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SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in the **Federal Register** issued on March 7, 2006 (71 FR 11484). In that document, EPA sought comments on a proposed rule to exclude certain perfluorinated polymers from the polymer exemption rule. EPA is hereby reopening the comment period, which closed on May 8, 2006, to July 31, 2006. EPA has decided to reopen the comment period in response to several requests that additional time is need to adequately compile information, coordinate views among like-minded stakeholders, and submit meaningful comments.

List of Subjects in 40 CFR Part 723

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 18, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1310

RIN 0970-AC26

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking authorizes approval of annual waivers, under certain

circumstances, from two provisions in the current Head Start transportation regulation (45 CFR part 1310): The requirement that each child be seated in a child restraint system while the vehicle is in motion, and the requirement that each bus have at least one bus monitor on board at all times. Waivers would be granted when the Head Start or Early Head Start grantee demonstrates that compliance with the requirement(s) for which the waiver is being sought will result in a significant disruption to the Head Start program or the Early Head Start program and that waiving the requirement(s) is in the best interest of the children involved. The proposed rules also would revise the definition of child restraint system in the regulation. The proposed change in the definition would remove the reference to weight which now conflicts with Federal Motor Vehicle Safety Standards.

The regulation also is being amended to reflect new effective dates for §§ 1310.12(a) and 1310.22(a) on the required use of school buses or allowable alternate vehicles and the required availability of such vehicles adapted for use of children with disabilities, as the result of enactment of Section 224 of Public Law 109-149.

DATES: In order to be considered, comments on this proposed rule must be received by July 31, 2006.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, Portals, Eighth Floor, 1250 Maryland Avenue SW., Washington, DC 20024. A copy of this regulation may be downloaded from <http://www.regulation.gov>. In addition, you may also transmit written comments electronically via the Internet at <http://www.regulations.acf.hhs.gov>. Comments will be available for public inspection at the Department's offices in Portals, 8th Floor, 1250 Maryland Ave., SW., Washington, DC 20024, Monday through Friday 8:30 to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Craig Turner, Head Start Bureau, (202) 205-8236. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION:

Background

Waiver Authority

On January 18, 2001, final Head Start transportation regulations were published in the **Federal Register** (66 FR 5296). These regulations, found at 45 CFR part 1310, contain several

requirements designed to assure that Head Start children are safely transported to and from Head Start centers and apply to all Head Start and Early Head Start programs that provide transportation either directly, using program owned or leased vehicles, or through arrangements with private or public transportation providers, including local education agencies (LEAs). Different effective dates were included in the regulation for different requirements. The requirements that each vehicle used to transport children be equipped for use of child restraint systems and have a bus monitor was scheduled to become effective January 18, 2004.

On January 16, 2004, the Department published an Interim Final Rule to amend the Head Start transportation regulation (69 FR 2513). The Interim Final Rule was published to extend the effective date of the child safety restraint and bus monitor requirements until June 21, 2004 and to allow grantees an opportunity to request an additional extension of the effective date up to January 20, 2006, if they could demonstrate that this extension would be in the best interest of the children served.

Through the authority provided in the Interim Final Rule, the Department granted over 500 extensions to the effective date of the regulation to January 20, 2006. Many of the grantees who applied for and received extensions described plans to come into compliance with the requirements by the January 20, 2006 deadline. Some of these grantees were in the process of purchasing child restraint systems which had been recently approved by the National Highway Traffic Safety Administration (NHTSA) for use in school buses without costly retrofitting. Others were in the process of hiring and training monitors, and purchasing compliant vehicles. However, some grantees, particularly those grantees participating in coordinated transportation arrangements, expressed no alternative but to discontinue transportation services to Head Start children.

On December 30, 2005, the President signed Public Law 109-149 that included in Section 223 a provision that authorizes the Secretary of Health and Human Services to waive the requirements of regulations promulgated under the Head Start Act (42 U.S.C. 9831 *et seq.*), pertaining to child restraint systems or vehicle monitors if the Head Start or Early Head Start agency can demonstrate that compliance with such requirements will result in a significant disruption to the

program and that waiving the requirement is in the best interest of the children involved. This waiver authority extends until September 30, 2006, or the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

These actions, the Interim Final Rule and the temporary extension provided by Public Law 109–149, were necessary to address the significant impact these transportation requirements were having on Head Start programs. Many Head Start agencies are local school systems that have agreed to provide free transportation services to enrolled Head Start children. Other agencies have arranged coordinated transportation services with local school districts, often receiving these services at no cost or reduced cost to the program. Integrating Head Start children into regular bus routes is often the most efficient and effective way to transport young children who may be widely dispersed over an agency's service area. In many of these collaborative arrangements Head Start children are picked up along with K–12 school children that live in the same neighborhood. In these situations, Head Start children often represent no more than a few pupils on a large school bus. The need to provide child restraint systems for these few Head Start children, the potential reduction in seating capacity related to the use of these systems, and multiple daily bus runs all combine to create significant obstacles for school systems and other agencies. The Department was more focused on those programs with dedicated buses; that is buses on which only Head Start children are transported.

Of potentially greater impact is the requirement that each such bus have at least one monitor, irrespective of how few Head Start children might be on the bus. This could be prohibitively expensive if a monitor's salary is amortized among, for example, only three or four children. While many would support the argument that having a monitor on a bus filled with preschool age children would be appropriate, it is less clear that providing a monitor for three preschool age children is either appropriate or cost effective. In fact, the final rule published in 2001 included a discussion of alternatives for reducing the expense of providing monitors by having individual volunteers fill the role or by assigning bus monitor duties to individuals who are employed most of the time in filling other roles in the Head Start program. However, these alternatives are not practical when an

agency other than a grantee is operating the bus.

These rules propose a permanent solution to the issues addressed temporarily by the Interim Final Rule and Public Law 109–149.

Child Restraint System Definition and Applicability

The 2001 Head Start transportation regulations also included a provision requiring that on vehicles equipped with such devices, each child weighing 50 pounds or less must be seated in a child safety restraint system, appropriate to the height and weight of the child. The Department defined child restraint system at 45 CFR 1310.3 to include devices for restraining, seating, or positioning children weighing 50 pounds or less which meet the requirements of the Federal Motor Vehicle Safety Standard 213, 49 CFR 571.213, issued by the National Highway Traffic Safety Administration (NHTSA). At the time, the Federal Motor Vehicle Safety Standard 213 (FMVSS) applied to systems for children weighing 50 pounds or less. In 2003, NHTSA amended FMVSS 213, establishing the current standard that applies to systems for children weighing 65 pounds (30 kilograms) or under. An additional increase of the weight has been proposed by NHTSA (see 70 FR 51720, August 31, 2005) for children weighing 80 pounds or under. We are proposing to change the definition of child restraint system in the regulations and the requirement for use of child restraint systems to reflect current NHTSA regulations with flexibility to address any future changes in the weight range covered by the NHTSA regulation.

The proposed revision of the definition of child restraint system at 45 CFR 1310.2 will cover two categories of devices. The first category includes devices which meet the current definition of child restraint system, under the NHTSA regulation at 49 CFR 571.213. The second category in the proposed Head Start definition would include devices designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213. The second category would cover devices for children weighing more than the maximum weight covered under FMVSS 213. ACF believes that the vast majority of children enrolled in Head Start and Early Head Start are in the weight category covered by the existing NHTSA standard. According to Centers for Disease Control and Prevention data, 4.5

year old males in the 95th percentile for weight are less than 50 pounds. But because it is possible that children receiving Head Start or Early Head Start transportation services will weigh more than 65 pounds, the definition includes another category of devices suitable to the needs of these children.

Provisions of the Regulation

Section 1310.2—Waiver Authority and Effective Dates

We propose to revise the waiver authority found in § 1310.2(c) to expand the definition of “good cause.” Under the proposal, effective October 1, 2006, “good cause” for a waiver would exist when adherence to a requirement of the Head Start transportation regulation would create a safety hazard in the circumstances faced by the agency, or when compliance with requirements related to child restraint systems (§§ 1310.11 and 1310.15(a)) or the use of bus monitors (§ 1310.12(a)) would result in a significant disruption to the program and the grantee can demonstrate that waiving such requirements would be in the best interest of the children involved.

The waiver authority currently provided in the regulation only applies when adherence to a requirement of this part would itself create a safety hazard in the circumstances faced by the agency. It further states that “Under no circumstance will the cost of complying with one or more of the specific requirements of this part constitute good cause.” The Department determined that the limited waiver authority provided under the regulation could not be applied to situations where agencies were coordinating services with local school districts and other transportation providers. The situations described by grantees in both their extension and waiver requests, while including collaboration and coordination with school systems as an important rationale, are based on cost, and therefore not covered under the current authority. The Department believes that expanding the definition of “good cause” is the best long-term solution to the concerns expressed by Congress, Head Start agencies, school districts, transit providers and the public in order to serve the best interests of children.

Paragraph (b) would be revised to provide an effective date of October 1, 2006 for changes made by this proposed regulation.

The Department also is proposing changing the effective date of §§ 1310.12(a) and 1310.22(a) from January 18, 2006 to June 30, 2006. The change is being made to reflect the

enactment of section 224 of Public Law 109–149, which provides § 1310.12(a) of title 45 of the Code of Federal Regulations (October 1, 2004) shall not be effective until June 30, 2006, or 60 days after the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier. Congress has not passed legislation authorizing a fiscal year 2006 appropriation for the Head Start Act, so the Department is anticipating that § 1310.12(a) will become effective on June 30, 2006. If Congress acts before June 30, 2006, the final regulations will establish the date of enactment as the effective date for § 1310.12(a). The effective date for § 1310.22(a) also is being changed because it applies to the school buses and allowable alternative vehicles that will be required to be used under § 1310.12(a) and now is also listed as being effective on January 18, 2006. The text of §§ 1310.12(a) and 1310.22(a) are also being amended to reflect the proposed effective date of June 30, 2006.

Section 1310.12 Required Use of School Buses or Allowable Alternate Vehicles and Section 1310.22 Children With Disabilities

As indicated, we are proposing to amend paragraph (a) of §§ 1310.12 and 1310.22 to replace the January 18, 2006 effective date with June 30, 2006. These changes are needed to reflect the delayed effective date provided by section 224 of Public Law 109–149.

Definition and Requirements for Use of Child Restraint Systems

We also propose to update and modify the definition and requirement for use of child restraint systems.

Section 1310.3—Definitions

Under § 1310.3, child restraint systems are currently defined as any device designed to restrain, seat, or position children who weigh 50 pounds or less which meets the requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213. NHTSA raised the weight threshold required for approved restraint systems and is considering raising it yet again. In addition, discussions with NHTSA indicate it would be advisable to include a formal reference to the exclusion of Type I lap belts for small children. Therefore, we propose to update the definition by removing the weight requirement in order to stay current with FMVSS 49 CFR 571.213, and to exclude Type I lap belts as defined at 49 CFR 571.209. The new definition would read, “Child

Restraint System means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.”

Section 1310.15—Operation of Vehicles

Section 1310.15(a) of the regulation currently states that each agency providing transportation services must ensure that, “On a vehicle equipped for use of such devices, any child weighing 50 pounds or less is seated in a child restraint system appropriate to the height and weight of the child while the vehicle is in motion.” As discussed earlier, the definition of the child restraint system must be updated to reflect FMVSS standards. We propose to remove the poundage reference to include those few Head Start and Early Head Start children who are over 50 pounds in the requirement for the use of child restraint systems to coincide with the change in the definition.

We also propose to revise the language to clarify that the regulation applies only to Head Start and Early Head Start enrolled children. In coordinated transportation arrangements, questions have been raised regarding the applicability of this requirement to other children on the bus.

Under the proposal, the language would require that any child enrolled in a Head Start or Early Head Start program is seated in a child restraint system appropriate to the child’s height and weight while the vehicle is in motion.

Paperwork Reduction Act

This notice of proposed rulemaking contains information collection requirements in § 1310.2. This summary includes the estimated costs and assumptions for the paperwork requirements related to this proposed rule. A copy of this information collection request is available on our Web site at <http://regulation.acf.hhs.gov> and also can be obtained in hardcopy by contacting Craig Turner at the Head Start Bureau, (202) 205–8236. These paperwork requirements have been submitted to the Office of Management and Budget for review under number 0970–0260 as required by 44 U.S.C. 3507(a)(1)(c) of the Paperwork Reduction Act of 1995, as amended.

Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

The Head Start Bureau estimates that the proposed rule would create 275 burden hours annually. Table 1 summarizes burden hours by grantee. We estimate 1 hour of paperwork burden for each Head Start grantee requesting a transportation waiver. The waiver request would include basic information to identify the grantee, the nature of the transportation services provided and the children affected and a justification for the waiver. We estimate receiving no more than 275 requests resulting in a total burden of 275 hours. We will utilize a Web-based waiver request process, so expect no additional overhead in the management of the relatively small number of applications anticipated.

TABLE 1.—TOTAL BURDEN HOURS OF PROPOSED RULE

[Summary of All Burden Hours, by Provision, for Grantees]

Provision	Annualized burden hours
1310.2	275
Total	275

New information collection requirements are imposed by § 1310.2 of these regulations. Section 1310.2 authorizes the responsible HHS official to approve waiver requests related to the use of child restraint systems and bus monitors when the grantee provides information documenting that such a waiver will result in a significant disruption to the program and the agency demonstrates that waiving such requirements is in the best interest of the children involved, as set out in guidance provided by HHS.

HHS is working with OMB to obtain approval of the associated burden in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) before the effective date of the proposed rule. Comments on this proposed information collection should be directed to Robert Sargis, ACF Reports Clearance Officer, by e-mailing <http://regulations.acf.hhs.gov> or faxing (202) 401–5701. HHS will provide notification regarding that approval and the procedures necessary to submit an application for extension at <http://regulations.acf.hhs.gov> or by contacting Robert Sargis at 202–690–7275 or by faxing 202–401–5701.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), and enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant impact on a substantial number of small entities. The regulation provides flexibility and clarity in meeting the Head Start transportation requirements while ensuring child safety.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be revised to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. The Department has determined that this rule would not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well being as defined in the legislation.

Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have Federalism implications, defined as "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, or on the distribution of powers and responsibilities among the various levels of government." This rule does

not have Federalism implications for State or local governments as defined in the Executive Order.

List of Subjects in 45 CFR Part 1310

Head Start, Reporting and recordkeeping requirements, Transportation.

(Catalog of Federal Domestic Assistance Program Number 93.600, Head Start)

Wade F. Horn,

Assistant Secretary for Children and Families.

Dated: May 4, 2006.

Michael O. Leavitt,

Secretary of Health and Human Services.

For the reasons discussed above, title 45 CFR chapter XIII is proposed to be amended as follows:

PART 1310—HEAD START TRANSPORTATION

1. The authority citation for part 1310 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. Revise paragraphs (b) and (c) of § 1310.2 to read as follows:

§ 1310.2 Applicability.

* * * * *

(b) This paragraph and paragraph (c) of this section, the definition of child restraint systems in § 1310.3 of this part, and § 1310.15(a) are effective October 1, 2006. Sections 1310.11 and 1310.15(c) of this part are effective June 21, 2004. Sections 1310.12(a) and 1310.22(a) are effective June 30, 2006. Section 1310.12(b) of this part is effective February 20, 2001. All other provisions of this part are effective January 18, 2002.

(c) Effective October 1, 2006, an agency may request a waiver of specific requirements of this part, except for the requirements of this paragraph. Requests for waivers must be made in writing to the responsible Health and Human Services (HHS) official, as part of an agency's annual application for financial assistance or amendment thereto, based on good cause. "Good cause" for a waiver will exist when adherence to a requirement of this part would itself create a safety hazard in the circumstances faced by the agency, or when compliance with requirements related to child restraint systems (§§ 1310.11, 1310.15(a)) or bus monitors (§ 1310.12(a)) will result in a significant disruption to the program and the

agency demonstrates that waiving such requirements is in the best interest of the children involved. The responsible HHS official is not authorized to waive any requirements of the Federal Motor Vehicle Safety Standards (FMVSS) made applicable to any class of vehicle under 49 CFR part 571. The responsible HHS official shall have the right to require such documentation as the official deems necessary in support of a request for a waiver. Approvals of waiver requests must be in writing, be signed by the responsible HHS official, and be based on good cause.

* * * * *

2. Revise the definition of Child Restraint System in § 1310.3 to read as follows:

§ 1310.3 Definitions.

* * * * *

Child Restraint System means any device designed to restrain, seat, or position children that meets the current requirements of Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems, 49 CFR 571.213, for children in the weight category established under the regulation, or any device designed to restrain, seat, or position children, other than a Type I seat belt as defined at 49 CFR 571.209, for children not in the weight category currently established by 49 CFR 571.213.

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§ 1310.12 [Amended]

3. In § 1310.12, amend paragraph (a) by removing "January 18, 2006" and adding "June 30, 2006" in its place.

4. Revise § 1310.15(a) to read as follows:

§ 1310.15 Operation of vehicles.

* * * * *

(a) Effective October 1, 2006, on a vehicle equipped for use of such devices, any child enrolled in a Head Start or Early Head Start program is seated in a child restraint system appropriate to the child's height and weight while the vehicle is in motion.

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§ 1310.22 [Amended]

5. In § 1310.22, amend paragraph (a) by removing "January 18, 2006" and adding "June 30, 2006" in its place.

[FR Doc. E6-8222 Filed 5-26-06; 8:45 am]

BILLING CODE 4184-01-P