DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970–AC73

Head Start Service Duration Requirements

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Head Start currently requires Head Start programs to operate 100-percent of their preschool center-based slots for 1,020 annual hours by August 1, 2021, which would substantially increase the minimum amount of time preschool children must receive Head Start services. We believe the approach to require all center-based programs to increase their hours of operation was too prescriptive and will reduce grant recipients' flexibility to meet the needs of the communities they serve. It would be costly for grantees to meet the increased service-duration requirement and would likely result in a reduction in the number of children served by Head Start. For these reasons, we propose to remove the 100-percent service duration requirement from the HSPPS. We also propose technical changes to our Program Structure regulations.

DATES: Submit either electronic or written comments by May 28, 2019.

ADDRESSES: You may submit comments, identified by [docket number and/or RIN number], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of Head Start, Attention: Director of Policy and Planning, 330 C Street SW, 4th Floor, Washington, DC 20201.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Office of Head Start, Planning, Oversight, and Policy Division Director, (202) 358–3263, *OHS_NPRM@acf.hhs.gov.* 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 Standard Time.

SUPPLEMENTARY INFORMATION:

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I. Background

We reviewed the HSPPS final rule, 81 FR 61294, September 6, 2016. Through our review, we identified the 100-percent service duration requirement for center-based programs at § 1302.21(c)(2)(iv) as a regulatory provision that could interfere with how local programs determine what works best for their communities. This requirement would also impose a high cost on providers and result in fewer children being served in the Head Start program.

We propose to remove the 100-percent service duration requirement from the HSPPS. We also propose technical changes to Subpart B—Program Structure. The first change removes reference to the requirement for Head Start programs to operate 50 percent of their center-based slots for 1,020 annual hours. In January 2018, the Acting Secretary exercised his authority to waive this requirement, which effectively eliminated it by lowering the 50 percent requirement to 0 percent. Additionally, we propose several other technical changes within Subpart B to remove references to 1,020 annual hours and to remove an outdated provision. These changes are technical fixes that will not alter the substance of the HSPPS final rule, but will ensure that active Head Start requirements are transparent to the public.

Head Start and Service Duration

The HSPPS are the foundation on which local programs design and deliver comprehensive, high-quality individualized services to support school readiness for the approximately one million children Head Start programs serve each year. Since its inception in 1965, Head Start has been a leader in helping these children reach kindergarten more prepared to succeed in school.

When we revised the HSPPS in 2016, it was the first comprehensive revision of the standards since the standards were originally published in 1975. This update reorganized and streamlined the HSPPS with a goal of making it easier for grantees to implement requirements and for the general public to understand them. This revision also reduced the number of federal requirements by approximately one-third with a goal of lessening the regulatory burden on programs.

Our decision to require, in the HSPPS, all Head Start center-based programs to offer at least 1,020 annual hours of service for all preschoolers by August 1, 2021, was grounded in the latest research on child development and promotion of school readiness for low-income children. We consulted with experts, researchers, and practitioners, as well as recommendations from the Secretary's Advisory Committee Final Report on Head Start Research and Evaluation.[1] The Committee considered the results of the Head Start Impact Study, a randomized controlled trial that studied a sample of children who participated in Head Start in 2002–2003 and followed them through third grade.[2] The Committee concluded that the initial impact of Head Start is ''in line with the magnitude of findings from

[1] *Advisory Committee on Head Start Research and Evaluation: Final Report.* (2012). Washington, DC: Office of Head Start, Administration for Children and Families, U.S. Department of Health and Human Services. *See https://www.acf.hhs.gov/sites/default/files/opre/eval_final.pdf.*

[2] Puma, M., Bell, S., Cook, R., Heid, C., Broene, P., Jenkins, F., & Downer, J. (2012). *Third grade follow-up to the Head Start impact study final report.* U.S. Department of Health and Human Services Office of Planning, Research and Evaluation.

other scaled-up . . . center-based programs for preschoolers . . .'' but also acknowledged that ''larger impacts may be possible, *e.g.,* by increasing dosage in . . . Head Start or improving instructional factors in Head Start.'' [3] The report determined that a key factor for Head Start to realize its potential is ''making quality and other improvements and optimizing dosage within Head Start.'' While exposure to more high-quality early education services can benefit low-income children in terms of developmental outcomes, the tradeoffs associated with providing longer services for some children at the expense of providing no services for other children are too severe.

We also considered that in order to support longer service duration, programs would likely have to serve significantly fewer children in order to increase service hours. During the public comment period for the 2015 notice of proposed rulemaking (NPRM) that proposed longer service duration requirements for Head Start centers, most comments were on the proposed service duration requirements. Specifically, the NPRM did propose to require Head Start center-based programs to operate at a minimum of 6 hours per day and 180 days per year. The NPRM was more rigid in that it required specific hours per day programs were required to operate, rather than a more flexible annual hours approach, or a phase-in period, which would have afforded programs time to meet this requirement. Moreover, it did not allow the Secretary flexibility to lower the requirement if sufficient funding was not available to mitigate a slot loss. Some commenters supported these requirements regardless of available funding. However, the vast majority of commenters stated that while longer service duration may be more beneficial for children, they would not support the policy without adequate funding because it would deprive many children of early learning opportunities due to a decrease in available Head Start slots. Another group of commenters opposed longer service duration requirements regardless of funding because such requirements would impose a one-size-fits-all model by the federal government and might prevent creative and innovative program designs that would be more responsive to community needs.

In response to commenters' concerns and in recognition of the concerns about a potential reduction in children served, the HSPPS final rule provided the Secretary flexibility to balance the policy goal of providing all Head Start preschoolers with increased service duration against the potential disruption and slot loss such a policy might create in the absence of additional funding from Congress. If the Secretary made a determination that sufficient funding would not be available to mitigate a substantial reduction in Head Start slots, he or she could choose to lower the 50-percent duration threshold on or before February 1, 2018 and the 100-percent duration threshold on or before February 1, 2020.[4]

Goal of This NPRM: Reducing Burden on Local Grantees and Maximizing Grantee Flexibility

The goal of this NPRM is to eliminate the 100-percent requirement to reduce burden on grantees, restore programs' flexibility to design program schedules that best meet their community needs, and prevent a possible large reduction in children served in Head Start programs as the result of a federal requirement. Programs can still offer full-day, full-year services if that schedule meets their community needs and is approved through their grant application.

We believe the requirement to provide 1,020 annual hours of services for all preschool center-based slots by August 1, 2021 may be overly prescriptive and may not allow programs enough autonomy to decide what is best for the communities and families they serve. We believe that by eliminating the 100-percent service duration well in advance of the August 1, 2021 effective date, we can ensure programs do not make unwanted and unnecessary changes to their program operations.

In addition, given that Congress has not appropriated sufficient additional funding to support increased service duration since the publication of the 2016 HSPPS final rule, it is unlikely that the 100-percent requirement will be fully funded prior to the date when programs will have to comply. For fiscal year (FY) 2018, Congress appropriated $260 million to increase service duration. However, this available funding is not sufficient for Head Start programs to move 100-percent of their slots to 1,020 annual hours. Therefore, if the 100-percent requirement were to go into effect, it would likely result in a substantial reduction in the number of children served by the Head Start program. If we eliminate this requirement through the rulemaking process, rather than wait for the Secretary to make a determination closer to February 1, 2020, we will provide grantees additional time to thoughtfully plan for how to best use existing federal resources to continue to prepare children from low-income families to succeed in school and in life. Even if we receive additional funding in the next fiscal year to increase service duration, we believe programs are in the best position to decide whether or not full-day/full-year services work best for the communities they serve.

II. Statutory Authority To Issue NPRM

OHS publishes this NPRM under the authority granted to the Secretary of Health and Human Services under sections 641A and 644, of the Head Start Act (Act) (42 U.S.C. 9836a and 9839), as amended by the Improving Head Start for School Readiness Act of 2007. In these sections, the Secretary is required to establish performance standards for the Head Start and Early Head Start programs, as well as federal administrative procedures. Specifically, the Act requires the Secretary to ''. . . modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs.'' [5]

III. Section-by-Section Discussion on Proposed Changes to the HSPPS Final Rule

We propose the following changes to the HSPPS final rule, under Subpart B part 1302 Program Operations at §§ 1302.21 and 1302.24. We believe these changes will reduce costly regulatory burden and to afford programs optimum flexibility to decide what is best for their communities. These changes will ensure the HSPPS are accurate, up to date, and transparent for the public.

Section 1302.21 Center-Based Option

This section includes provisions that would require programs to increase hours of program operations in Head Start centers from previous minimums equivalent to 448 annual hours to 1,020 annual hours by August 1, 2021, with an interim requirement for 50 percent of center-based slots to operate for 1,020 annual hours by August 1, 2019. We propose to remove language related to the 50-percent requirement, which the Secretary effectively eliminated with his determination in the **Federal Register**, at 83 FR 2743, to reduce the requirement to zero percent as of January 2018, and to eliminate the requirement for 100 percent of Head

[3] *Ibid.* (p.30).

[4] *See* § 1302.21(c)(3) in the HSPPS final rule.

[5] *See* § 641A(a)(1) of the Head Start Act, 42 U.S.C. 9836a.

Start center-based slots to operate for 1,020 annual hours by August 1, 2021.

Additionally, we propose to remove all pertinent language that requires Head Start center-based programs to operate for 1,020 annual hours. Specifically, in paragraphs (c)(2)(i) and (ii) of this section, we propose to remove the phrase, ''Until a program is operating all of its Head Start center-based funded enrollment at the standard described in paragraph (c)(2)(iv) or (v) of this section.'' We also propose to remove paragraphs (c)(2)(iii), (iv), and (v) and (c)(3), (4), and (5) in their entirety. Finally, we propose to re-designate paragraph (c)(6) as paragraph (c)(3). The proposed changes to this section would leave in place the long-standing Head Start center-based service duration minimums described in paragraphs (c)(2)(i) and (ii): A minimum of 3.5 hours per day for 160 days per year if operating 5 days per week or 128 days if operating for 4 days per week and a minimum of 3.5 hours per day for 128 days per year if operating double sessions four days per week.

Section 1302.24 Locally-Designed Program Option Variations

This section allows programs to request to operate non-standard program options to better meet the unique learning needs of the children and community, while still delivering the full range of Head Start services and achieving program goals. This section allows programs to request to waive requirements in § 1302.21(c)(2)(iii) and (iv) for longer service duration. Because we propose to remove all of the requirements related to longer Head Start center-based service duration from the final rule, we propose to remove any related references in this section.

In § 1302.24(c)(1), we propose to remove references to § 1302.21(c)(2)(iii) and (iv) and replace with a reference to paragraph (c)(2). We also propose to remove § 1302.24(c)(3) entirely, and we propose to re-designate § 1302.24(c)(4) as paragraph (c)(3). We propose to re-designate § 1302.24(c)(5) as paragraph (c)(4), wherein we propose to change the reference to the former § 1302.24(c)(4) to new paragraph (c)(3), and replace references to § 1302.21(c)(2)(iii) and (iv) with a reference to § 1302.21(c)(2).

Finally, we propose to remove § 1302.24(d) in its entirety. This provision references July 31, 2018, a date that has passed, and therefore is no longer necessary.

IV. Regulatory Process Matters

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA),[6] as amended by the Small Business Regulatory Enforcement Fairness Act, requires federal agencies to determine, to the extent feasible, a rule's economic impact on small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain their regulatory approach.

The term ''small entities,'' as defined in the RFA, comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Under this definition, some Head Start grantees may be small entities. However, in accordance with the RFA, we certify this proposed rule would not have a significant economic impact on a substantial number of small entities.

In this NPRM, we are not imposing a negative impact on small entities so we do not need to consider relief. The action we propose here is intended to ensure accountability for federal funds is consistent with the purposes of the Head Start Act and is not duplicative of other requirements. If you think your business, organization, or governmental jurisdiction qualifies as a small entity and this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA)[7] was enacted to avoid imposing unfunded federal mandates on state, local, and tribal governments, or on the private sector. Section 202 of UMRA requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This rule does not contain mandates that will impose spending costs on state, local, or tribal governments in the aggregate, or by the private sector, in excess of the threshold.

[6] *See* 5 U.S.C. 605(b).

[7] *See* 2 U.S.C. 1501 *et seq.*

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law.

We believe it is not necessary to prepare a family policymaking assessment,[8] because the action we propose in this NPRM will not have any impact on the autonomy or integrity of the family as an institution. However, if you think this action would have a negative effect on family well-being, please submit a comment explaining why (see **ADDRESSES**).

Federalism Assessment Executive Order 13132

Executive Order 13132 requires federal agencies to consult with state and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule will not have substantial direct impact on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Congressional Review

The Congressional Review Act (CRA) allows Congress to review ''major'' rules issued by federal agencies before the rules take effect.[9] The CRA defines a major rule as one that has resulted or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-

[8] *See* Public Law 105–277.

[9] 5 U.S.C. 802(a).

based enterprises in domestic and export markets.[10] This action is a major rule because it will likely result in an annual effect of more than $100 million in transfers on the economy.

Paperwork Reduction Act of 1995

Section 1302 does not contain new information collection requirements. The Office of Management and Budget regulations define ''information'' as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic or other media.[11] This includes requests for information to be sent to the government, such as forms, written reports, and surveys, recordkeeping requirements, and third-party or public disclosures.[12] This action does not include any information collection requirements.

Regulatory Planning and Review Executive Order 12866, Executive Order 13563, and Executive Order 13771

Executive Orders 12866 and 13563 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). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866, emphasizing the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the Office of Management and Budget.

This proposed rule, if finalized, would be considered an E.O. 13771 deregulatory action. We estimate that this rule generates $395,000 in annualized cost savings, discounted at 7 percent relative to year 2016, over a perpetual time horizon. Details on the estimated costs of this rule can be found in the subsequent analyses.

HHS believes to reduce the 100-percent service duration threshold to zero percent is an economically significant regulatory action within the meaning of E.O. 12866 because it will likely have an economic impact of $100 million or more on the economy in transfers.

The $100 million threshold applies, in pertinent part, to the impact of the proposed or final regulation in any one year, and it includes benefits, costs, or transfers in any one year.

We present details on the estimated cost savings in terms of planning, flexibility, and certainty for programs in the Regulatory Impact Analysis (RIA). The RIA below evaluates the economic impact, in terms of transfers and attempts to quantify transfers from children who would receive longer service duration to children who would lose services under the current HSPPS requirement absent additional funding.

V. Regulatory Impact Analysis

Need for Regulatory Action

OHS included the requirement in the HSPPS final rule for 100 percent of Head Start preschool center-based slots to receive 1,020 annual hours of services by August 1, 2021 in an attempt to respond to research in early education, as well as advice from experts, on what features of early childhood programs promote strong outcomes for children. However, this requirement may have been too prescriptive for all communities that Head Start serves. Removing this requirement and reverting to previous minimums will restore more local flexibility to grantees and provide them the ability to determine what length of services best meet the unique needs of their communities. Furthermore, tens of thousands of Head Start slots would need to be cut in order for programs to meet this requirement by the specified deadline.

While it is clear that exposure to more high-quality early education services can benefit low-income children in terms of developmental outcomes, the tradeoffs associated with providing longer services for some children at the expense of providing no services for other children are less clear. For instance we do not have research that indicates providing a smaller number of children with longer services (for instance, providing 15 children with a full day of Head Start, and another 5 children with no Head Start services) is more beneficial for society overall than using the same amount of resources to provide shorter services for a larger number of children (for instance, providing 20 children with a partial day of Head Start). There is not sufficient evidence to support favoring longer service hours for some children at the expense of providing no services to others. As a result, we believe the best option is to provide flexibility to service providers so they are able to best serve the needs of their community.

In addition, the HPPSS rule imposes substantial burden of affected entities. In particular, transitioning services to meet new regulatory requirements requires significant planning. Removing this requirement through the rulemaking process promotes transparency from the federal government and provides as much notice to grantees as possible, which improves their ability to plan while reducing burden. Therefore, removing the 100-percent service duration requirement at this time will result in cost savings for grantees in terms of planning time.

Overall, the 100-percent service duration policy is being proposed for elimination in order to provide as much flexibility to grantees as possible to better serve their individual communities, and to eliminate unnecessary regulatory burden.

Transfer Analysis

Under the current HSPPS, Head Start programs are required to serve preschool children in center-based programs for at least 1,020 hours per year starting in program year 2021–2022. To estimate the transfers associated with removing this requirement for each grantee, we used the approach detailed in this section. In general, we rounded cost estimates throughout this analysis. These rounded cost estimates should not be interpreted as overly precise, but instead represent our best estimation given limitations.

[10] 5 U.S.C. Chapter 8.

[11] 5 CFR1320.3(h).

[12] 5 CFR 1320.3(c).

We first calculate the average incremental cost per Head Start center-based slot (as opposed to the full cost per slot) to move a slot from its current service level to 1,020 annual hours of service. To do this, we use information detailed in the applications OHS received in FY 2016 from grantees applying for funds to increase service duration.[13] By examining the information from these applications, we determine that the average incremental cost to move a slot from its current service level to 1,020 annual hours of service is approximately $3,700 per slot. We calculate this incremental cost per slot by taking the total FY 2016 funding awarded to increase Head Start service duration ($254.7 million) [14] and dividing by the total number of slots that grantees moved to 1,020 hours with that funding (69,200 slots. For simplicity, we assume that the cost per slot does not change in real terms over time.

Based on FY 2018 data from the Head Start Grant Application and Budget Instrument (GABI),[15] we also know that approximately 259,862 slots would still need to increase service duration to meet the 1,020 annual hour requirement. By multiplying this number of slots by the incremental cost per slot estimated above, we estimate that this requirement under the current regulation would require approximately $956.6 million in additional resources each year to maintain caseload. However, in March 2018 Congress appropriated an additional $260 million in the Consolidated Appropriations Act of 2018 to increase hours of program operation in Head Start. Therefore, we subtract this amount from the $956.6 million estimated above and conclude that the removal of this 1,020-hour requirement from the HSPPS would result in annual transfers of approximately $696.6 million from the children who would have received longer service duration to the children who would have lost services under the current regulation, starting in program year 2021–2022.

We also calculate the amount of Head Start slot loss the 100-percent requirement would result in if it went into effect beyond what has been provided in FY 2016 and FY 2018. We do this by first calculating the average total cost of a Head Start slot. We take the total Head Start grants awarded in FY 2018 excluding duration funds to be awarded by March 31, 2019 ($6,725,686,353) and adjust for inflation to make this figure equivalent to 2016 dollars,[16] which results in a total of approximately $6.45 billion. We then divide this figure by the total Head Start-funded enrollment for FY 2018 (717,947). This results in an average cost per slot of $8,986. We can then divide the total cost to increase service duration for the remaining Head Start slots ($696.6 million) by this average cost of a Head Start slot ($8,986) and determine that, under the current regulation, and without additional funding, this requirement would result in a loss of approximately 77,522 Head Start slots. For simplicity, we assume that slot loss due to this requirement is fixed over time because of substantial uncertainty involving the evolution of appropriations and cost per slot over time. We invite public comment on this assumption and on the methodology for these calculations.

An alternative course of action would be to do nothing and leave the requirements at 1302.21(c)(2)(iv) and (3)(ii) in place. We carefully considered this option. Under this option, all Head Start programs would be required to provide 1,020 annual hours of program operations for 100 percent of their center-based slots by August 1, 2021; however, the Secretary could also reduce this percentage of slots by February 1, 2020 to some lower percentage, including possibly to zero percent. Given that the Secretary exercised his authority, this course of action would result in substantial uncertainty for Head Start grantees and participants and potential Head Start grantees and participants in what the service duration requirements would be in the next several years. Additionally, without additional funding, an estimated 77,522 slots would be lost in order to meet the requirement within grantees' existing budgets.

Cost-Benefit Analysis

By removing the requirement for programs to provide 1,020 annual hours of service for 100 percent of their Head Start center-based slots, Head Start management staff will realize savings in terms of planning time to prepare for the changes that would have been necessary to meet this requirement. For most grantees, we assume this would involve the time of the program director and the education manager. We assume, on average, grantees would require the equivalent of two weeks of planning time for the program director, for a total of 80 work hours, and 20 hours of planning time for the education manager. We request public comment on these assumptions regarding the staff involved in planning and the amount of planning time.

Using data from the 2018 Program Information Report (PIR),[17] we determine that the average annual salary for a Head Start program director is $80,330. Assuming 52 paid weeks in a year, and a 40-hour work week (2,080 total hours per year), this results in an average hourly rate of $38.62 for program directors. We adjust this hourly rate to account for overhead and benefits by multiplying by 2, resulting in an hourly rate of $77.24. We then multiply this hourly rate by 80 hours of planning time, resulting in a cost savings of approximately $6,180 per program under the proposed rule. We then multiply this figure by 1,035, which is the total number of programs that have Head Start center-based slots not currently meeting 1,020 annual hours, to estimate a cost savings of $6.4 million associated with planning time for program directors that would no longer be necessary. We adjust this figure for inflation to make it equivalent to 2016 dollars, which results in a cost savings of approximately $6.13 million associated with directors' planning time.

Next, again using data from the 2018 PIR, we determine that the average annual salary for a Head Start education manager is $54,541. Assuming 52 paid weeks in a year, and a 40 hour work week (2,080 total hours per year), this results in an average hourly rate of $26.22 for education managers. We adjust this hourly rate to account for overhead and benefits by multiplying by 2, resulting in an hourly rate of $52.444. We then multiply this hourly rate by 20 hours of planning time, resulting in a cost savings of $1,049 per program. We then multiply this figure by 1,035, the total number of programs with slots not

[13] Congress appropriated $294 million in FY 2016 for Head Start grantees to increase service duration.

[14] $254.7 million of the $294 million appropriated in FY 2016 to increase service duration was awarded to Head Start preschool programs and the remainder was awarded to Early Head Start (EHS) programs to support them in meeting the requirement that all EHS center-based slots receive 1,380 annual hours of service.

[15] The GABI is a uniform OMB-approved application and budget instrument to standardize the format for the collection of program-specific data grantees provide with a continuation grant application. Head Start grantees provide a range of data on their proposed budgets including non-federal share, any other sources of funding, program options, and program schedules.

[16] Using the Gross Domestic Product Deflator (*https://www.bea.gov/*).

[17] The PIR is a survey of all grantees that provides comprehensive data on Head Start, Early Head Start and Migrant Head Start programs nationwide. Data collection for the PIR is automated to improve efficiency in the collection and analysis of data. Head Start achieves a 100 percent response rate annually from approximately 2,600 respondents.

meeting 1,020 annual hours), resulting in an estimated cost savings of $1.09 million associated with planning time for education managers that would not be necessary under the proposed rule. We adjust this figure for inflation to make it equivalent to 2016 dollars, which results in a cost savings of approximately $1.04 million associated with education managers' planning time. Together, this results in a total cost savings in planning time for program directors and education managers of $7.18 million (in FY16 dollars). We assume these costs savings will be realized in program year 2020–2021, the year prior to implementation of the 100 percent service duration requirement.

In addition to savings in planning time, this regulation will allow grantees more flexibility to provide the duration of services that best meets the needs of their communities, including the children living in their communities. Head Start has traditionally been a program with local flexibility as a core operating principle. Through community needs assessments, community partnerships, and other community relationships, grantees aim to understand exactly what kinds of Head Start services are most needed and wanted by families in their community. This regulation will restore grantees' flexibility to meet that goal.

However, programs will also require time to read and understand the new requirements set forth in this rule. We estimate that Head Start program directors would be responsible for this, and that it would take approximately five hours of their time to read, understand, and implement these requirements. We request public comment on these assumptions regarding the staff involved in the amount of time to read, understand, and implement these new requirements. Using the same assumptions above for a program director's hourly rate, we assume a cost of $386.00 per program to read and understand these requirements. We multiply this cost by 1,035 programs for a total approximate cost of $400,000.

We subtract this cost from the cost savings in planning time described above, resulting in a net cost savings of $6.78 million associated with this rule (in FY16 dollars). We assume these costs savings will be realized in program year 2020–2021, the year prior to implementation of the 100 percent service duration requirement.

Accounting Statement—Table of Quantified and Non-Quantified Benefits, Costs, and Transfers

As required by OMB Circular A–4, we have prepared an accounting statement table showing the classification of the impacts associated with implementation of this final rule. We decided to use a 10-year window for this regulatory impact analysis. As required by the Office of Management and Budget (OMB), we discount costs at 3 percent and 7 percent and have included total present value as well as annualized value of these estimates in our analyses below.

Most of the costs associated with this rule will be realized in the first year after publication (2019–2020). Most of the cost savings associated with this rule will be realized in the program year prior to the one in which the 100 percent duration requirement would have gone into effect (2020–2021). Finally, the transfers associated with this rule will recur annually.

These costs and cost savings were then discounted and annualized using the 10 year window and the OMB discounting rates. In total, the 10-year present value of the costs associated with the proposed changes in this NPRM are estimated to be $355,395, discounted at 3 percent, and $305,158, discounted at 7 percent. The annualized costs of the proposed changes in this NPRM are estimated to be $41,971.82 discounted at 3 percent, and $49,853.05, discounted at 7 percent.

The 10-year present value of the cost savings associated with the proposed changes in this NPRM are estimated to be $6,190,163, discounted at 3 percent, and $5,116,457 discounted at 7 percent. The annualized cost savings of the proposed changes in this NPRM are estimated to be $731,052.91 discounted at 3 percent, and $604,249.15, discounted at 7 percent.

TABLE 1—BENEFITS AND COSTS OF REMOVING THE 100 PERCENT SERVICE DURATION REQUIREMENT

Benefits (cost-savings)	Annualized value by discount rate (millions)	
	3 Percent	7 Percent
Quantified Cost Savings	$.73	$.60
Qualitative Benefits	Allows grantees more flexibility to provide the duration of services that best meets the needs of their local communities, including the children and families living in those communities.	
Costs	3 Percent	7 Percent
Quantified Costs	$.42	$.50
Transfers		
Quantified Transfers	$696.6 million annually from 2019 to 2028, starting in 2021, from children who would have received full-day, full-year services under the current requirements to children who would not have received services under the current requirements.	

List of Subjects in 45 CFR Part 1302

Education of disadvantaged, Grant programs—social programs.

Lynn A. Johnson,

Assistant Secretary for Children and Families.

Approved: November 2, 2018.

Alex M. Azar II,

Secretary.

Proposed Regulation Text

For reasons stated in the preamble, we propose to amend 45 CFR part 1302 as follows:

PART 1302—PROGRAM OPERATIONS

■ 1. The authority citation for part 1302 continues to read as follows:

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

■ 2. In § 1302.21, revise paragraph (c) to read as follows:

§ 1302.21 Center-based option.

* * * * *

(c) * * *

(2) *Head Start.* (i) A program must provide, at a minimum, at least 160 days per year of planned class operations if it operates for five days per week, or at least 128 days per year if it operates four days per week. Classes must operate for a minimum of 3.5 hours per day.

(ii) If a program operates a double session variation, it must provide classes for four days per week for a minimum of 128 days per year and 3.5 hours per day. Each double session class staff member must be provided adequate break time during the course of the day. In addition, teachers, aides, and volunteers must have appropriate time to prepare for each session together, to set up the classroom environment, and to give individual attention to children entering and leaving the center.

(3) *Calendar planning.* A program must:

(i) Plan its year using a reasonable estimate of the number of days during a year that classes may be closed due to problems such as inclement weather; and,

(ii) Make every effort to schedule makeup days using existing resources if hours of planned class operations fall below the number required per year.

* * * * *

■ 3. In § 1302.24, revise paragraph (c) and remove paragraph (d).

The revision reads as follows:

§ 1302.24 Locally-designed program option variations.

* * * * *

(c) *Waiver requirements.* (1) The responsible HHS official may waive one or more of the requirements contained in § 1302.21(b), (c)(1)(i), and (c)(2); § 1302.22(a) through (c); and § 1302.23(b) and (c), but may not waive ratios or group size for children under 24 months. Center-based locally-designed options must meet the minimums described in section 640(k)(1) of the Act for center-based programs.

(2) If the responsible HHS official determines a waiver of group size for center-based services would better meet the needs of children and families in a community, the group size may not exceed the limits below:

(i) A group that serves children 24 to 36 months of age must have no more than ten children;

(ii) A group that serves predominantly three-year-old children must have no more than twenty children; and

(iii) A group that serves predominantly four-year-old children must have no more than twenty-four children.

(3) To receive a waiver under this section, a program must provide supporting evidence that demonstrates the locally designed variation effectively supports appropriate development and progress in children's early learning outcomes.

(4) To receive a waiver of service duration, a program must meet the requirement in paragraph (c)(3) of this section, provide supporting evidence that it better meets the needs of parents than the applicable service duration minimums described in § 1302.21(c), § 1302.22(c), or § 1302.23(c), and assess the effectiveness of the variation in supporting appropriate development and progress in children's early learning outcomes.

[FR Doc. 2019–05363 Filed 3–25–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 181218999–9214–01]

RIN 0648–BI68

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 6

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Framework Amendment 6 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagics (CMP) of the Gulf of Mexico (Gulf) and Atlantic Region (CMP FMP), as prepared by the South Atlantic Fishery Management Council (Council). This proposed rule would revise the Atlantic migratory group king mackerel commercial trip limit in the Atlantic southern zone during the March through September fishing season. The purpose of this proposed rule is to support increased fishing activity and economic opportunity while continuing to constrain harvest to the annual catch limit and providing for year-round access for the commercial sector.

DATES: Written comments must be received by April 25, 2019.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA–NMFS–2019–0017," by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0017* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Karla Gore, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies Framework Amendment 6 may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/framework-amendment-6-atlantic-king-mackerel-commercial-trip-limits.*

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727–551–5753, or email: *karla.gore@noaa.gov.*