federal employee requires a comparison to similarly situated individuals to make a full and fair assessment. In appropriate circumstances, forced distribution will greatly assist agencies in distinguishing between SES employees—who would otherwise appear to be indistinguishable

and interchangeable from their personnel records—for purposes of selection or advancement." Comment 22.

OPM agrees that this rule will have a positive impact on reducing inflated ratings within the SES. Enabling agencies to implement a forced distribution limiting the number of high-level SES ratings will create conditions that support meaningful distinctions in performance. OPM also agrees that utilizing a forced distribution, where agencies must consider relative performance, better reflects the merit system principle at 5 U.S.C. 2301(b)(1) than a system that predominantly fails to make distinctions in performance.

Several individual commenters, the two labor organizations, and the professional organization opposed OPM's proposal to remove the prohibition on a forced distribution. For example, some of the commenters and one of the labor organizations were concerned that forced distribution could negatively impact the culture and work environment if implemented. Comments 13, 15, 23. One commenter stated that, "such systems have been criticized for creating an environment of unhealthy competition, decreased morale and reduced collaboration among employees." Comment 13. The labor organization echoed this concern stating: "Forced distribution is not well-suited to entities that value security or long-term orientation, as it disincentivizes creativity and risk-taking and inhibits relationship building between employees. Organizations like the Federal Government that rely on data sharing and long-term planning are especially vulnerable to the culture created by forced distribution, which often strangles innovation and dissuades collaboration." Comment 23.

OPM disagrees with the concerns posed about the effect of forced distribution on agency culture and innovation. By removing the prohibition on a forced distribution of ratings, OPM is advocating, as it has done for many years, for agencies to strive towards creating a high-performance culture where truly exceptional performance will be differentiated from mediocre and poor performance and that a Level 3 "Fully Successful" rating will be increasingly recognized as a positive rating that is valued.¹⁴ Appraisals of

¹⁴ *See, e.g.*, OPM, "Applying Rigor in the Performance Management Process and Leveraging Awards Programs for a High-Performing Workforce," (July 12, 2019) available at [https://www.opm.gov/chcoc/transmittals/2019/applying-rigor-performance-management-process-and-](https://www.opm.gov/chcoc/transmittals/2019/applying-rigor-performance-management-process-and-leveraging-awards-programs-high-performing_508_0.pdf)

performance in the SES, as required by 5 U.S.C. 4313, must be based on both individual and organizational performance and, for an agency's appraisal system to be certified under 5 U.S.C. 5307(d), it must make meaningful distinctions based on relative performance. As such, the concern that forced distribution will stifle collaboration or lead to unproductive competition is obviated by the executive's rating depending on the successful achievement of organization and agency goals. Senior executives cannot receive high ratings through their individual efforts alone; collaboration and cross-functional cooperation are unavoidable imperatives that a successful senior executive must embrace, regardless of whether a forced distribution is implemented or not.

Some commenters and the professional organization were concerned that imposing a forced distribution will diminish accuracy and accountability from the appraisal of senior executive performance. Comments 04, 05, 19. For example, one commenter stated: "Certainly, an individual who may have been entitled to a top-notch review will be hamstrung into a lower category, simply because this forced distribution requires it. In fact, lower performers may even get placed into a higher category because this forced distribution requires that no more than x number of employees be evaluated at the lowest level." Comment 04. The professional organization stated, "Any such curve necessarily introduces inaccuracies in the appraisals provided to SES employees, by forcing employees whose performance may merit '4' or '5' level rating under the applicable performance standards to only receive a '3' rating to comply with the 'grading curve.'" The professional organization also argued that the proposal to remove forced distribution violates 5 U.S.C. 3131(2) and (4) and 4312(a)(1). Comment 19.

OPM does not agree that imposing a forced distribution would remove accuracy or accountability from the appraisal of senior executive performance. On the contrary, OPM believes that failing to effectively reform a Governmentwide appraisal system in which approximately 96% of its senior executives receive the highest rating levels erodes accountability and credibility from SES performance appraisals. OPM also disagrees that implementation of a forced distribution could result in a poor performer

receiving a higher rating than he or she earned. The final rule does not mandate any minimums with respect to the rating levels issued at an agency. Rather, it simply removes the categorical prohibition on forced distribution. The new SES appraisal system and plan issued on February 25, 2025, instructed that, if the regulatory prohibition on forced distribution is removed, each agency would be expected to limit their number of Level 4 and 5 ratings to no more than 30%. The new system also includes flexibility for the President to waive the 30% limit by certifying that the performance of the agency's executives was outstanding during the relevant time period. OPM has no intention of requiring a minimum number of ratings at any of the lower rating levels. OPM also disagrees with the interpretation by the professional organization that removing the prohibition on forced distribution violates any statutes. The current SES appraisal landscape is one in which the accuracy of SES ratings should be questioned, given that almost no meaningful distinction in performance is made across Governmentwide SES ratings. This rule strives to increase the accuracy of SES ratings, consistent with 5 U.S.C. 4312(a)(1), by incorporating relative performance, thereby resulting in a more normalized SES ratings distribution. This rule also provides for increased conformity with 5 U.S.C. 3131(4) by emphasizing that only exceptional performers should be recognized with the highest ratings, as opposed to the vast majority of the SES population receiving the highest ratings.

Several commenters cautioned that allowing for a forced distribution of ratings could hinder retention of competent executives and deter talented individuals from joining the SES if they expect a Level 3 rating. Comments 07, 09, 16. For example, one commenter stated, "few would want to forego higher private sector salaries, knock themselves out for a few years while turning around a bureau or an agency, and then receive performance ratings of '3' each year because of forced distribution." Comment 07. Another commenter pointed out that engrained perceptions associated with the current rating labels could be an underlying issue that needs to be addressed. For instance, Level 3 "Fully Successful" likely has a certain connotation shared throughout the Federal Government. The commenter suggested that it might aid with the transition to a forced distribution to establish new rating labels to avoid executives "feeling like they are being graded lower than they

were previously for the same work." Comment 09.

OPM accepts that there may be connotations associated with various rating levels. However, OPM anticipates that one of the outcomes of this final rule will be a more normalized distribution of SES ratings, in which a rating of Level 3 will not be viewed as a poor rating, but rather a good rating that is valued. Because rating inflation has been allowed to persist for so long within the SES, it has created an environment devoid of meaningful distinctions in SES performance ratings where many senior executives now expect to receive the highest ratings without demonstrating superior performance relative to the other senior executives in their agency. Under a forced distribution, a truly exceptional senior executive who turns a low performing bureau or agency around into a high performing one should still expect to receive a Level 5 ("Outstanding") rating. OPM expects that high-potential executive talent will not be dissuaded from joining the SES under a system that utilizes a forced distribution and that is more likely to accurately differentiate the performance of its senior executives. Those who join the Federal Government often do so because they are driven by a public service motivation and belief in the agency's mission. A national survey conducted by the Partnership for Public Service in the spring of 2024¹⁵ found that 65% of U.S. adults agree that "working in the Federal Government is a good way for a person to serve their community." SES members are in positions to directly shape the direction of their agency and make positive impacts on their community and the Nation. Beyond the meaningful work, the SES offers a strong package of benefits, including competitive salaries, generous annual and sick leave programs, health and life insurance, access to the Federal Employees Retirement System, opportunities for executive development and training, and eligibility for rating-based performance awards. Agencies are able under the new SES appraisal system and plan to provide performance awards to executives who receive a Level 3 ("Satisfactory") rating, which will reinforce the value of that rating.

Two commenters voiced concern that forced distribution can be subject to "gaming" (Comments 09, 11), where

supervisors may choose to rotate who receives higher ratings regardless of performance, such as by categorizing employees who were retiring in the near future into the lowest performance category so that, if there were termination consequences, those affected would be employees retiring in the near future. Although one of the commenters applauded OPM's current regulatory effort to curb rating inflation, the commenter also stated that "all a percentage limit or quota on high ratings will get you is a [sic] an informal 'just wait your turn' rotation system. That sort of backdoor system gives a career executive a high performance rating every third year or so, when it's their 'turn' to be wonderful. And they're told 'be patient' when it isn't." Comment 11. These commenters suggested that, if forced distribution is implemented, OPM should add further reporting requirements to evaluate whether ratings are being rotated (Comment 09) or possibly utilize the President's Management Council (PMC) to evaluate agency performance "to ensure that an agency's individual SES performance ratings were generally consistent with a particular agency's overall performance." Comment 11.

OPM acknowledges that forced distribution, when not implemented with appropriate oversight or controls, could lead to an agency "gaming" the rating process by rotating which senior executives receive the highest rating levels. That would understandably demoralize top performers and undermine the intent of the rule—which is to ensure that only the truly deserving executives receive the highest rating levels and associated rewards. To ensure proper oversight over senior executive ratings, the President's January 20, 2025, memorandum on Restoring Accountability for Career Senior Executives required agencies to re-constitute their SES Performance Review Boards (PRBs) with individuals committed to full enforcement of the SES performance standards. OPM is confident the re-constituted PRBs will provide fair and accurate recommendations on SES annual summary ratings based on objective consideration of both individual and organizational performance. Additionally, under its February 25, 2025, memorandum on the new SES performance appraisal system and plan, OPM expects ratings to be aligned with and reflect organizational performance and for senior executives to be evaluated in part based on achieving organizational goals. Under the new system, there is also a provision that the

¹⁵ Partnership for Public Service, "Two-thirds of the public sees a job in the federal government as a good way to serve their community," (July 29, 2024) available at <https://ourpublicservice.org/blog/a-federal-government-job-is-a-good-way-to-serve-your-community/>.

President may waive the limits imposed by a forced distribution by certifying that the performance of the agency's executives was outstanding during the relevant time period. As such, we have not adopted in these regulations any new requirements to incorporate PMC oversight responsibilities or to establish additional reporting requirements on ratings distributions.

One individual commenter and the two labor organizations suggested alternatives to forced distribution and other recommendations for improving SES appraisal such as utilizing 360-degree reviews, robust feedback, and developmental coaching (Comment 15); requiring that SES have a variety of experience before entry into the SES (e.g., at multiple agencies and/or experience at state or local government) (Comment 23); requiring performance plans for political appointees (Comment 23); and by having performance plans linked to mission, assessing candidates against leadership-oriented skills in addition to technical competencies, and by requiring that performance appraisals be transparent, timely and linked to the executive's development plan (Comment 26). One of the labor organizations provided direct quotes from senior executives who shared their perspectives on performance management, with one executive stating, "The mechanisms for holding SES accountable already exist. The problem is that leadership has not exerted the fortitude necessary to confront non-performing SES and hold them accountable." Comment 26.

Many of the suggested alternatives to forced distribution are already in place and have been for years—but have failed to effectively address the fact that SES performance ratings do not meaningfully and reliably distinguish relative senior executive performance. For example, E.O. 13714, "Strengthening the Senior Executive Service," E.O. 13714, 80 FR 79225 (Dec. 15, 2015), requires that senior executives have executive development plans that include at least one leadership assessment involving employee feedback (such as a 360 degree-type review) every 3 years to provide feedback and inform the executive's developmental needs. Agencies continue to be expected to adhere to this requirement. OPM has also championed a coaching culture across the Federal workforce to support effective mission achievement and deliver improved services to the American people.¹⁶ Additionally, SES

performance appraisal regulations already require that both career and noncareer SES members receive performance plans containing critical elements based on validated executive leadership competencies¹⁷ and that align with results-oriented goals.¹⁸

SES are hired primarily for their possession of Executive Core Qualifications (ECQs) rather than for their technical expertise. These core qualifications are often attained through diverse experiences spanning across agencies and the public and private sectors. OPM's May 29, 2025, memorandum—*Hiring and Talent Development for the Senior Executive Service*¹⁹—overhauled the ECQs and SES candidate development programs to strengthen SES hiring and reform "broken, insular, and outdated" Federal hiring practices.²⁰ However, even within an elite cadre of senior executive performers, SES appraisal systems must provide for appraisal of all senior executives, including career and noncareer SES appointees, and produce accurate ratings that make meaningful distinctions based on relative performance. This is a statutory requirement for certifying an agency's SES performance appraisal system under 5 U.S.C. 5307(d). The regulations at 5 CFR 430, subpart D, establish the criteria for certifying SES performance appraisal systems and require alignment of senior executive performance plans with the agency's mission and other strategic goals and policy objectives, incorporation of robust feedback from customers and stakeholders, and transparency through consultation and oversight. Thus, while many mechanisms for holding SES accountable already exist, they have not translated into performance standards that accurately distinguish relative Senior Executive performance. This problem has persisted for years, as evidenced by consistently inflated SES ratings across the Federal Government, even for senior executives who demonstrably do not perform.²¹ Removing the prohibition of a forced distribution of SES ratings will create the conditions necessary to ensure raters

differentiate senior executives' performance.

One commenter suggested applying different forced distribution requirements for career and politically appointed employees, stating "It likely does not make sense to use stacked rankings that compare career and political candidates because of the differences in their service and background. There may be also an incentive to assign the high ratings to political appointees instead of career staff, regardless of performance, and then to more prominent political appointees over less prominent ones." Comment 09.

OPM agrees with the commenter's concerns. While the proposed regulations only addressed the removal of the categorical prohibition of a forced distribution and did not regulate any specific provisions for how an agency implements forced distribution, OPM incorporated into this final rule a provision clarifying that it may establish a forced distribution of SES ratings and that noncareer SES appointees may be excluded from such requirements, as determined by OPM. This provides flexibility for forced distribution requirements to be established, consistent with OPM guidance, in a manner that best supports rigor and accountability within the SES. Agency leadership decisions remain bound by the merit system principles (See 5 U.S.C. 2301(b)) and the prohibited personnel practices (See 5 U.S.C. 2302) which, among other things, obligate Federal agencies to implement personnel management such that all employees receive fair and equitable treatment without regard to political affiliation.

Another commenter suggested that OPM failed to address one of the primary drivers of GS level employees moving to the SES ranks—annual performance awards (i.e., bonuses). That commenter claimed that a senior executive must get a Level 4 or 5 rating to receive a bonus and that, if a forced distribution is to be the practice going forward, senior executives who are "Fully Successful" (rated Level 3) should also receive a bonus, as it would also "provide some incentive for these employees to stay in their executive positions and continue to serve the American people in execution of the policies, practices and direction of the administration." Comment 12.

OPM agrees with the commenter's suggestion, with some clarification. SES performance awards are authorized under 5 U.S.C. 5384 for senior executives whose performance is determined to be at least Level 3 ("Fully

www.opm.gov/chcoc/transmittals/2018/coaching-federal-government_09-10-2018_508.pdf.

¹⁷ 5 CFR 430.305(a)(1).

¹⁸ 5 CFR 430.301(b)(2).

¹⁹ OPM, *Hiring and Talent Development for the Senior Executive Service* (May 29, 2025), available at <https://www.opm.gov/policy-data-oversight/latest-memos/hiring-and-talent-development-for-the-senior-executive-service/>.

²⁰ E.O. 14170, *Reforming the Federal Hiring Process and Restoring Merit to Government Service*, 90 FR 8621 (Jan. 30, 2025).

²¹ See, *supra*, footnote 4.

¹⁶ OPM, *Coaching in the Federal Government* (September 10, 2018), available at <https://>

Successful”). It may be that the particular commenter’s agency has established an internal policy limiting performance awards to only those senior executives rated at Levels 4 and 5. However, that is not a Governmentwide policy. These regulations do not address SES awards programs. OPM’s February 25, 2025, memorandum on the new SES performance appraisal system and plan allows agencies to grant a 5% performance award to senior executives rated Level 3. This helps to support a culture shift in which a Level 3 rating reflects “Satisfactory” performance and is not viewed as a poor rating.

Two commenters, a labor organization, and the professional organization challenged OPM’s general conclusion that the large proportion of Level 4 and 5 ratings reflects an inherent miscalibration of the current rating system. Comments 04, 13, 19, 26. The professional organization highlighted that Congress intended, under the CSRA, that the SES should be established to provide agencies the necessary flexibility to recruit and retain the highly competent and qualified senior executives needed to provide effective management of agencies and their functions. The professional organization said, “It is not surprising that a group of employees deliberately selected to be highly qualified high performers would perform at a high level, if graded fairly on their own performance and not ‘graded on a curve.’” Comment 19. One of the commenters expressed a similar view, stating that “The data indicating high percentages of SES ratings at levels ‘Outstanding’ and ‘Exceeds Fully Successful’ could be interpreted as evidence of the high caliber of public service executives rather than a systemic failure.” Comment 13.

OPM is keenly aware that entry into the SES represents a significant achievement; it is a highly selective process that ensures only the most capable and accomplished individuals are admitted. However, the high caliber of the SES cadre does not justify assigning the highest performance ratings to all its members. Even within elite groups, there are variations in performance. Therefore, performance expectations should be equally rigorous to encourage excellence in performance as required by 5 U.S.C. 4312(a)(3) and result in meaningful distinctions in performance as required for SES performance appraisal system certification under 5 U.S.C. 5307(d).

A labor organization argued that “OPM’s rule is unsupported because it is based on no recent data or evidence about SES performance management.

No such data has been cited or released to the public or as part of the regulatory record.” Comment 26. The labor organization noted that OPM has not issued a report on SES ratings distributions to the public since 2015.

OPM previously disseminated an annual report titled, Report on Senior Executive Pay and Performance Appraisal Systems, which was last produced for FY 2016 and is publicly available.²² In the FY 2016 report, approximately 92% of SES Governmentwide were rated at Levels 4 and 5. Due to OPM resource constraints, the report was discontinued. For the purposes of preparing for this rulemaking, however, OPM analyzed SES ratings for the most recent completed fiscal year for which ratings data were available (FY23) and reported on those results in the NPRM’s Supplementary Information at 90 FR 18820. The FY23 data do not show meaningful distinctions being made, with approximately 96% of SES Governmentwide rated at Levels 4 and 5. Thus the FY23 data further demonstrate the continuing trend of SES members increasingly receiving Level 4 and 5 ratings, beginning with the 2015 GAO report (showing that between 2010 and 2013, 85% of SES were rated Level 4 or 5) and continuing with OPM’s FY 2016 report (showing that 92% of SES were rated Level 4 or 5). The FY 23 data represents yet another example of reported data showing that SES ratings continue to be extremely high.

Eliminating DEI Language From §§ 430.308 and 430.311

This final rule removes diversity, equity, and inclusion (DEI) language from the SES performance appraisal regulations at 5 CFR part 430, subpart C, consistent with President Trump’s Executive Order titled, “Ending Radical and Wasteful Government DEI Programs and Preferencing.” E.O. 14151, 90 FR 8339 (Jan. 29, 2025). This order directs the termination of all DEI policies, programs, and preferences in the Federal Government, under whatever name they appear.

The existing regulation at 5 CFR 430.308(d)(7) requires that “leadership effectiveness in promoting diversity, inclusion, and engagement” be taken into account as one of several factors in appraising senior executive performance. OPM is deleting paragraph (d)(7), thereby removing promotion of

DEI from the list of factors. This change is consistent with E.O. 14151 because paragraph (d)(7) conveys to both the senior executive and to the public that executives are expected (1) to promote a particular, controversial ideology throughout the government and (2) to promote policies, programs, and preferences throughout the Federal Government that the President has identified as wasteful and divisive.

Additionally, 5 CFR 430.311(a) imposed requirements pertaining to the membership of agency PRBs and encouraged agency heads “to consider diversity and inclusion in establishing their PRBs.” OPM is removing that language from the paragraph and, in its place, encouraging agency heads to consider selecting members that are committed to applying the requirements in the SES Performance Appraisal System and Plan and assuring an SES of the highest caliber, consistent with the Restoring Accountability Memo.

Comments were evenly split between those who generally support removing DEI language from the SES performance appraisal regulations and those who oppose removing it. Agencies and some members of the public voiced support for removing DEI for various reasons. Some agencies agreed with removing the DEI language because doing so aligns with the Trump Administration policy priorities around restoring accountability in the career SES and ending radical and wasteful government DEI programs and preferencing (See Comments 11, 14, 17, 27). One agency in support of removing the language stated that it would allow for more of a focus on “job-relevant criteria and measurable outcomes” (Comment 25), while another agency said that the current language “promoting diversity is likely to promote unlawful discrimination and that the proposal to remove that language is appropriate and necessary.” Comment 22. An individual commenter also strongly supported removing the DEI language stating, “DEI is counter-productive. As a taxpayer and citizen, I demand employees are hired based on merit and not on identity. Hiring by identity is a violation of civil right discrimination laws and produces inferior results that put public safety at risk. Or punishes people for their identity. It is not a constitutional right to be elevated in importance because of one’s identity.” Comment 21.

OPM agrees that race- and sex-based preferencing operating under the banner of “diversity, equity, and inclusion” have no place in the Federal Government and the changes being made in this final rule reflect a commitment to supporting the policies

²² OPM, “Report on Senior Executive Pay and Performance Appraisal Systems,” (January 2018) available at <https://www.opm.gov/policy-data-oversight/senior-executive-service/reference-materials/fy-2016-report-on-senior-executive-pay-and-performance-appraisal-systems/>.

of the Administration and upholding the Federal Government's merit-based hiring and performance evaluation system.

Several commenters opposed removing DEI language because they argue DEI represents essential values that contribute positively to the Federal Government, and that removing DEI language sends a regressive message undermining the importance of those values. *See* Comments 08, 10, 13. Additionally, one commenter said, "removing DEI language from SES appraisal undermines the public interest, reduces accountability for inclusive leadership, and directly contradicts decades of evidence that diverse, equitable leadership improves government performance and trust." Comment 15.

OPM disagrees that the race- and sex-based preferencing programs operating under the banner of "diversity, equity, and inclusion" represent essential values of the Federal Government. On the contrary, the Equal Protection Clause of the Constitution establishes the foundational principle that Government may never discriminate based on protected characteristics, including race, except in rare circumstances. As the Supreme Court articulated in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* ("*SFFA*"), 600 U.S. 181, 206 (2023), the "core purpose" of the Equal Protection Clause is to "do away with all governmentally imposed discrimination based on race." The Court further emphasized that "eliminating racial discrimination means eliminating all of it."

One of the labor organizations, the professional organization, and one commenter disagreed with removing the DEI language on a legal basis. *See* Comments 16, 19, 26. Specifically, with regard to eliminating the performance appraisal factor at 5 CFR 430.308(d)(7), the labor organization asserted that OPM's conclusion was that the regulation is inconsistent with 5 U.S.C. 7201 and went on to say "It is hard to understand how OPM reaches this conclusion, based on the plain statutory language at 5 U.S.C. 7201(b) which states, 'It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin.'" Comment 26.

It should be noted that 5 U.S.C. 7201(b) goes on to say, "The President shall use his existing authority to carry out this policy." 5 U.S.C. 7201(b). The removal of DEI language from 5 CFR 430.308(d)(7) and 5 CFR 430.311(a)

follows from and is consistent with President Trump's Executive Order titled, "Ending Radical and Wasteful Government DEI Programs and Preferencing." E.O. 14151, 90 FR 8339 (Jan. 29, 2025). This order directs the termination of all DEI policies, programs, and preferences in the Federal Government, under whatever name they appear. OPM is eliminating promoting DEI as an SES performance appraisal factor because making promoting DEI at work as a basis for evaluating SES performance is, at a minimum, confusing and contradictory in light of the President's Executive Order. It also may lead to the impression that executives should (1) be ideologically committed to DEI, when DEI is very controversial, condemned by the Trump Administration, and may lead to unlawful hiring practices, and (2) have leeway to engage in DEI practices that are unlawful as described in U.S. Equal Employment Opportunity Commission (EEOC)²³ and U.S. Department of Justice (DOJ) guidance.²⁴ OPM does not believe that 5 U.S.C. 7201 required this confusing performance appraisal factor at 5 CFR 430.308(d)(7). Furthermore, eliminating the promotion of "diversity" and "inclusion" as appraisal factors does not impede SES members from having their appraisal take into account equal employment opportunity requirements, or compliance with merit systems principles, as required by 5 U.S.C. 4313(5). Similarly, eliminating the requirement in § 430.308(d)(7) to promote "engagement" removes a redundant requirement. Engagement is already accounted for in SES appraisals. The new SES appraisal system and plan issued on February 25, 2025, includes standardized critical elements, one of which is titled "Holding Others Accountable and Treating them Fairly." This critical element includes requirements for SES to treat all employees fairly and consistent with their merit and competence, as well as obey laws regarding equal employment opportunity. OPM expects that all employees should receive fair and equitable treatment in all aspects of personnel management consistent with Merit System Principles, including 5 U.S.C. 2301(b)(2).

Commenters opposing the removal of DEI language in 5 CFR 430.311 did so mostly through statements that opposed

removing DEI language in general as opposed to targeting objections to OPM's changes to 5 CFR 430.311. In this final rule, OPM is amending the regulation on PRB membership so that agency heads are encouraged to select members that are committed to applying the requirements in the SES Performance Appraisal System and Plan and assuring an SES of the highest caliber. This replaces the current regulatory language encouraging agency heads to consider diversity and inclusion in establishing their PRBs. Any system that would inject racial considerations into who is chosen for a particular position at an agency—be it the PRB or anything else—would be in tension with *SFFA* as well as other cases such as *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 280 (1976) and *Ricci v. DeStefano*, 557 U.S. 557 (2009). Therefore, OPM is not adopting any recommendations to retain DEI language or replace the eliminated language from 5 CFR 430.308 or 5 CFR 430.311 with other DEI language.

Expected Impact of This Rulemaking

A. Statement of Need

OPM is issuing this final rule pursuant to its authority to issue regulations governing performance appraisals in the SES in subchapter II of chapter 43 of title 5, United States Code. The purpose of this rulemaking is to provide a means by which only the highest performing SES members receive the highest performance ratings. Previous efforts²⁵ to promote rigor in SES performance appraisal by encouraging agencies to develop more stringent performance requirements have not resulted in significant changes to SES ratings distributions.

During the FY23 performance appraisal cycle, across 91 Federal agencies, the distribution of SES members' performance ratings was as follows: 64.3% (4608 members) were rated "Outstanding" at Level 5, 31.7% (2273 members) were rated "Exceeds Fully Successful" at Level 4, 3.6% (261 members) were rated "Fully Successful" at Level 3, 0.2% (15 members) were rated "Minimally Satisfactory" at Level 2, and 0.1% (10 members) were rated "Unsatisfactory" at Level 1.²⁶ The distribution of these ratings demonstrates that there continues to be inflation of SES performance ratings and that action must be taken in order to reset and infuse rigor into the SES performance appraisal process. As such, the removal of the prior prohibition of

²³ EEOC, *What You Should Know About DEI-Related Discrimination at Work* (March 19, 2025).

²⁴ U.S. Department of Justice, *Implementation of Executive Orders 14151 and 14173: Eliminating Unlawful DEI Programs in the Federal Operations* (March 21, 2025) available at <https://www.justice.gov/ag/media/1388501/dl?inline>.

²⁵ *See, supra*, footnote 14.

²⁶ *See, supra*, footnote 3.

forced distribution of SES ratings is necessary to enable the establishment and enforcement of limits on SES rating levels.

B. Impact

By applying a forced distribution of SES performance ratings, agencies and individual SES members will be held to a higher standard of accountability because there will be a pre-established limited number of higher performance ratings, thereby ensuring only the truly deserving performers are rewarded for their performance.

Removing the regulatory prohibition on forced distribution is an important first step towards recalibrating agencies' focus and efforts on ensuring meaningful distinctions in SES performance ratings. OPM expects that forced distribution will incentivize improved performance of SES members as they no longer will expect to receive the highest ratings without demonstrating superior performance relative to the other senior executives in their agency. This will ultimately improve the performance of the government in providing services to the American public.

C. Costs

This final rule is expected to affect the operations of more than 90 Federal agencies—ranging from cabinet-level departments to small independent agencies—that have employees in the SES. Individuals employed by these agencies will spend time updating agency SES performance appraisal policies and procedures during fiscal year 2025 to prepare for implementation in the fiscal year 2026 performance appraisal period. Typically, an agency's Executive Resources staff handles tasks associated with updating SES performance plans and refining policy documents. Therefore, for this cost analysis, the assumed average salary rate of Federal employees performing this work will be the rate in 2025 for GS-14, step 5, in the Washington, DC, locality pay table (\$161,486 annual locality rate and \$77.38 hourly locality rate). We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$154.76 per hour.

To comply with the regulatory changes in this rule, affected agencies must review the rule and update their policies and procedures. We estimate that, in the first year following publication of a final rule, this will require an average of 80 hours of work by employees with an average hourly cost of \$154.76 per hour. This should

result in estimated costs of about \$12,400 per agency and about \$1.1 million Governmentwide.

SES members revise their performance requirements each year as they develop their performance plans. OPM anticipates that adjusting their performance requirements to reflect the updated critical elements may take each executive slightly longer than usual in the first year. We estimate that this will require approximately 15 additional minutes in the first year of implementation compared to the time usually spent to develop performance requirements for the annual performance plan. Based on the average salary for the ES pay plan in September 2024 (most recent available data), we assume an average salary rate of \$207,313, or \$99.67 per hour.²⁷ We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$199.34 per hour. There are approximately 8,430 members of the SES corps in the executive branch. This results in a one-year, transitional increase in costs of about \$420,000 Governmentwide.

OPM anticipates that the overall implementation costs will be limited in duration and total about \$1.5 million. OPM did not receive any comments on its estimates of costs.

D. Benefits

The 2015 GAO report expressed that a cultural shift might be needed among agencies and employees to acknowledge that a rating of "Fully Successful" is already a high bar and should be valued and that "Outstanding" is a difficult level to achieve.²⁸ The application of a forced distribution within the SES performance appraisal system will reinforce the understanding that success as a senior executive is aligned to the appropriate rating at the "Fully Successful" level. By establishing a limit on the number of SES members who can receive a rating above the "Fully Successful" level, there will be a clear distinction of the highest performers across an agency and the Federal Government. Agencies will no longer be able to rate virtually all of their senior executives at the highest performance ratings, thus encouraging SES members to strive for increased levels of performance and ultimately provide better results for the government and the American public.

Consistent with the letter and intent of 5 U.S.C. 3131 and 4312(a), only truly deserving senior executives will be recognized and rewarded for excellent performance.

E. Regulatory Alternatives

OPM considered the alternative of not removing the prohibition on forced distribution and instead issuing further guidance encouraging agencies to be increasingly rigorous in their management of SES performance to promote meaningful distinctions in SES performance. However, previous attempts to achieve this result through guidance have not been successful in curbing inflated SES ratings; instead, it appears that the percentage of SES receiving Level 4 or 5 performance ratings has only increased. Without the ability to place limits on SES ratings, there will almost certainly continue to be a pervasive inflation of ratings and a lack of accountability and meaningful distinction in performance ratings throughout the SES.

OPM also considered the alternative of reinstating the review of SES performance plans by OPM as part of the SES performance appraisal system certification review process. Prior to the issuance of OPM's further streamlined performance appraisal system certification process in 2018, referred to as Certification 2.0, agencies were required to submit a sample of performance plans to OPM for review. OPM could revert to requiring agencies to submit SES performance plans for review to ensure that performance requirements are properly calibrated to established SES performance standards. OPM's practice of reviewing individual SES performance plans was abandoned under Certification 2.0 primarily due to the administrative burden that it placed on agencies and OPM. While the aim of this rule is to increase the performance of SES, OPM also must consider the mandate to deliver a government to the American people that is lean and efficient. Returning to the practice of OPM reviewing individual SES performance plans is not a practical alternative given the additional time required by OPM to review, and for agencies to make corrections to, SES performance requirements. In addition, it is unlikely that requiring OPM to individually certify agency SES performance plans would meaningfully shift the distribution of SES performance ratings in the absence of a repeal of the rule against forced distribution.

OPM received several comments that suggested alternatives to removing the prohibition on forced distribution.

²⁷ Average SES pay drawn from Office of Personnel Management FedScope data, available at <https://www.fedscope.opm.gov/>.

²⁸ *Supra*, footnote 2.

OPM's consideration of these alternatives is addressed in the discussion of comments. *See, e.g.*, the preceding discussion of comments 15, 23, and 26.

Regulatory Compliance

A. Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

B. Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rulemaking does not reach that threshold but has otherwise been designated a "significant regulatory action" under section 3(f) of Executive Order 12866. This final rule is not an Executive Order 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

C. Federalism

This rulemaking will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995

dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Congressional Review Act

The Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2). In addition, this is a rule related to agency management or personnel and agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties and thus does not come within the meaning of the term "rule" as used in the Congressional Review Act. *See* 5 U.S.C. 804(3)(B), (C). Therefore, the reporting requirements of 5 U.S.C. 801 do not apply.

G. Paperwork Reduction Act

This regulatory action will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 430

Decorations, Government employees. Office of Personnel Management. **Stephen Hickman**, *Federal Register Liaison*.

Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR part 430 as follows:

PART 430—PERFORMANCE MANAGEMENT

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. chapter 43 and 5307(d).

Subpart C—Managing Senior Executive Performance

■ 2. Amend § 430.305 by revising paragraph (a)(5) and adding paragraph (d) to read as follows:

§ 430.305 System standards for SES performance management systems.

(a) * * *

(5) Derive an annual summary rating through a mathematical method that ensures executives' performance aligns with level descriptors contained in performance standards that clearly differentiate levels above fully successful;

* * * * *

(d) OPM may establish, and refine as needed, a forced distribution of SES rating levels which agencies must apply when rating SES members, except that noncareer SES members may be excluded from such forced distribution requirements, as determined by OPM.

■ 3. Amend § 430.308 by:

■ a. Revising paragraph (d)(6);

■ b. Removing paragraph (d)(7); and

■ c. Redesignating paragraph (d)(8) as (d)(7).

The revision reads as follows:

§ 430.308 Appraising performance.

* * * * *

(d) * * *

(6) The effectiveness, productivity, and performance results of the employees for whom the senior executive is responsible; and

* * * * *

■ 4. Amend § 430.311 by revising paragraph (a)(1) to read as follows:

§ 430.311 Performance Review Boards (PRBs).

* * * * *

(a) * * *

(1) Each PRB must have three or more members who are appointed by the agency head, or by another official or group acting on behalf of the agency head. Agency heads are encouraged to choose individuals for each PRB committed to applying the SES Performance Appraisal System and Performance Plan and the requirements therein and promoting and assuring an SES of the highest caliber.

* * * * *

[FR Doc. 2025-17788 Filed 9-12-25; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID FSA-2025-0005]

RIN 0560-AI72

Emergency Livestock Relief Programs

AGENCY: Farm Service Agency, U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is issuing this rule to implement the Emergency Livestock Relief Program (ELRP) 2023 and 2024 Flood and Wildfire (FW), which provides payments to eligible livestock producers for losses as a result of increased supplemental feed costs due to a qualifying flood or qualifying wildfire