

Section 1310.11—Vehicles

This section specifies the minimum requirements for all Head Start vehicles used to transport groups of children to and from the classroom, to home-based socializations, to group health screening and on field trips or other group activities scheduled by the Head Start staff.

The requirements in this provision come from three sources. The Federal Motor Vehicle Safety Standards (FMVSS) (49 CFR part 571), set performance standards applicable to motor vehicles as defined in 49 U.S.C. 30102(a)(6) and include standards specifically applicable to school buses. These regulations are binding on Head Start grantees operating transportation programs by virtue of their issuance by the National Highway Traffic Safety Administration (NHTSA).

Head Start vehicles seating more than 10 persons are considered school buses by NHTSA for purposes of compliance with the FMVSS. It is a violation of 49 U.S.C. 30112 for a vendor to sell a vehicle which does not comply with the FMVSS. Another source is Highway Safety Guideline 17 (23 CFR Part 1204) issued by NHTSA and the Federal Highway Administration (FHWA). This document is a set of recommendations to States concerning their policies on the operation of school buses. The proposed regulations would make these recommendations binding on Head Start grantees, except for certain requirements which are only binding "to the extent allowable under State law." Finally, there are also requirements in the regulations on the design and operation of vehicles which are imposed by ACF and are in addition to the requirements in Highway Safety Guideline 17 and the FMVSS.

Paragraph (a) requires that all Head Start vehicles comply with recommendations regarding "school buses," as contained in Guideline 17, except as provided otherwise in this regulation. The National Highway Traffic Safety Administration (NHTSA) has implemented the statutory definition of "school bus" which reads in part "a passenger motor vehicle which is designed to carry more than 10 passengers * * *" (Motor Vehicle and Schoolbus Safety Amendments of 1974, Pub. L. 93-492, 88 Stat. 1470).

We have included this requirement for two reasons. First, experts agree that school bus transportation is one of the safest forms of transportation of school-age children. According to the National Safety Council's "Accident Facts (1991), in 1989, fatality rates per hundred million passenger miles were 1.12 for

passenger cars and 0.04 for school buses. Also in 1989, passenger cars were involved in 72.3 percent of all traffic crashes and 61.2 percent of all fatal crashes; whereas school buses were involved in only .2 percent of all traffic crashes and in .2 percent of all fatal crashes. Therefore, in addition to the requirement regarding the use of school buses, we have explicitly prohibited the use of small vans and the use of passenger cars in transporting Head Start children.

Secondly, NHTSA, in its interpretation of Guideline 17, has consistently maintained, from the inception of the FMVSS's for school buses, that Head Start programs are "schools" under the National Traffic and Motor Vehicle Safety Act and that Head Start children should only be transported on school buses that meet the FMVSS.

Paragraph (b) reiterates the requirement under 49 CFR part 571 as interpreted by NHTSA that Head Start vehicles seating more than 10 persons be constructed in compliance with the Federal Motor Vehicle Safety Standards (FMVSS) applicable to school buses. It also establishes minimum requirements for equipment on these vehicles, including emergency equipment and supplies, and requirements on the arrangement of exterior mirrors and specialized equipment including equipment for persons with disabilities as necessary. The latter requirements are imposed by ACF and are in addition to the recommendations in Highway Safety Guideline 17 and requirements in the FMVSS.

Paragraph (c) contains additional requirements for vehicle marking (such as color and lettering) and equipment (such as a stop signal arm and signal lamps) which were taken from Guideline 17 and are applicable, if permissible within State law. It is our intent to have every Head Start vehicle qualify to operate as a school bus, which means being marked and equipped as a school bus and having all the rights and privileges of a school bus on the streets and highways, including stopping traffic to load and unload children. However, we are aware that some States do not permit Head Start programs to operate school bus-like buses since they are not "schools" by State definition. This potential for variation among the States is, therefore, taken into account in the separate requirements contained in paragraphs (a) and (b). To assist Head Start programs in this regard, the Head Start Bureau has written to each of the State Directors of Pupil Transportation requesting information about their State pupil transportation requirements, and

this information is being analyzed to determine where barriers to this goal exist and to develop plans, State by State, for overcoming these barriers.

Paragraph (d) contains a process for grantees to follow to assure that manufacturers and vendors of vehicles comply with the FMVSS, including a clear statement of the intended use of the vehicle in the bid announcement and a prescribed procedure for examining the vehicle at the time of delivery. Therefore, it is a violation of Federal law for a vendor to knowingly sell a vehicle seating more than 10 persons to a Head Start program that does not meet the FMVSS when the intended use of that vehicle is made clear at the beginning of the transaction. (49 U.S.C. 30112)

Paragraph (e) specifies that vehicles in use which do not comply with the FMVSS must be replaced as soon as possible. We believe this can be accomplished within the three year phase-in period (§ 1310.2) now that, in accordance with 42 U.S.C. 9839(g)(2)(C), Head Start funds may be used for capital expenditures (including paying the cost of amortizing the principal and paying interest on loans) to purchase vehicles used for programs at Head Start facilities. This new authorization makes it possible for Head Start programs to plan more effectively and spread out their expenses over several funding periods. It also substantially reduces the amount of funds necessary to be allocated to transportation in the fiscal year in which these regulations become a Final Rule.

Paragraphs (f) through (j) prescribe specific passenger safety requirements while the vehicle is in motion. They require that all persons be seated while the vehicle is in motion, that baggage and other transported items be properly stored, and prohibit the use of auxiliary seating of any kind. Most importantly, paragraph (h) requires the use of seat belts by drivers and bus attendants and paragraph (i) requires the use of child restraints for all children. These requirements are being imposed by ACF.

The Highway Safety Program Guideline No. 17 recommends that "Passengers in school buses and school-chartered buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less should be required to wear occupant restraints (where provided) while the vehicle is in motion." (Citation: Guideline 17, Section C.2.e.(5)) We believe that properly installed and properly used child restraints provide the maximum safety for Head Start children. It is our understanding that the bus