

B. Table, "Proposed BDAT Standards for F032, F034, F035"

Where inconsistencies exist in UTS tables at 60 FR 43682 and 43696, EPA is directing the reader to the proposed list of regulated constituents and the proposed UTS limits in the table at 60 FR 43682 as being correct. Comments on the UTS limits in the proposed rule should refer to this particular table. The UTS table at 43696 is in error for these wastes.

The following changes are also made to the table on page 43682:

- For 2, 4-Dimethylphenol, the BDAT Standard for Wastewaters is corrected to read, "0.036 mg/l;"
- For 2, 3, 4, 6-Tetrachlorophenol, the BDAT Standard for Wastewater is corrected to read, "0.030 mg/l."

List of Subjects in 40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: October 5, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95-26467 Filed 10-24-95; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1305

RIN 0970-AB53

Head Start Program

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Rulemaking to amend the requirements on eligibility, recruitment, selection, enrollment and attendance in Head Start, in six areas affecting Head Start programs which are serving specific populations. The first and second proposed changes add a new definition for Indian Tribe and amend the definition of a migrant family to conform to a new statutory definition. The third change requires migrant programs to give priority to children from families that relocate most frequently. The fourth and fifth proposed changes affect Head Start programs operated by Indian Tribes by expanding the definition of a Head Start service area to include near-reservation

designations and by expanding the family income eligibility criteria for Indian grantees meeting specific conditions. The sixth change establishes the number of years children remain eligible for Head Start when they are enrolled in an Early Head Start program.

DATES: In order to be considered, comments on this proposed rule must be received on or before December 26, 1995.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2215, 330 C Street, S.W., Washington, D.C. 20201, Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Rita Schwarz, (202) 205-8539.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start is authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive developmental services primarily to low-income preschool children, who are primarily age three to the age of compulsory school attendance, and their families. In addition, Section 645A of the Head Start Act provides authority to fund programs for families with infants and toddlers. Programs receiving funds under the authority of this Section are referred to as Early Head Start programs. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1994, Head Start served 740,500 children through a network of over 2,000 grantees and delegate agencies.

While Head Start is intended to serve primarily children whose families have incomes at or below the poverty line, or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children

with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their non-disabled peers and to receive needed special education and related services.

II. Summary of the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is sections 637, 640, 641, 645 and 645A of the Head Start Act (42 U.S.C. 9801 *et seq.*), as amended by Public Law 103-252, Title I of the Human Service Amendments of 1994.

Section 637 contains a new definition for Indian Tribe which will be incorporated into this regulation. It also contains a new definition for "migrant Head Start program" which impacts the current definition of "migrant family", found in 45 CFR 1305.2(l), by amending the definition to include families that have changed their residence from one geographical location to another in the preceding two-year period.

Section 640(l) states that the Secretary must give priority to migrant Head Start programs which serve eligible children of migrant families whose work requires them to relocate most frequently.

Section 641(b) expands the definition of community to include Indians in any area designated as near-reservation. This requires a change in 45 CFR 1305.3(a) regarding the designation of a grantee's service area and the addition of a new paragraph (b) to that section.

Section 645(d) expands the eligibility for participation in Head Start programs operated by Indian Tribes to include children from families whose income exceeds the income-eligibility guidelines when specific conditions exist in the community served by the Tribe, provided the program predominantly serves children from families who meet the low-income guidelines. This requires a change in 45 CFR 1305.4(b) regarding family income eligibility.

Section 645(d) also requires the Secretary to specify by regulation the requirements contained in that section after consultation with Indian Tribes. In preparation for developing these amendments to 45 CFR 1305, ACYF solicited input from Indian Tribes through three meetings with members of the Indian community. Their comments and recommendations were considered in developing the amendments to this regulation that are applicable to Head Start programs operated by Tribes.

Section 645A authorizes the funding of programs for families with infants and toddlers. Specifically, it states in section 645A(b) that programs receiving

assistance for this purpose shall provide “* * * early, continuous, intensive and comprehensive child development and family support services * * *.” In order to provide continuous services for children funded under this authority in Early Head Start programs, 45 CFR 1305.7(c) is being amended to extend the length of time the child’s family remains income-eligible.

The proposed rule:

- Adds a new definition for Indian Tribe.
- Amends the definition of a migrant family to include families who are engaged in agricultural work who have changed their residence from one geographical location to another within the preceding two-year period.
- Adds a requirement that migrant programs give priority to children from families whose work requires them to relocate most frequently.
- Expands the meaning of a grantee’s service area when the grantee is an Indian Tribe to include a near-reservation designation.
- Permits an Indian Tribe, under certain conditions, to have more than ten percent of its Head Start program’s enrollment be children from families with incomes that exceed the low-income guidelines. These conditions are: (1) That all income-eligible children who wish to be enrolled are served by the program, including Indian children from a near-reservation area, if the near reservation area is part of the Tribe’s approved service area; (2) that the program predominantly serves children from families whose income meets the low-income guidelines; and (3) that a Tribe may not use funds from HHS intended for expansion to serve children from over-income families beyond the ten percent permitted in current regulation.
- Extends income eligibility of families with children enrolled in an Early Head Start program funded under the authority of Section 645A of the Head Start Act to cover the time their child is enrolled in the Early Head Start program.

III. Section by Section Discussion of the NPRM

Section 1305.2 Definitions

Under definitions, we are adding “Indian Tribe” as a new paragraph (k) to conform to the definition that is in section 637(10) of the Head Start Act and redesignating the remaining paragraphs, accordingly.

Section 1305.2(l), which will be new paragraph (m) under the redesignation, currently defines a migrant family, for purposes of Head Start eligibility, to

include a family with children under the age of compulsory school attendance who have changed their residence by moving from one geographic location to another, either intrastate or interstate, within the past twelve months, for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family income comes primarily from this activity. This NPRM proposes to amend the definition to change the length of time between moves by the family from one geographic location to another from the past twelve months to the preceding two years. This will conform with new language in Section 637(12) of the Head Start Act that defines a “migrant Head Start program”.

Section 1305.3 Determining Community Needs

The current regulation requires each grantee to identify its proposed service area in its Head Start grant application and define it by county or sub-county area, such as a municipality, town or census tract or a federally recognized Indian reservation. A service area is currently defined in section 1305.2(q) as the geographic area identified in an approved grant application within which a grantee may provide Head Start services. This NPRM proposes to expand the meaning of service area contained in this section for Head Start grantees that are Indian Tribes to permit the Tribe to include all or part of any areas designated as near-reservation by the Bureau of Indian Affairs (BIA) as stated in Section 641(b) of the Head Start Act. In order to provide increased flexibility to Tribes which do not have a BIA designation but face the same needs for serving Indians who live near the reservation, we are proposing to allow such Tribes an opportunity to redefine their service area. If a Tribe does not have a BIA near-reservation designation, it may, subject to the approval of the Tribe’s governing council and the Associate Commissioner of the Head Start Bureau, propose to designate near-reservation areas in which Indian people native to the reservation reside, as part of its service area. Expanding the Tribe’s service area to include a near-reservation area would permit them to serve Indian children who live near, but not on, the Tribe’s reservation.

Section 1305.4 Age of Children and Family Income Eligibility

The current regulation requires at least 90 percent of the children enrolled in Head Start to be from low-income families. Up to ten percent of the children enrolled may be from families

that exceed the low-income guidelines. To conform with language in section 645(d) of the Head Start Act, the NPRM proposes to amend the family income eligibility requirements for Head Start programs operated by Indian Tribes to permit them to enroll additional children, beyond the ten percent, from families that exceed the low-income guidelines when the following conditions are met: (1) All children in the Tribe’s approved service area from families that meet the low-income guidelines who wish to be enrolled in Head Start are served by the program, including those Indian children native to the reservation living in near reservation communities when such communities have been included in the Tribe’s approved service area; (2) the Tribe has the resources to enroll these children, without using additional funds from HHS intended to expand Head Start services, and; (3) at least 51 percent of the children to be served by the program are from families whose incomes are below the low-income guidelines.

The first condition requires the Tribe to serve all children who are from families whose incomes are below the low-income guidelines, who are between the ages of three and the age when kindergarten or first grade is available in the child’s community, and whose families wish them to be served by Head Start before it may enroll children from families that exceed the low-income guidelines. This would include all children living on the Tribe’s reservation, including those children from low-income families who are not members of the Tribe. It may also include Indian children who meet the low-income guidelines who live in a near-reservation area, if the Tribe’s approved service area includes such near-reservation communities. The purpose of this condition is to ensure that all children eligible for Head Start are permitted the opportunity to attend Head Start, if they live on the Tribe’s reservation. It also ensures that low-income Indian families living in near-reservation areas have an opportunity to enroll their children in the Tribe’s Head Start program, if the Tribe has included that area in its approved service area.

The second condition requires that at the time the Tribe proposes to serve more than ten percent of its Head Start enrollment from families exceeding the low-income guidelines, the Tribe must have the resources to enroll these children and that no funds provided by HHS that are intended to expand Head Start services may be used for this purpose. This means that such children must be served within the Tribe’s

existing Head Start funding or through the use of non-Federal resources. Funds to expand Head Start services that are provided by HHS to the Tribe would be intended to serve additional children from families that meet the low-income guidelines.

The third condition is that at least 51 percent of the children to be enrolled in a Head Start program operated by a Tribe are to be children from families that meet the low-income guidelines. Section 645 of the Head Start Act states that, when serving children from families whose income exceeds the low-income guidelines, the program must predominantly serve children from families that meet the low-income guidelines. We are defining the term "predominantly" to mean at least 51 percent of the children enrolled in the program. This allows the Tribes as much flexibility as possible. This position was strongly supported during consultation sessions that were held with Tribes on this issue, as is required in the Head Start Act. Many individuals supported this interpretation of "predominantly" and expressed strong concern that Tribes be given this flexibility to serve children from families whose income exceeds the low-income guidelines when special circumstances on a Tribe's reservation exist. Several Tribal members gave examples of changing economic conditions on their reservation that, while varying from year to year, may limit the number of families who are eligible to enroll their child in Head Start at certain times using the low-income guidelines to determine eligibility.

If programs meet these conditions, we are proposing that the program annually set criteria that are approved by the Policy Council and the Tribal Council for selecting over-income children who would benefit from enrollment in a Head Start program.

Section 1305.6 Selection Process

Paragraph (b) of this section will be amended to add a new requirement that migrant programs must give priority to children from families whose work required them to relocate most frequently within the preceding two-year period. This change conforms with similar language in section 640(l) of the Head Start Act. This should not be interpreted to mean that frequency of relocation is the only factor to be considered when selecting children to be served by the program. Other factors should also be considered depending on the needs of the community being served and the recruitment priorities established by each program.

Section 1305.7 Enrollment and Re-enrollment

Paragraph (c) of this section will be amended to include an exception to the current requirement which states that once a child has been found to be income-eligible, they remain eligible for the current and immediately succeeding enrollment year. The exception will apply to children who are enrolled in an Early Head Start program funded under the authority of section 645A of the Head Start Act for services to families with infants and toddlers. In order to assure continuity of services, once income-eligibility has been determined, such children remain income eligible while they are enrolled in Early Head Start. Income would have to be redetermined for the family if they wish to enroll their child in a Head Start program serving children between the ages of three and compulsory school attendance. This exception is proposed to meet the intent of section 645A of the Head Start Act.

ACF appreciates the need to balance the assurance of continuity of services for children and families enrolled in the Early Head Start program with the assurance that Head Start programs are serving those children and families most in need of the program. We encourage comments on whether the correct balance has been achieved in this proposed regulation by our approach of allowing children to stay in the Early Head Start program for up to two additional years beyond when their families' income eligibility was determined while requiring that families whose children are scheduled to move from Early Head Start to Head Start should first have their income reverified to assure they are still income-eligible for the program.

IV. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted 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. This Notice of Proposed Rulemaking implements the statutory authority for Head Start grantees that are Indian Tribes to include a near-reservation area when recruiting children for Head Start services and, under certain circumstances, to enroll children from families with incomes that exceed the low-income guidelines. It also changes the definition of a migrant family, requires migrant Head Start grantees to give priority to families that relocate most frequently, and establishes the

number of years children remain eligible for Head Start when they are enrolled in a program receiving funds under the authority of section 645A of the Head Start Act for services to families with infants and toddlers.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. CH. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. While these regulations would affect small entities, they would not affect a substantial number. For this reason, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule. This NPRM does not contain information collection and record-keeping requirements.

List of Subjects in 45 CFR Part 1305

Disabilities, Education of Disadvantaged, Grant Programs/Social Programs, Head Start Enrollment, Preschool Education.

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

Dated: October 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the Preamble, 45 CFR Part 1305 is proposed to be amended as follows:

PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START

1. The authority citation continues to read as follows:

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

2. Section 1305.2 is amended by redesignating current paragraphs (k) through (r) as paragraphs (l) through (s); adding a new paragraph (k); and revising newly redesignated paragraph (m) to read as follows:

§ 1305.2 Definitions.

* * * * *

(k) Indian Tribe means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

* * * * *

(m) Migrant family means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years, for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family income comes primarily from this activity.

* * * * *

3. Section 1305.3 is amended by revising paragraph (a), redesignating current paragraphs (b) through (f) as paragraphs (c) through (g), and adding a new paragraph (b) to read as follows:

§ 1305.3 Determining community needs.

(a) Each grantee must identify its proposed service area in its Head Start grant application and define it by county or sub-county area, such as a municipality, town or census tract or a federally recognized Indian reservation. With regard to Indian Tribes, the service area may include Indian families living in areas designated as near-reservation by the Bureau of Indian Affairs (BIA), or in the absence of such a designation, areas within the Tribe's approved service area. A Tribe lacking a BIA near-reservation designation may propose to define its service area to include Indian children and families native to the reservation living in near-reservation areas, provided the service area is approved by the Tribe's governing council.

(b) The grantee's service area must be approved, in writing, by the responsible HHS official in order to assure that the service area is of reasonable size and, except in situations where a near-reservation designation has been approved for a Tribe, does not overlap with that of other Head Start grantees.

* * * * *

4. Section 1305.4 is amended by revising paragraph (b) to read as follows:

§ 1305.4 Age of children and family income eligibility.

* * * * *

(b)(1) At least 90 percent of the children who are enrolled in each Head Start program must be from low-income families.

(2) Except as provided in paragraph (b)(3) of this section, up to ten percent of the children who are enrolled may be children from families that exceed the low-income guidelines but who meet criteria the program has established for selecting such children and who would benefit from Head Start services.

(3) A Head Start program operated by an Indian Tribe may enroll more than ten percent of its children from families whose income exceeds the low-income guidelines when the following conditions are met:

(i) All children from Indian and non-Indian families living on the reservation that meet the low-income guidelines who wish to be enrolled in Head Start are served by the program.

(ii) All children from income-eligible Indian families native to the reservation living in near-reservation communities, if those communities are approved as part of the Tribe's service area, who wished to be enrolled in Head Start are served by the program;

(iii) The Tribe has the resources within its Head Start grant or from non-Federal sources to enroll these children, without using additional funds from HHS intended to expand Head Start services; and

(iv) At least 51 percent of the children to be served by the program are from families that meet the income-eligibility guidelines.

(4) Programs who meet the conditions of paragraph (b)(3) of this section must annually set criteria that are approved by the Policy Council and the Tribal Council for selecting over-income children who would benefit from such a program.

* * * * *

5. Section 1305.6 is amended by revising paragraph (b) to read as follows:

§ 1305.6 Selection process.

* * * * *

(b) In selecting the children and families to be served, the Head Start program must consider the income of eligible families, the age of the child, the availability of kindergarten or first grade to the child, and the extent to which a child or family meets the criteria that each program is required to establish in § 1305.3(c)(6). Migrant programs must give priority to children from families whose work required them to relocate

most frequently within the previous two-year period.

* * * * *

6. Section 1305.7 is amended by revising paragraph (c) to read as follows:

§ 1305.7 Enrollment and re-enrollment.

* * * * *

(c) If a child has been found income eligible and is participating in a Head Start program, he or she remains income eligible through that enrollment year and the immediately succeeding enrollment year. An exception to this are children who are enrolled in a program receiving funds under the authority of section 645A of the Head Start Act, programs for families with infants and toddlers. Such children remain eligible for Head Start services until such time as their family applies for enrollment in a Head Start program serving children between the ages of three to compulsory school attendance. When a child moves from a program serving infants and toddlers to a Head Start program serving children age three and older, the family's income eligibility must be reverified if it is two or more years since this has been done.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1845 and 1852

Revision to NASA FAR Supplement Coverage on Government Property

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the regulations pertaining to government property reporting by contractors, due to revisions of the reporting form, to clarify and simplify the reporting requirements and instructions, and make necessary changes to affected provisions and clauses. NASA has made extensive changes to its process of financial reporting of Government-Owned/ Contractor-Held property. These changes were made necessary by the Chief Financial Officers Act of 1990, streamlining required by the National Performance Review, the need for more uniformity in reporting requirements between NASA and the Department of Defense (DOD), and changing internal management needs for information within NASA.