ASTM International at 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, 610–832–9585 (phone), 610–832–9555 (fax), or *service@astm.org* (e-mail); or through the ASTM Web site (*http://www.astm.org*).

J. Executive Order 12898: Federal Actions To Address Environmental Justice and Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. All of the test method updates in this direct final rule will improve the performance and/or utilization by industry of the test methods. The allowance of ASTM D6500–05 will provide additional flexibility to the regulated community in meeting olefins in gasoline testing requirements. This proposed rule amendment does not relax control measures on sources regulated by the rule and therefore will not cause emission increases from these sources.

IV. Statutory Provisions and Legal Authority

Statutory authority for today's proposed rule comes from sections 211(c), 211(i) and 211(k) of the CAA (42 U.S.C. 7545(c) and (k)). Section 211(c) and 211(i) allow EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and CG and requires EPA to promulgate regulations establishing these requirements. Additional support for the fuels controls in today's proposed rule comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Diesel, Imports, Incorporation by reference, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: November 13, 2008.

Stephen L. Johnson,

Administrator.

[FR Doc. E8–28372 Filed 12–5–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 301, 302, 303, 305, and 308

RIN 0970–AC–37

Child Support Enforcement Program; Intergovernmental Child Support

AGENCY: Administration for Children and Families, Office of Child Support Enforcement (OCSE).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: These proposed regulations would revise Federal requirements for establishing and enforcing intergovernmental support obligations in Child Support Enforcement (IV–D) program cases receiving services under title IV–D of the Social Security Act (the Act). The proposed changes would: Revise current interstate requirements to apply to case processing in all intergovernmental cases; require the responding State IV–D agency to pay the cost of genetic testing; clarify responsibility for determining in which State tribunal a controlling order determination is made where multiple support orders exist; recognize and incorporate electronic communication advancements; and make conforming changes to the Federal substantial-compliance audit and State self-assessment requirements.

DATES: Consideration will be given to written comments received by February 6, 2009.

ADDRESSES: Send comments to: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., 4th Floor, Washington, DC 20447, Attention: Director, Division of Policy, Mail Stop: OCSE/DP. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address. You may also transmit written comments electronically via the Internet at: *http://www.regulations.gov*. To download an electronic version of the rule, you may access *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Yvette Hilderson Riddick, OCSE Division of Policy, 202–401–4885, e-mail: *Yvette.Riddick@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 time.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Section 454(9) of the Act addresses interstate cooperation. This notice of proposed rulemaking is published under the authority granted to the Secretary of the U.S. Department of Health and Human Services (the Secretary) by section 1102 of the Act, 42 U.S.C. 1302. Section 1102 authorizes the Secretary to publish regulations, not inconsistent with the Act, which may be necessary for the efficient administration of the functions for which he is responsible under the Act. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 amended the Act by adding section 466(f), which mandated that all States have in effect by January 1, 1998, the Uniform Interstate Family Support Act (UIFSA) as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws (NCCUSL). PRWORA also added sections 454(32) and 459A of the Act, requiring State IV–D agencies to provide services in international cases and authorizing the Secretary of the Department of State (DOS) with the concurrence of the Secretary, to enter into bilateral arrangements with foreign countries for child support enforcement, respectively. Further, section 455(f) of the Act, which authorized direct funding of Tribal Child Support Enforcement (IV–D) programs, was added by PRWORA and amended by the Balanced Budget Act of 1997 (Pub. L. 105–33).

II. Background

A. Nature of the Problem

The Child Support Enforcement program was created over 30 years ago in response to the rise in welfare costs resulting from increasing nonmarital birth rates and parental desertion of families, and to the growing demand to relieve taxpayers of the financial burden of supporting these families. Child support is no longer primarily a welfare

reimbursement, revenue-producing device for the Federal and State governments; it is a family-first program, intended to ensure families' self-sufficiency by making child support a more reliable source of income. In addition to serving those parents and children with child support cases in which divorced or never married parents live in the same State, IV–D agencies are also responsible for cases where one of the parents resides outside its borders.

The problems of support enforcement are compounded when parents reside in different jurisdictions and the interjurisdictional caseload is substantial. In FY 2006, over a million cases were sent from one State to another. *See, Child Support Enforcement FY 2006 Preliminary Report (March 2007), Figure 10 http://www.acf.hhs.gov/programs/cse/pubs/2007/preliminary_report/.* This number does not include cases where a single State established or enforced a support obligation against a nonresident using long-arm jurisdiction or direct enforcement remedies without involving another IV–D agency. Additionally, interstate collections showed a 19 percent increase over those obtained in FY 2002.

The universal enactment by States of UIFSA and close to a decade of State experience under this uniform law has served to harmonize the interjurisdictional legal framework. Use of long-arm jurisdiction, administrative processes, and direct income withholding has gone a long way to break down barriers. Nevertheless, many still exist.

We believe that interstate case processing still can and must be improved. This has been and remains one of OCSE's top priorities. Current regulations governing interstate cases are outdated. While they broadly address UIFSA, they do not fully reflect the legal tools available under that Act, other Federal mandates and remedies, improved technology, or IV–D obligations in Tribal and international cases. Therefore, this regulation proposes changes and clarifies responsibilities for State IV–D agencies and emphasizes the need for States to be responsive to working intergovernmental IV–D cases to ensure that all children receive the support they deserve. We have received support from our State partners in focusing on this effort.

Although our regulatory authority extends only to States and to Tribes operating a Tribal IV–D program, the IV–D caseload includes IV–D cases received from or initiated by other States, Tribes, and countries. The creation of the Tribal IV–D program pursuant to section 455(f) of the Act and implementing regulations at 45 CFR Part 309, and the central role of OCSE and State IV–D agencies in international cases under section 459A of the Act, highlight the need to refocus interstate regulations to address requirements for State IV–D programs' processing of intergovernmental IV–D cases.

B. Current Law on Interstate Case Processing

1. Uniform Interstate Family Support Act (UIFSA)

UIFSA is a comprehensive model Act focusing on the interstate establishment, modification, and enforcement of child support obligations. It was first passed by the NCCUSL in 1992, amended in 1996 and again in 2001. Section 466(f) of the Act requires all States to enact UIFSA as approved by the American Bar Association on February 9, 1993, as in effect on August 22, 1996, including any amendments officially adopted as of such date by the NCCUSL. There is as yet no requirement that all States enact the 2001 version of UIFSA (UIFSA 2001), although States may request an exemption under section 466(d) of the Act should they choose to enact UIFSA 2001. (See OCSE–AT–02–02) *http://www.acf.dhhs.gov/programs/cse/pol/AT/2002/at-02-02.htm*).

Accordingly, unless otherwise specified, as used in this preamble, ''UIFSA'' means the 1996 version of UIFSA (UIFSA 1996). Section 101(19) of UIFSA defines ''State'' to include States, Indian Tribes, and ''a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under UIFSA, the Uniform Reciprocal Enforcement of Support Act (URESA) or the Revised Uniform Reciprocal Enforcement of Support Act (RURESA).''

Many of UIFSA's provisions represent solutions to the problems inherent with the interstate establishment and enforcement of child support obligations. For example, UIFSA covers all cases where the custodial and noncustodial parents reside in different States. In addition to traditional state-to-state legal actions, it provides for long-arm jurisdiction to establish paternity or child support, continuing exclusive jurisdiction by a State to modify an order where a support order already exists, and one-state enforcement remedies such as direct income withholding. UIFSA contains enhanced evidentiary provisions, including use of teleconferencing, electronic transmission, and use of federally-mandated forms. It precludes the entry of a new (*de novo*) support order where a valid order exists, ending the longstanding practice of multiple support orders, and strictly proscribes when a State has the authority to modify the child support order of another State, Tribe, or country.

UIFSA introduced the principle of continuing, exclusive jurisdiction (CEJ) to child support. Only one valid current support order may be in effect at any one time. This is UIFSA's keystone. As long as one of the individual parties or the child continues to reside in the issuing State, and as long as the parties do not agree to the contrary, the issuing tribunal's authority to modify its order is continuing and exclusive. UIFSA attempts to be even-handed—the identity of the party residing in the State (whether the obligor or obligee) does not matter. Jurisdiction to modify an order may be lost only if all the relevant persons have permanently left the issuing State. This is logical because the issuing State would no longer have an appropriate nexus with the parties or child to justify exercise of jurisdiction to modify the order. However, it is important to note that the original order of the issuing State remains in effect, until modified, not only in the issuing State and those States in which the order has been registered, but also in additional States following registration, even after the issuing State has lost its power to modify its order. By this means, UIFSA allows the one order to remain in effect as the family or its individual members move from one State to another.

UIFSA includes a transitional procedure for the eventual elimination of existing multiple support orders in an expeditious and efficient manner. To begin the process toward a one-order system, UIFSA provides a relatively straight-forward procedure designed to identify a single viable order that will be entitled to prospective enforcement in every State. This process is referred to as the determination of controlling order (DCO). UIFSA specifies in detail how the DCO should be made. If only one child support order exists, it is the controlling order irrespective of when and where it was issued and whether any of the individual parties or the child continues to reside in the issuing State.

UIFSA is currently State law in all 54 States and jurisdictions. Twenty States have adopted the 2001 amendments passed by the NCCUSL and received a State Plan exemption under section 466(d) of the Act from OCSE allowing use of the 2001 provisions.

2. One-State Interstate

Historically, IV–D agencies have sought to resolve cases involving nonresident noncustodial parents by using the State's statutory authority to obtain or retain personal jurisdiction over the out-of-state party. Current regulations explicitly encourage the assertion of long-arm jurisdiction to establish paternity [*see*, 45 CFR 303.7(b)(1)]. The authority of a State to subject a nonresident to its laws is set out in State statutes, subject to the due process provisions of the U.S. Constitution. As described earlier, UIFSA is a State statute, containing both an expansive long-arm provision (section 201), and continuing, exclusive jurisdiction to both enforce and modify an existing support order (*see, e.g.*, sections 205 and 206). Since 1984, States have been required to adopt procedures for enforcing the income withholding orders of another States [section 466(b)(9) of the Act)]. Article 5 of UIFSA authorizes direct income withholding, allowing a State to serve directly the obligor's employer in the other State with the income withholding order/notice. The employer must honor the out-of-state withholding order/notice to the same extent it would an in-state order/notice. These provisions afford IV–D agencies a greater opportunity to use one-state interstate remedies in factually-appropriate cases, rather than involving a second State. As discussed later, cooperation among States in requesting and providing limited services, such as locate assistance, coordination of genetic testing, and facilitation of gathering and transmitting evidence, makes the use of one-state remedies more robust and equitable.

3. Tribal IV–D and International Child Support Enforcement

UIFSA recognizes the importance and sovereignty of the Tribal organization to provide for its children and provides specifically by definition that the term ''State'' includes an Indian tribe in section 101(19) [renumbered by the 2001 amendments as section 102(21)(A)]. As described earlier in this preamble, foreign countries may also be ''States'' for UIFSA purposes. While UIFSA directs State child support activities, it does not govern child support activities in other countries or Tribes.

States generally have referred to cross-border child support cases as interstate matters. However, the IV–D program is committed to establishing and enforcing child support for children in Tribal IV–D and international cases as well. Recognizing the broadened range of cases, and for reasons detailed in this preamble, we have changed the scope of these regulations from interstate to intergovernmental.

Essential to the Federal-State-Tribal effort to ensure that noncustodial parents support their children is coordination and partnership, especially in the processing of intergovernmental cases. For the first time in the history of the IV–D program, PRWORA authorized direct funding of Tribes and Tribal organizations for operating child support enforcement programs under section 455 of the Act. The Department recognizes the unique relationship between the Federal government and federally-recognized Indian Tribes and acknowledges this special government-to-government relationship in the implementation of the Tribal provisions of PRWORA. The direct Federal funding provisions provide Tribes with an opportunity to administer their own IV–D programs to meet the needs of children and their families. Also, as stated in 45 CFR 302.36(a)(2), the State will extend the full range of services available under its IV–D plan to all Tribal IV–D programs.

Likewise, a Tribal IV–D agency must specify in its Tribal IV–D plan that the Tribal IV–D agency will:

- Extend the full range of services available under its IV–D plan to respond to all requests from, and cooperate with, State and other Tribal IV–D agencies; and
- Recognize child support orders issued by other Tribes and Tribal organizations, and by States, in accordance with the requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. 1738B. See 45 CFR 309.120.

As to international cases, section 459A of the Act authorizes the Department of State (DOS), with the concurrence of the Secretary, to enter into bilateral arrangements with foreign countries for child support enforcement. To date, the U.S. has federal-level arrangements with Australia, Czech Republic, El Salvador, Finland, Hungary, Ireland, Netherlands, Norway, Poland, Portugal, Slovak Republic, Switzerland, the United Kingdom and the Canadian provinces/territories of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland/Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Saskatchewan, and Yukon. On November 23, 2007 the United States signed a Hague Convention that addresses the International Recovery of Child Support and other Forms of Family Maintenance. For those States that sign the Hague Convention, ratification of the Convention is projected to take 2–3 years.

C. Need for and Purpose of This Regulation

In accordance with current title IV–D regulations at 45 CFR 303.7(c)(7), when a State receives a request to take action on an interstate case from another State, it must take all appropriate action, treating it just as if the case were an intrastate case. Because families may move and receive Temporary Assistance for Needy Families (TANF) or other public assistance benefits in multiple States, more than one State may have an interest in the child support arrearages because the custodial parent assigned support rights to more than one State as a condition of receiving public assistance.

The interstate regulations that currently appear in 45 CFR 303.7 were originally effective February 22, 1988. Many changes have taken place in child support since 1988 when these regulations were published, including the passage of UIFSA, PRWORA, and the Federal Full Faith and Credit for Child Support Orders Act of 1994 (FFCCSOA). FFCCSOA, as amended by PRWORA, requires each State to enforce, according to its terms, a child support order issued by a court or administrative authority of another State. See 28 U.S.C. 1738B. FFCSOA rules are consistent with UIFSA on which State has jurisdiction to prospectively modify a support order and which of multiple valid support orders controls current support.

State IV–D agencies have authority to take actions directly across State lines, bypassing IV–D agencies in other States. That ability, coupled with the powerful new tools at the disposal of IV–D agencies, such as the National Directory of New Hires and expanded Federal Parent Locator Service, could lead States to taking direct action to collect on arrearages owed under multiple orders in different States. This could lead, in turn, to confusion on the part of custodial and noncustodial parents, employers, and State IV–D workers about correct arrearage balances and how to account for collections. It is to address these issues and otherwise update the outdated interstate regulations that we are revising 45 CFR 303.7.

OCSE realized several years ago that it was necessary to revise the regulations to recognize UIFSA requirements to the extent possible within the constraints of title IV–D of the Act, to address Tribal and international cases, and to improve

customer service and satisfaction. The current regulations were built on a two-state, one-by-one, paper-oriented interstate case processing model. State experience, however, has shown that taking actions to establish and secure support directly across State lines, using a State's long-arm jurisdiction, as well as electronic communication and mass case processing, often increase support collections for children. This has, in fact, been the case as States and the general public have seen collections increase when these powerful tools are put into action.

In writing this regulation, one of our primary goals is to ensure that States can take full advantage of all available automation and communication techniques, such as the Child Support Enforcement Network (CSENet), whenever possible. CSENet is both a state-of-the-art telecommunication network and a software application that plays a pivotal role in transmitting interstate case information between IV–D agencies. CSENet has been designed to receive, edit, store, and transmit the defined standardized batch transactions from one State child support enforcement automated system, through the CSENet server, to another State child support enforcement automated system. We are interested in hearing from States if there are other communication techniques that would work as well or better than CSENet to foster improved communication between States. Automated communication is essential to making interstate case processing work.

Additionally, there is an electronic communication called QUICK (Query Interstate Cases for Kids) that allows caseworkers to view interstate case information in real time. In States that use QUICK, workers can view financial and case status data in other participating QUICK States. With this capability, a caseworker can provide immediate response to a customer or quickly determine the next case action.

We propose to reorganize 45 CFR 303.7 extensively to clarify and streamline case processing responsibilities in intergovernmental cases, incorporating both optional and required procedures under PRWORA and enhanced technology. We have responded to specific changes requested by State IV–D agencies, for example, by revising responsibility for advancing the cost of genetic testing and addressing responsibility for credit bureau reporting. The proposed regulations address case processing ambiguities raised by practitioners around determination of controlling orders, interstate income withholding, and case closure. We have made corresponding changes to the case closure rules in 45 CFR 303.11. Finally, the proposed regulations make conforming changes to the Federal substantial-compliance audit (45 CFR 305.63) and State self-assessment requirements (45 CFR 308.2).

III. Provisions of the Regulations

The following is a discussion of all the regulatory provisions included in this NPRM. With a few exceptions explained in the applicable sections, we have substituted ''intergovernmental'' in lieu of ''interstate'' throughout these provisions. The term encompasses not only IV–D cases between States, but also all IV–D cases where the parents reside in different jurisdictions, including cases between a State and Tribal IV–D program, cases between a State and a foreign country under sections 454(32) and 459A of the Act, and cases where the State has asserted authority over a nonresident under long-arm jurisdiction.

Part 301—State Plan Approval and Grant Procedures

Proposed Section 301.1—General Definitions

The proposed rules add definitions of terms used in program regulations. Some terms exist in current regulations but have not been defined; others represent new concepts. In drafting this section, we have defined those terms used in the proposed rule that must be understood consistently by all who use these regulations. The existing definitions remain unchanged. In this section of the preamble, we have grouped the proposed new definitions by topic for a more coherent discussion, rather than alphabetically, as they will appear in § 301.1.

Two definitions pertain particularly to international child support case processing as discussed earlier in this preamble. We define *Country* to include both a foreign reciprocating country (FRC) and any foreign country (or political subdivision thereof) with which the State has entered into a reciprocal arrangement pursuant to section 459A of the Act. We also propose defining *Central authority* as the agency designated by a government to facilitate support enforcement with an FRC. The Federal statute requires that the country with which a federal-level agreement is entered establish a Central authority to facilitate implementation of support establishment and enforcement in cases involving residents of the U.S.

OCSE is the Central authority for the United States under Federal reciprocal arrangements. If the State in which the obligor is living is unknown, pursuant to section 459A(c)(2) of the Act, an FRC may send a request to OCSE, which will use the Federal Parent Locator Service to try to locate the State in which the obligor resides. Otherwise, cases move directly between the Central Authority of the FRC and the State which has case processing authority.

As discussed earlier, current regulations envision state-to-state case processing. The proposed regulation reflects a IV–D agency's responsibilities whether the nonresident parent resides in another State, a federally-recognized Tribe with a IV–D program, or another country. Accordingly, we have added three definitions for terms used throughout the proposed regulations. ''*Intergovernmental IV–D case*'' means a case in which the dependent child(ren) and the noncustodial parent live in different jurisdictions that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV–D case may include any combination of referrals between States, Tribes, and countries. Generally, throughout the proposed regulation, we substitute ''intergovernmental'' where ''interstate'' is used in the current regulation.

As discussed later, there are some provisions where we believe the IV–D agency's responsibility extends only to cases involving two or more States. To delineate such situations, we propose adding a definition for ''*Interstate IV–D case*'' meaning, a IV–D case in which the noncustodial parent lives and/or works in a different State than the custodial parent and child(ren). Unless otherwise specified, the term applies both to one-State and to two-State interstate cases. We believe the proposed definition provides clarity in the context of these regulations.

There are several circumstances in proposed 45 CFR 303.7, detailed later, that only pertain to cases and actions where a State asserts its authority over a person or entity outside its borders in another State. So we propose adding a definition of a ''*One-State interstate IV–D case*'' as an interstate case where a State exercises its jurisdiction over the nonresident parent or otherwise takes direct establishment, enforcement, or other action, in accordance with the long-arm provisions of the UIFSA or other State law. We welcome comments on whether this latter definition is helpful and, if so, appropriate and sufficient.

Five definitions in the proposed regulations relate to UIFSA. ''*Uniform*

Interstate Family Support Act (UIFSA)'' means the model act promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and mandated by section 466(f) of the Act to be in effect in all States.

Although used in current interstate regulations, we propose adding definitions of *Initiating agency* and *Responding agency* to establish a common understanding in the context of all intergovernmental IV–D cases. ''Initiating agency'' means the agency from which a referral for action is forwarded to a responding agency and could include a State IV–D agency, a Tribal IV–D agency, or a country as defined in these regulations. ''*Responding agency*'' means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV–D case. Although the definitions are inclusive, these regulations only govern State IV–D programs, not Tribal IV–D programs or other countries.

The broadened scope covers State IV–D program responsibilities with respect to Tribal IV–D and international cases. However, while initiating and responding agency definitions reflect the involvement of two governmental entities, we use ''referral for action'' and ''providing services'' to reflect that a State IV–D agency may ask for assistance from another jurisdiction, without referring the case to another State for all necessary IV–D services. States have found that the provision of limited services, such as performing ''quick locate'' (of a person and/or assets), serving process, and identifying and seizing assets across State lines, holds much promise in terms of saving time and enhancing collections.

Two other terms flow principally from UIFSA: ''Tribunal'' and ''controlling order state.'' Encompassing the widest range of expedited and administrative procedures, we propose to define ''*Tribunal*'' in these regulations as a court, administrative agency, or quasi-judicial entity authorized under State law to establish, enforce, or modify support orders or to determine parentage.

A keystone of both UIFSA and FFCCSOA, 28 U.S.C. 1738B, was an end to multiple support orders existing simultaneously. Both laws prohibit entry of a new support order where a valid one exists. However, neither invalidates a support order created under earlier laws. Instead, both FFCCSOA and UIFSA contain rules for determining which of the several orders validly established by different States is controlling and governs prospective support. Because of the need to determine the controlling order in multiple order situations, we responded to requests from our partners to set out State IV–D responsibilities when multiple support orders exist in an interstate case. The proposed rules regarding Determination of Controlling Order (DCO) are contained in § 303.7, discussed later in this preamble. For clarity in the context of those regulations, we propose defining ''*Controlling order State*'' as the State in which the only order was issued or, where multiple orders existed, the State in which the order determined by a tribunal to control prospective current support pursuant to the UIFSA was issued.

As earlier noted, technology has been enhanced almost exponentially since the interstate regulations were revised 20 years ago. Today electronic transmission of information (and payments) is preferred and electronic filing of documents is rapidly becoming the norm. OCSE has committed considerable resources to enhancing electronic communication. A guiding principle in the National Child Support Enforcement Strategic Plan (FY2005–2009) is that: ''Policy and technology decisions are interdependent and coordinated to achieve high performance.'' The exchange of information is critical to successful intergovernmental child support litigation. Yet even with uniform mandated Federal interstate forms, it is often considered burdensome, particularly compared with the more automated, streamlined case processing that State and Federal systems permit in intrastate cases.

Forms are a necessary part of intergovernmental case processing and resolution. To foster uniformity, UIFSA section 316(b) affords enhanced evidentiary weight to pleadings and supporting documents submitted on or incorporated into ''federally-mandated forms.'' However, where available, the transmission of such information electronically clearly serves to expedite case processing. UIFSA 2001 amendments explicitly allow for electronic transmission as well as electronic record keeping by substituting ''in a record'' for ''in writing'' and defining record as ''information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form [(UIFSA 2001 section 102(15)].'' OCSE is working with States to expand and improve electronic transmissions. Standardization of data elements is an ongoing OCSE/State initiative and key to this effort. The Office of Management and Budget has reauthorized the use of the federally-mandated interstate forms until January 31, 2011 and they have been renamed Intergovernmental Child Support Enforcement Forms.

In furtherance of these goals, we propose adding a definition for *form* that accommodates new storage and transmission technologies as they become available. ''*Form*'' means a federally-approved document used for the establishment and enforcement of support obligations whether compiled or transmitted in written or electronic format, including, but not limited to the Order/Notice to Withhold Income for Child Support, and the National Medical Support Notice. In interstate IV–D cases, such forms include those used for child support enforcement proceedings under UIFSA. *Form* also includes any federally-mandated IV–D program reporting forms where appropriate. Current versions of these forms are located on the OCSE Web site at *http://www.acf.hhs.gov/programs/cse/forms/*.

Part 302—State Plan Requirements

Proposed Section 302.36—Provision of Services in Intergovernmental IV–D Cases

Current § 302.36 addresses State plan requirements in interstate and Tribal IV–D cases. We propose changes to both the heading and the body of the section to address international IV–D cases. The proposed changes clarify that a State must provide services in all intergovernmental IV–D cases as we have defined that term in proposed § 301.1.

First, the caption to this subsection currently references both ''interstate and intergovernmental IV–D cases.'' The use of interstate is now duplicative and we propose deleting ''interstate'' from the title. For clarity, we have revised current § 302.36(a)(1) and (2). Although the structure is amended slightly, the substance remains the same. Proposed paragraph (a)(1) requires the State plan to ''provide that, in accordance with § 303.7 of this chapter, the State will extend the full range of services available under its IV–D plan'' to any other State. Paragraph (a)(2) similarly restates the existing requirement to provide services to Tribal IV–D programs. We have added a reference to § 309.65(a) under which Tribal IV–D programs operate. We also propose minor language changes, solely for ease of reading.

As discussed earlier in this preamble, Congress specifically authorized Federal-level agreements regarding child support enforcement in 1996.

Section 459A(a) of title IV–D of the Act provides the Secretary of DOS, with the concurrence of the Secretary, the authority to declare any foreign country to be a foreign reciprocating country under certain conditions. Section 459A(d) provides for State-level ''reciprocal arrangements for the establishment and enforcement of support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.'' We propose to add § 302.36(a)(3) requiring that the full range of services also be provided to: ''Any country as defined in § 303.1 of this chapter.'' As defined in § 301.1 and discussed previously, ''country'' encompasses both FRCs and countries with state-level arrangements.

We propose revising current § 302.36(b) by substituting ''intergovernmental'' for ''interstate'' and amending the reference to State Central Registry responsibilities to § 303.7(b), consistent with changes we propose for that section.

Part 303—Standards for Program Operations

Proposed Section 303.7—Provision of Services in Intergovernmental IV–D Cases

We propose to reorganize current § 303.7 to more clearly lay out IV–D agency responsibilities and to expand the scope of the existing section from interstate to all intergovernmental IV–D cases, as defined by proposed § 301.1. Frequently, existing paragraphs have merely been moved in this proposed rule with minor language changes to improve readability. Other paragraphs of this section represent either a shift in responsibility between the initiating and responding agencies or address new case processing responsibilities.

State IV–D programs have identified barriers to effective interstate child support enforcement posed by regulations and by inconsistent practices among the States and requested changes to current interstate regulations on genetic testing costs, credit bureau reporting, and interstate income withholding. States also have requested that OCSE delineate responsibilities around determination of the controlling order (DCO) in multiple order cases. This Office considered all issues raised and, as revised, proposed § 303.7 would address them.

The proposed heading of § 303.7 substitutes ''intergovernmental'' for ''interstate.''

(a) General Responsibilities

We believe many IV–D agency responsibilities apply generally in an intergovernmental IV–D case. To avoid unnecessary repetition, we propose that subsection (a) (currently setting out the responsibilities of the interstate central registry) will now contain all generally applicable mandates, irrespective of the IV–D agency role in the case as either an initiating or responding agency.

Current § 303.7(c)(1) requires a responding IV–D agency to ''establish and use procedures for managing its interstate IV–D caseload which ensure provision of necessary services and include maintenance of case records in accordance with § 303.2 of this part.'' We propose moving this paragraph to § 303.7(a)(1) as a general responsibility of all IV–D agencies to their ''intergovernmental IV–D caseload.'' This paragraph also applies to the IV–D agencies' one-state interstate cases.

Similarly, existing § 303.7(c)(2) and (3) have been moved from a responding agency responsibility to a universal IV–D agency responsibility in intergovernmental cases, now located in proposed paragraphs (a)(2) and (3). These paragraphs require the IV–D agency to periodically review program performance for effectiveness and to ensure adequate staffing to provide services in interstate cases. With the exception of substituting ''intergovernmental'' for ''interstate'' these sections are unchanged. Again, these revisions are proposed because we believe the requirements to review program performance and to ensure adequate staffing are not properly restricted to responding State IV–D agencies.

Existing § 303.7(b)(3) requires the initiating State IV–D agency to: ''Provide the IV–D agency in the responding State sufficient, accurate information to act on the case by submitting with each case any necessary documentation and federally-approved interstate forms. The State may use computer-generated replicas in the same format and containing the same information in place of the Federal forms.'' We have divided this provision into two parts, proposed paragraphs (a)(4) and (c)(5). The first part of the existing paragraph has been revised and moved under the general responsibilities of IV–D agencies in intergovernmental cases.

Proposed § 303.7(a)(4) requires all State IV–D agencies to: ''Use federally-approved forms in intergovernmental IV–D cases. When using a paper version, providing one copy of each form and supporting documentation meets this requirement.'' State agencies now use a package consisting of nine federally-mandated forms titled: Provision of Services in Intergovernmental Child Support Enforcement: Standard Forms in all interstate cases. Although not mandatory, Tribal IV–D programs sometimes use them. States also use these forms for international cases.

At or soon after the time a country becomes an FRC, OCSE works with the FRC to prepare the country's chapter for A Caseworker's Guide to Processing Cases with Foreign Reciprocating Countries, available at *http://www.acf.hhs.gov/programs/cse/international/policy.html*. Because the proposed definition for ''form'' includes that it may be ''compiled or transmitted in written or electronic format,'' we have deleted the second sentence of current § 303.7(b)(3) concerning computer-generated replicas of forms as superfluous. We recognize that there will be cases in which use of an electronic form or transmission is not feasible. State IV–D agencies have requested that States be required to send only one paper version of the federally-mandated interstate forms and any order or supporting document that accompanies such a referral. Therefore, the second sentence of proposed § 303.7(a)(4) provides that one copy is sufficient to meet the requirements of this section.

We propose adding § 303.7(a)(5), requiring IV–D agencies to: ''Transmit requests for information and provide requested information electronically to the greatest extent possible in accordance with instructions issued by the Office.'' Given advances in technology and in the interest of reducing paper and paperwork, we explicitly favor electronic transmission. Electronic filing is increasingly recognized by courts and the amended language acknowledges new technologies and accommodates future changes in technologies and legally-acceptable methods of submitting documents.

A consistent request from our State partners has been to clarify the responsibilities of IV–D agencies to determine which of multiple current support orders is controlling prospectively. Several changes to § 303.7 address the determination of the controlling order. We start by proposing a new § 303.7(a)(6), adding a general responsibility on all IV–D agencies to: ''Within 30 working days of receiving a request, provide any order and payment record information requested by a State IV–D agency for a controlling order determination and reconciliation of arrearages.''

The first step in a DCO is to locate all child support orders that may exist in a particular case. While searching the Federal Case Registry (FCR) is the obvious and critical first step, a State also needs to search its own records and other relevant information available. The FCR contains data identifying cases and orders transmitted electronically from the State Case Registries (SCR). The FCR does not provide a copy of the order. Non-IV–D orders issued or modified before October 1, 1998, and any closed IV–D cases are not required to be placed on the SCR, and, therefore, will not be reported to the FCR. The State responsible for providing information on existing orders for a DCO would need to contact the other State(s) listed in the FCR to determine if there is a support order in the State(s) and to request a copy of the order and related payment records.

We heard varying suggestions about how long a IV–D agency should have to obtain and forward such order and accounting information. We believe a search of court or agency records may be time consuming. We propose ''30 working days'' from receipt of request to parallel the current obligation on the initiating agency to provide additional information. Since 2002, OCSE's Interstate Case Reconciliation initiative, aimed at correcting and standardizing IV–D case identifiers, has proven tremendously successful in reconciling interstate caseloads across all of the States. We believe that case identifiers for interstate cases have, for the most part, been established so that both State automated systems and caseworkers recognize shared cases. We also are mindful that OCSE has participated in several Federal/State initiatives to improve interagency communication to expedite interstate case processing. For example, the Federal OCSE Query Interstate Cases for Kids (QUICK) project, currently implemented in nine States, allows IV–D workers real-time access to another participating State's payment records and case status information. We anticipate response times will be greatly reduced as a result. We invite comments on the timeframe proposed in this section.

Proposed § 303.7(a)(7) consolidates existing requirements on the initiating agency [current § 303.7(b)(5)] and the responding agency [current § 303.7(c)(9)] to provide new information to each other. This revision requires IV–D agencies to ''[n]otify the other agency within 10 working days of receipt of new information on an intergovernmental case.'' Existing language has been changed from ''interstate'' to ''intergovernmental.'' In light of proposed requirements in § 303.7(a)(4) and (5), governing use of forms and transmission of information, we also have deleted ''by submitting an updated form and any necessary documentation'' as superfluous.

The final provision under IV–D agencies' general responsibilities in intergovernmental cases is proposed new § 303.7(a)(8). As discussed earlier in this preamble, many cases where the parties reside in different jurisdictions may be handled by one State, especially if another State provides limited assistance. Section 303.7(a)(8) reinforces the longstanding policy that authorizes a State to request from and provide to other States limited services. For example, a ''quick locate'' may be requested to find or verify if a parent or alleged father is in another State. One may also search for sources of income, wages, and assets of the parent. (*See* OCSE AT–98–06 (*http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9806.htm*) and OCSE AT–91–09 (*http://www.acf.hhs.gov/programs/cse/pol/AT/1991/at-9109.htm*). States also provide other limited services, e.g., service of process, high-volume automated administrative enforcement in interstate cases (AEI), and coordination of genetic testing. Section 303.7(a)(8) requires all IV–D agencies to ''[c]ooperate with requests for limited services, including locate, service of process, assistance with discovery, teleconferenced hearings, administrative reviews, and high-volume automated administrative enforcement in interstate cases under section 466(a)(14) of the Act.''

(b) Central Registry

Existing responsibilities of the central registry now in § 303.7(a) have been renumbered as paragraph (b). To a significant extent current language remains unchanged. For reasons explained previously ''interstate'' has been replaced by ''intergovernmental'' where the former appears throughout this paragraph. The few additional changes from the existing regulation are described below.

Current § 303.7(a)(1) provides: ''The State IV–D agency must establish an interstate central registry responsible for receiving, distributing and responding to inquiries on all incoming interstate IV–D cases.'' To add clarity, we substitute ''transmitting'' for ''distributing'' and renumber this section as proposed § 303.7(b)(1). We make this change solely to avoid confusion, as ''distribution'' is used throughout Federal IV–D regulations to mean the financial distribution of child support collections. Also, as all functions assigned to the State Central Registry (SCR) must be integrated into the statewide automated system, nothing in this regulation requires physical mailing to an SCR. Initiating and responding IV–D agencies may electronically transmit cases directly to a responding agency's statewide automated system.

Proposed § 303.7(b)(2) is identical to existing paragraph (a)(2) except we have deleted ''from an initiating State.'' An intergovernmental case may come from another State, Tribal IV–D program, FRC or country with which the State has a reciprocal arrangement under section 459A(d) of the Act. Except for the move to paragraph (b), current § 303.7(a)(2)(i) and (ii) are unchanged.

The substance of current § 303.7(a)(2)(iii) addressing responsibilities of the central registry to acknowledge the case has been moved to paragraph (b). The language has been slightly revised, to remove reference to ''the initiating State,'' again recognizing that the central registry handles cases in addition to those forwarded from another State. Proposed § 303.7(b)(2)(iii) requires the central registry to ''acknowledge receipt of the case and request any missing documentation.'' We have similarly streamlined proposed § 303.7(b)(2)(iv) by requiring the central registry to inform the ''initiating agency'' where the case was sent for action, in lieu of the current requirement in paragraph (a)(2)(iv) to notify the ''IV–D agency in the initiating State.'' As defined in § 301.1, ''*initiating agency*'' means the agency from which a referral for action is forwarded to a responding agency and could include a State IV–D agency, a Tribal IV–D agency, or a country as defined in these regulations.

Aside from substituting ''initiating agency'' for the current ''initiating State,'' § 303.7(a)(3) has simply been renumbered as proposed paragraph (b)(3). Some States have expressed concerns that the existing requirement to ''forward the case for any action which can be taken'' pending receipt of additional information the initiating agency failed to provide is problematic and a central registry should be allowed to hold any intergovernmental case referred to it until all information is provided. The goal of the existing requirement is to ensure that complex intergovernmental cases are not held up unnecessarily over what may be a technicality, when some relief may be available to the petitioner. On the other hand, we have heard concerns that this provision allows initiating jurisdictions to be unresponsive and frequently engenders double work by the

responding State agency because the initiating State agency fails to provide information or documentation critical to resolving the matter. In this NPRM, we are leaving this provision unchanged but invite comments on the pros and cons of this case processing requirement.

The final central registry provision simply moves current § 303.7(a)(4) to paragraph (b)(4) but again proposes to substitute ''initiating agencies'' for ''other States.'' The substance of the requirement, to provide a case status within 5 working days of receipt of the request, remains unchanged.

(c) Initiating State IV–D Agency Responsibilities

Readers are again reminded that these proposed regulations apply only to State IV–D agencies. These requirements are not imposed on a foreign country or a Tribal IV–D program that has forwarded a case to a State.

Proposed § 303.7(c) contains necessary revisions to initiating State agency responsibilities currently in paragraph (b). As described earlier, we propose moving initiating State responsibilities now in paragraph (b)(4) (regarding providing necessary information) and (b)(5) (notice of receipt of new information on a case) and the second half of paragraph (b)(3) (permitting use of computer-generated replicas of Federal forms) to proposed paragraph (a) as general responsibilities of IV–D agencies in intergovernmental cases. These proposed paragraphs are described earlier in this preamble under § 303.7(a) *General Responsibilities*.

In making the significant changes to § 303.7, we consulted and considered the varied opinions among our partners. We have proposed only those changes we believe will improve intergovernmental child support enforcement without placing an undue burden on States. To streamline discussion of the proposed requirements for initiating State IV–D agencies, we discuss them as they now appear in paragraph (c).

Determination of Controlling Order (DCO)

We discussed earlier in this preamble concern for assuming responsibility to decide in which State tribunal a determination of controlling order (DCO) and reconciliation of arrearages should be made to improve interstate child support efforts. The first step in such a decision is to identify all support orders. Accordingly, proposed § 303.7(c)(1) adds the requirement that an initiating agency must first: ''Determine whether or not there is a support order or orders in effect in a case using the Federal and State Case Registries, State records, information provided by the recipient of services, and other relevant information available to the State.'' Determining whether or not a support order exists is required to understand whether a new support order may be sought or an existing order enforced or modified.

We next propose in paragraph (c)(2) that the initiating agency must: ''Determine in which State a determination of controlling order and reconciliation of arrearages may be made where multiple orders exist.'' Under UIFSA, a DCO identifies the one order to be prospectively enforced. The law of the State that issued it governs the nonmodifiable aspects of the support order. The issuing tribunal also is where a modification must be sought unless all individual parties and the child have left the issuing jurisdiction or the individual parties have properly consented to another State assuming jurisdiction. (See sections 205, 611, and 613 of UIFSA 1996.) However, for a controlling order determination to be binding, it must be made by the appropriate tribunal. The UIFSA 2001 amendments clarify in section 207(b) that personal jurisdiction over the individual parties is required for a DCO.

Having ascertained under proposed § 303.7(c)(1) that multiple valid support orders exist, the initiating State would then ascertain which of the several tribunals that issued a support order will be able to obtain personal jurisdiction over both the obligor and obligee. If more than one State tribunal has the jurisdiction to determine the controlling order, pursuant to paragraph (c)(4)(i), the initiating agency would be authorized to choose which State IV–D agency should file for such relief.

Use of Long-Arm Jurisdiction

Existing regulations require a State IV–D agency to ''use its long-arm statute to establish paternity, when appropriate.'' We believe that the existing regulation at § 303.7(b)(1) too narrowly focuses on long-arm paternity litigation. Accordingly, we propose in § 303.7(c)(3) that the initiating agency must ''determine the appropriateness of using its one-state interstate remedies to establish paternity and establish, modify, and enforce a support order, including medical support and income withholding.'' We incorporate and build on current paragraph (b)(1), expanding this section to potential one-state resolution of a full range of child support establishment and enforcement responsibilities.

We made clear in OCSE–AT–98–30, Question 1, (*http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9830.htm*) that a responding jurisdiction may not ''second guess'' the decision of the initiating State with respect to use of long-arm jurisdiction. OCSE recognizes the benefits of obtaining or retaining control of a case where the responding party resides outside State borders. Indeed, we encourage one-state solutions. However, the initiating State agency is free to weigh the legal and factual circumstances of a case and select whether to exercise long-arm jurisdiction that is available, or not. Nothing in these proposed regulations modify a State's decision-making authority to select a one-state or two-state approach in interstate cases. The choice remains within the purview of the initiating State IV–D agency.

Referring Cases to Another State for Action

Our proposed language retains the requirement to act ''within 20 calendar days of determining that the noncustodial parent is in another jurisdiction and, if appropriate, receipt of any necessary information needed to process the case.'' Proposed § 303.7(c)(4) renumbers and revises current § 303.7(b)(2). However, the existing rule mandates a referral of ''any interstate IV–D case'' to the responding State's central registry ''for action, including requests for location, document verification, administrative reviews in Federal tax refund offset cases, income withholding, and State tax refund offset in IV–D cases.''

In lieu of this requirement, we propose that within 20 calendar days of determining that the noncustodial parent is in another jurisdiction and, if appropriate, receipt of any necessary information needed to process the case; the initiating agency must either, if multiple orders are in existence and identified under paragraph (c)(1), ask an intrastate tribunal for a DCO and reconciliation of arrearages, or determine that a DCO and reconciliation will be requested in the appropriate responding tribunal. Under paragraph (c)(4)(ii), if a one-state interstate remedy will not be used and a DCO by an intrastate tribunal is not required under paragraph (c)(4)(i), the initiating agency must ''refer any intergovernmental IV–D case to the appropriate State central registry, Tribal IV–D program, or central authority of a country for action.'' We note that in international cases there may be a need to translate the forms and necessary supporting documentation. We invite comments regarding reasonable time requirements for such

translation, if necessary. In the proposed regulation, we have not built in time for translation within the specified 20 calendar days because we believe that, until the necessary translation is complete, the initiating agency will not have ''any necessary information needed to process the case'' under paragraph (4).

Necessary Information and Forms

Proposed § 303.7(c)(5) mirrors the first part of current § 303.7(b)(3), continuing the mandate on the initiating agency to ''provide the responding agency sufficient, accurate information to act on the case by submitting with each case any necessary documentation and intergovernmental forms.'' As discussed previously, the remaining part of current paragraph (b)(3), requiring the use of federally-approved forms in hard or electronic format, is now a general responsibility of all IV–D agencies in intergovernmental cases.

Similarly, proposed § 303.7(c)(6) contains the existing requirements of § 303.7(b)(4), again revised to streamline language. We substitute ''responding agency'' for ''IV–D agency or central registry in the responding State'' and delete the now extraneous language about the form of transmission. The latter deletion is appropriate given both the general requirements on use of federally-approved forms and preference for electronic transmission in proposed § 303.7(a)(4) and (5) as well as the proposed definition of ''form.'' The timeframe remains unchanged and the section would now read: ''Within 30 calendar days of receipt of the request for information, provide the responding agency with an updated intergovernmental form and any necessary additional documentation, or notify the responding agency when the information will be provided.''

Interest

We add a new requirement in proposed § 303.7(c)(7). States often raise case processing difficulties caused by the wide range of State policies around charging interest on arrearages. Where a State A order is being enforced in State B, UIFSA section 604(a) provides that the law of the issuing State governs ''the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.'' Therefore, in calculating the sum due by the obligor, State B must apply the law of State A, including the payment of interest charged by State A, if any.

Historically, automated calculation of interest charged by another State is difficult for State automated CSE systems, especially for older statewide CSE systems. The transferred case is so integrated into the responding State's automated CSE system that if the responding State also charged interest, State systems may incorrectly charge interest at that rate, rather than following the law of the issuing jurisdiction.

States have asked us to require States that charge interest to periodically calculate the amount of interest owed and notify the enforcing State. Therefore, we have added a provision we believe will keep the arrearage balance in the responding State more accurate. Proposed § 303.7(c)(7) requires the initiating agency to ''[n]otify the responding agency at least quarterly of interest charges, if any, owed on overdue support under an initiating State order being enforced in the responding jurisdiction.'' We invite comments on proposed paragraph (c)(7), and on whether and how accounting records should be updated when the controlling order was not issued by the initiating State.

Initiating State Enforcement Activities

Federal enforcement techniques. Proposed § 303.7(c)(8) clarifies the responsibility of the initiating State IV–D agency when submitting past-due support for administrative offset and passport denial and addresses when a State may submit past-due support in intergovernmental cases for Federal tax refund offset.

In proposed § 303.7(c)(8), we expressly assign responsibility to submit the qualifying past-due support in an interstate case to the initiating agency, consistent with submittal rules for Federal tax refund offset under § 303.72(a)(1), i.e., a State with an assignment of support rights or an application for IV–D services under § 302.33. In addition, OCSE–AT–98–17 (*http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9817.htm*) directs that in interstate cases, the State in which the IV–A, IV–E, or Medicaid assignment of support rights or nonassistance application for IV–D services has been filed (i.e., the initiating State) must submit the past-due support for Federal tax refund offset, administrative offset, or passport denial. It is necessary to specify which State must submit the past-due support debt for offset to avoid both States submitting the same arrearage in a single case. Therefore, we propose that, under paragraph (c)(8), the initiating State agency must: ''Submit all past-due support owed in IV–D cases that meets the certification requirements under § 303.72 of this part for Federal tax refund offset, and such past-due support, as the State determines to be appropriate, for other Federal enforcement techniques such as administrative offset under 31 CFR Part 285.3 and passport denial under section 452(k) of the Act.''

Reporting Arrearages to Consumer Reporting Agencies. With respect to responsibility for submitting arrearages to credit bureaus under section 466(a)(7) of the Act, States have requested Federal regulations to specify that the initiating State, rather than the responding State, is responsible for credit bureau reporting. We concur that such a requirement is appropriate to avoid duplicate enforcement efforts and have added proposed § 303.7(c)(9) mandating the initiating agency to: ''[r]eport overdue support to Consumer Reporting Agencies, in accordance with section 466(a)(7) of the Act and § 302.70(a)(7) of this chapter.''

Request for Review and Adjustment of a Support Order. Proposed § 303.7(c)(10) is simply a renumbering of existing § 303.7(b)(6) under which the initiating State must send a request for a review of a support order and supporting documentation within 20 calendar days of determining that such a request is required. This provision regarding federally-mandated review and adjustment of support orders remains applicable only in an interstate case.

Initiating State Responsibility for Distribution and Disbursement of Collections

Proposed § 303.7(c)(11) requires that the initiating State: Distribute and disburse any support collections received in accordance with distribution and disbursement requirements in this section and §§ 302.32, 302.51 and 302.52 of this chapter, sections 454(5), 454B, 457, and 1912 of the Act, and instructions issued by the Office. Current regulations at § 303.7(c)(7)(iv) and proposed § 303.7(d)(6)(iv) require the responding State to forward payments to the location specified by the initiating State. However, there is no stated responsibility in current § 303.7 for distribution and disbursement by the initiating agency. We believe it is appropriate to explicitly include initiating State responsibility for distribution and disbursement of collections in proposed § 303.7(c)(11).

Initiating State Notice of Case Closure

We have proposed two new provisions under initiating State responsibilities that are related to case closure. Proposed § 303.7(c)(12) requires an initiating State agency to ''notify the responding agency within 10 working

days of case closure that the initiating State IV–D agency has closed its case pursuant to § 303.11 of this part.'' This provision is consistent with other requirements in proposed § 303.7(c) to keep the responding jurisdiction advised of the status of the intergovernmental case. It is added for clarity; we believe that States already are required to provide a change in case status as ''new information'' under existing regulations. This provision ensures the responding agency is notified of case closure in the initiating State.

The second case closure-related provision addresses direct income withholding. Section 303.100(f)(1) and (2) contain current Federal requirements for direct income withholding. In essence, State law must require all employers in the State to comply with a properly-completed withholding order/notice issued by another State. Article 5 of UIFSA, enacted in every State, mirrors the choice of law requirements in paragraph (f)(2) and provides procedures for direct income withholding.

While direct income withholding has proved to be effective, in paragraph (c)(13) we address the issue of duplicate withholding notices/orders for the same obligor being sent to the obligor's employer by both the initiating and responding States in the same interstate case. We propose requiring the initiating agency under paragraph (c)(13) to ''instruct the responding State agency to close its interstate case and to stop any withholding order or notice the responding agency has sent to an employer before the initiating State transmits a withholding order or notice to the same or another employer unless the two States reach an alternative agreement on how to proceed.'' The initiating State would be required to notify another State IV–D agency under § 303.11(c)(13) to avoid duplicate State income withholding orders or notices.

The use of direct income withholding under UIFSA offers an excellent, streamlined process. It also affords protections for the obligor and the employer. However, during the past decade of operating under direct income withholding, State practitioners and employers have raised concerns about the following situation: State A initiated a two-state interstate case to State B, under which a State B income withholding order is issued to the obligor's State B employer. The withheld support payments flow from the employer to State B, which then forwards the support to State A within 2 days of receipt. State A distributes and disburses the child support. Subsequently, the obligor changes employment, State A and B learn of the new employer through the National Directory of New Hires or State Directory of New Hires, and both States A and B send a withholding notice or order to the new employer. State A directs the employer to send the child support withheld in the same case to State A rather than State B. This can result in errors in payment records.

Question and Answer 21 of OCSE–AT–98–30 (*http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9830.htm*) advises States that, while this practice is not precluded by UIFSA or Federal regulation, ''pursuing dual enforcement remedies could lead to confusion on the part of the employer, the obligor and obligee, and the IV–D agencies. If a State pursues direct income withholding after referring a case to another State for enforcement, it must coordinate with the responding State and notify that State of any direct withholding and collections from direct withholding, in accordance with [current] 45 CFR 303.7(b)(5). Communication between the two States is critical to ensure accurate payment records and to avoid duplicative enforcement actions.'' Unless initiating and responding agencies communicate with respect to direct income withholding, problems may arise. Multiple income withholding notices/orders for the same obligor and obligee may result in an employer directing payment to two different locations. Payments made directly to the initiating State may not be properly credited in the responding State, which may take enhanced enforcement activities in State B, despite the possibility that the obligated parent may be in full compliance with the order.

In consideration of these possible consequences and consistent with the expressed preference of IV–D Directors, we propose requiring an initiating agency to choose between two-state enforcement and direct income withholding in such circumstances. Proposed paragraph (c)(13) would establish a clear delineation of responsibilities between States and the critical need to ensure the arrearages and payment records are accurate. It would reduce duplication and confusion. Rapidly-expanded use of electronic payment processing should reduce the time it takes for withheld amounts sent to State B (the responding State) to reach State A, thereby reducing a State's preference for direct income withholding and ensuring access to State enforcement techniques in a responding State, e.g., State tax offset, lottery offset.

That said, it is important to note that, should the initiating State make this choice under proposed paragraph (c)(13), the responding State agency would be required to close its case under proposed § 303.7(d)(11). However, because we believe States should have the flexibility to agree that the responding State should continue to take such limited enforcement actions only it can do, e.g., Automated Enforcement of Interstate cases (AEI), State tax refund offset, lottery offset, professional and recreational license revocation, while the initiating State takes direct action, paragraph (c)(13) permits them to jointly agree to an alternative arrangement that would allow the responding State to continue such limited services.

The final proposed requirement on initiating IV–D agencies addresses concerns about undistributed collections in a responding State because the initiating State closed its case and refuses to accept any collections in that case from the responding State. We propose to add § 303.7(c)(14) providing: ''If the initiating agency has closed its case pursuant to § 303.11 and has not notified the responding agency to close its corresponding case [the initiating State IV–D agency must] make a diligent effort to locate the obligee, including use of the Federal Parent Locator Service and the State Parent Locator Service, and accept, distribute and disburse any payment received from a responding agency.'' See also Question and Answer 2 of PIQ–00–02, *http://www.acf.hhs.gov/programs/cse/pol/PIQ/2000/piq-00-02.htm*, which addresses responding States sending collections in interstate cases to initiating States for distribution when the location of the custodial parent is unknown.

(d) Responding State IV–D Agency Responsibilities

As with the immediately preceding section on initiating State IV–D agency responsibilities, we have reorganized requirements under current § 303.7(c) (addressing responding State responsibilities) and revised language to streamline the section and to recognize the scope of intergovernmental cases. We discuss the changes to responding agency responsibilities, including the additions, in the order they appear in proposed § 303.7(d).

We have added introductory language immediately after the heading to proposed paragraph (d): ''Upon receipt of a request for services from an initiating agency, the responding agency must * * *.'' As discussed earlier in the preamble, these regulations would

govern cases received not only from another State but also from a Tribal IV–D program, from an FRC, or from a country with which the State has entered into a reciprocal arrangement pursuant to section 459A(d) of the Act. With limited and explicit exceptions discussed herein, the State requirements of § 303.7(d) extend to all IV–D intergovernmental cases, as defined by § 301.1, received by a State. Thus, ''intergovernmental'' has been substituted for ''interstate'' throughout paragraph (d). Where we have retained ''interstate'' the election is purposeful and explained below.

Proposed § 303.7(d)(1) has been added to confirm explicitly in this regulation what has been the longstanding OCSE policy, set out in OCSE–AT–98–30 (*http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9830.htm*) Question and Answer #1. A responding agency may not question the decision of an initiating agency to opt for a two-state remedy. As reconfirmed by proposed § 303.7(c)(3), the initiating agency is responsible for determining if its use of a one-state remedy, such as asserting jurisdiction over a nonresident or using direct income withholding, is appropriate. Section 303.7(d)(1) requires a responding agency to ''[a]ccept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that jurisdiction.''

Current § 303.7(c)(4) has been renumbered § 303.7(d)(2). Current § 303.7(c)(4) begins: ''Within 75 days of receipt of an Interstate Child Support Transmittal Form and documents from its interstate central registry:''. With the exception of the introductory sentence, this provision has not been changed. The proposed opening sentence now reads: ''Within 75 calendar days of receipt of an intergovernmental form and documentation from its central registry * * *'' the responding agency must take the specified action. We have deleted the language ''Interstate Child Support Transmittal'' and ''interstate'' in the proposed (d)(2). Under proposed § 303.7(b), the central registry is obligated to handle all intergovernmental cases in accordance with that section.

We have left in place existing requirements for specified actions from existing paragraph (c)(4) in proposed paragraph (d)(2). Paragraph (d)(2)(i) requires ''Provide location services in accordance with § 303.3 of this part if the request is for location services or the form or documentation does not include adequate location information on the noncustodial parent.'' Paragraph (d)(2)(ii) provides, ''If unable to proceed with the case because of inadequate documentation, notify the initiating agency of the necessary additions or corrections to the form or documentation.'' Finally, paragraph (d)(2)(iii) provides, ''If the documentation received with a case is inadequate and cannot be remedied without the assistance of the initiating agency, process the case to the extent possible pending necessary action by the initiating agency.''

We are particularly interested in comments on whether proposed § 303.7(d)(2)(iii) to ''process the case to the extent possible'' when documentation from the initiating agency is inadequate and cannot be remedied without the assistance of the initiating agency remains useful and serves to advance the effectiveness of case processing.

When Noncustodial Parent (NCP) Is Found in a Different State

Current regulation § 303.7(c)(6) provides States the option to either forward or return the interstate package to the initiating jurisdiction within 10 working days of locating the noncustodial parent in a different State. Some States have asked that we eliminate this option and adopt a regulation under which an interstate referral received by the wrong tribunal must be forwarded to the appropriate State where the NCP is located, if known, and the forwarding State must notify the initiating State. The goal is to expedite interstate case processing, avoiding the delay occasioned when the case documentation is returned to the initiating State.

We propose to renumber current § 303.7(c)(6) as § 303.7(d)(3) and to revise it to read as follows: ''Within 10 working days of locating the noncustodial parent in a different State, the responding agency must forward/transmit the forms and documentation to the central registry in the State where the noncustodial parent has been located and notify the initiating agency and central registry where the case has been sent.''

We note that the obligation to forward/transmit the ''forms and documentation'' applies only if the respondent is located in another State. This action is not mandated where the respondent is located in a Tribal territory or in another country. However, the proposed responding State requirement to notify the initiating agency does apply regardless of whether the case was initiated from another State, IV–D Tribe, or country.

The existing regulation also requires notice to both the State and the interstate central registry in the initiating State. We have changed the language ''State'' in the current paragraph to ''initiating agency'' in proposed paragraph (d)(3). As the central registry functions must be integrated into the State CSE automated system, we are requesting comments as to whether there is a need to notify both the initiating agency and the central registry. If not, where should the notice be directed?

Proposed § 303.7(d)(4) is based on and is substantially similar to current § 303.7(c)(5). Applicable to the situation where the noncustodial parent is located in another jurisdiction within the State, we propose that paragraph (d)(4) require the responding agency to: ''[w]ithin 10 working days of locating the noncustodial parent in a different jurisdiction within the State, forward or transmit the forms and documentation to the appropriate jurisdiction and notify the initiating agency and central registry of its action;'', changing ''State'' to ''initiating agency.'' Again, we have left the current notice requirements in place but invite comments as to whether the notice should be to the initiating agency, the central registry, or to both.

Determination of Controlling Order (DCO)

Proposed § 303.7(d)(5) adds a notice requirement where the initiating State agency has requested a controlling order determination. In this case, the responding agency must under (d)(5)(i), ''File the controlling order determination request with the appropriate tribunal in its State within 10 working days of receipt of the request or location of the noncustodial parent, whichever occurs later'' and under (d)(5)(ii), ''Notify the initiating State agency, the Controlling Order State and any State where a support order in the case was issued or registered, of the controlling order determination and any reconciled arrearages within 30 calendar days of receipt of the determination from the tribunal.''

Performance incentives and penalties permit us to move away from measuring process; therefore we hesitate to impose additional time standards. As proposed, States must look at these timeframes as part of the self-assessment process under § 308.2 as revised by these proposed regulations. We particularly want States to comment on the timeframe in paragraphs (d)(5)(i) and (ii). Since the initiating agency is required to provide all documentation, we believe 10 working days under paragraphs (d)(5)(i) is sufficient time for

the responding agency to file the request for a DCO with the appropriate tribunal. The 30 day timeframe in paragraph (d)(5)(ii) is identical to that included under section 207(f) of UIFSA, under which the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support, within 30 calendar days after issuance of an order determining the controlling order.

Provide Necessary Services

Current § 303.7(c)(7) has been renumbered as proposed § 303.7(d)(6) and requires the responding agency to provide any necessary services, including establishing paternity and/or a support order, enforcing another State's order, collecting and monitoring payments, and reviewing and adjusting orders. Minor language changes have been made to the introductory sentence to fit the revised structure of the section and to clarify that the list is not intended to be exhaustive. A responding State is required, under proposed paragraph (d)(6), to ''[p]rovide any necessary services as it would in an intrastate IV–D case including * * *.''

The one substantive change to current paragraph (c)(7) in proposed paragraph (d)(6) occurs in paragraph (d)(6)(iv). To conform to other OCSE efforts around systems and interstate communication standards, we propose deleting the following current paragraph (c)(7)(iv) language: ''and include the responding State's identifying code as defined in the Federal Information Processing Standards Publication (FIPS) issued by the National Bureau of Standards or the Worldwide Geographic Location Codes issued by the General Services Administration.''

Proposed paragraph (d)(6)(iv) would require the responding agency to provide any necessary services as it would in an intrastate IV–D case including: ''(iv) Collecting and monitoring any support payments from the noncustodial parent and forwarding payments to the location specified by the initiating agency. The IV–D agency must include sufficient information to identify the case, indicate the date of collection as defined under § 302.51(a) of this chapter, and include the responding State's case identifier and locator code, as defined in accordance with instructions issued by this Office.'' This change allows OCSE greater flexibility to define consistent identifying and locator codes, including ones for FRCs [International Standards Organization (ISO) codes] and Tribal IV–D programs [Bureau of Indian Affairs (BIA) codes]. OCSE DCL–07–02 (*http://www.acf.dhhs.gov/programs/cse/pol/DCL/2007/dcl-07-02.htm*) provides locator code instructions, including for Tribal IV–D and international cases.

Notice of Hearings

We propose moving current § 303.7(c)(8), which requires the responding IV–D agency to notify the initiating State agency of any formal hearing in the responding State, to paragraph (d)(7). Proposed paragraph (d)(7) would read: ''Provide timely notice to the initiating agency in advance of any hearing before a tribunal that may result in establishment or adjustment of an order.'' The language is substantially similar; however we have deleted ''formal'' before ''hearing.'' Given the primary use of expedited quasi-judicial and administrative hearings, and the growing use of alternative dispute resolution proceedings, we believe the proposed language clarifies that notice should be given of any hearing at which a support order is established or modified.

Allocation of Collections

Some State IV–D directors expressed concerns about interstate cases in which a State may allocate collections among multiple orders and cases. Two scenarios are most frequently raised. *Scenario One:* The responding State makes a collection in an interstate Case A, retains some or all of the collection to satisfy arrearages assigned to the responding State and owed by the same obligor in Case B, and does not transmit the entire collection to the initiating State for distribution and disbursement. *Scenario Two:* A responding State makes a collection in interstate Case A, credits the payment to that case, and forwards the money to the initiating State for distribution and disbursement. The initiating State receives the collection for Case A but applies it, in part, to support due by the same obligor to several families in Cases B and C. The initiating State may not advise the responding State how the payment was allocated and distributed.

We recognize these concerns; however, practice with respect to allocation varies significantly among States and there is no consensus on a solution. We believe that to a significant extent concerns raised by the second scenario are resolved by ensuring that the initiating agency refers all cases involving the obligor to the responding agency rather than just one case. Enhanced communication and QUICK also should address issues about conflicting arrearages in the initiating and responding States. We propose adding § 303.7(d)(8) to address allocation of collections in interstate cases with arrearages owed by the same obligor and assigned to the responding State in a different case. Under proposed paragraph (d)(8), responding States would be required to: ''(8) When there is an arrearage assigned to the responding State in a separate case, establish and use procedures to allocate collections, proportionately, between arrearages assigned to the responding State in that separate case and to arrearages owed to an obligee in, or assigned to, the initiating State, when the initiating State has requested assistance from the responding State in collecting those arrearages.'' Of course, payment of current support has priority over payment of arrearages.

Notice of Fees and Costs Deducted

We propose moving current § 303.7(d)(5), currently under *Payment and recovery of costs in interstate IV–D cases* to proposed § 303.7(d)(9) under responding State duties. Current § 303.7(d)(5) requires the IV–D agency in the responding State to identify any fees or costs deducted from support payments when forwarding payments to the IV–D agency in the initiating State in accordance with § 303.7(c)(7)(iv). We believe the requirement to ''identify any fees or costs deducted from the support payments when forwarding payments to the IV–D agency in the initiating State'' is more appropriately placed under responding State responsibilities. We propose only minor changes for readability. Specifically, we have changed the language ''the IV–D agency in the initiating State'' in current paragraph (d)(5) to ''the initiating agency'' in proposed paragraph (d)(9) and corrected the cross-reference from the current language § 303.7(c)(7)(iv) to reflect the appropriate cross-reference in these proposed regulations, § 303.7(d)(6)(iv). Proposed paragraph (d)(9) would therefore read that the responding State agency must ''[i]dentify any fees or costs deducted from support payments when forwarding payments to the initiating agency in accordance with paragraph 303.7(d)(6)(iv) of this section.''

Case Closure in Direct Income Withholding Cases

We propose adding a new § 303.7(d)(10) detailing the actions a responding agency must take when an initiating State has elected to use direct income withholding in an existing intergovernmental IV–D case. The initiating State would be authorized to use direct income withholding only where it follows requirements to instruct the responding agency to close its corresponding case under proposed

§ 303.7(c)(13). Accordingly, proposed paragraph (d)(10) requires the responding agency to: ''Within 10 days of receipt of a request for case closure from an initiating agency under paragraph (c)(13) of this section, stop the responding State's income withholding order or notice and close the intergovernmental IV–D case, unless the two States reach an alternative agreement on how to proceed.'' The rationale for this proposal is discussed earlier under proposed paragraph (c)(13). Again, we note that the election to close an interstate case involving two States belongs exclusively to the initiating agency. If an alternate agreement has been reached between the initiating and responding agencies to stop the withholding in the responding jurisdiction but continue limited services in the responding State, the agencies should document the terms of any alternate agreement and ensure that employers are not faced with conflicting income withholding orders.

Current § 303.7(c)(10) requires the IV–D agency to notify the interstate central registry in the responding State when a case is closed. Renumbered as proposed paragraph (d)(11), it reads as follows: ''Notify the initiating agency when a case is closed pursuant to § 303.11 of this part.'' The current paragraph (c)(10) phrase 'interstate central registry' has been changed in proposed paragraph (d)(11) to 'initiating agency' because these regulations cover the full range of intergovernmental cases. We propose that the IV–D agency send notice to the initiating agency to ensure both jurisdictions in an intergovernmental case are aware of case status. This provision is consistent with other requirements in proposed § 303.7 to keep the involved jurisdictions advised of the status of a case. It is added for clarity; States already are required to provide a change in case status upon receipt of new information under existing regulations.

(e) Payment and Recovery of Costs in Intergovernmental IV–D Cases

Current § 303.7(d) governing *Payment and recovery of costs in interstate cases,* with the exception of current paragraph (d)(5), has been moved to proposed paragraph (e), reorganized, and revised. Current paragraph (d)(5), requiring the responding State to notify the initiating State of fees deducted by a responding State is moved to proposed § 303.7(d)(9), under responding agency responsibilities and described above. Current paragraphs (d)(1) and (2) require the responding State to pay the costs it incurs in processing interstate IV–D cases except for genetic testing costs, which are paid by the initiating agency. Current paragraph (d)(3) directs the responding State, if paternity is established in the responding State, to attempt to obtain a judgment for costs of genetic testing ordered by the IV–D agency from the alleged father who denied paternity. If the costs of initial or additional genetic testing are recovered, the responding State must reimburse the initiating State.

These provisions have been consolidated and revised, primarily to shift the advancement of genetic testing costs from the initiating to the responding agency. As required by Federal law, we also limit the authority of a IV–D agency to recover costs in international cases. Accordingly, we propose deleting current paragraphs (d)(1)–(3) and including as § 303.7(e)(1): ''The responding IV–D agency must pay the costs it incurs in processing intergovernmental IV–D cases, including the costs of genetic testing. If paternity is established, the responding agency must seek a judgment for the costs of testing from the alleged father who denied paternity.''

State IV–D directors and interstate caseworkers have long requested that we change the current obligation for the initiating State to pay the cost of genetic testing in interstate cases in current § 303.7(d)(2) to require the responding State to pay these costs, as is the case with any other costs responding States incur in interstate cases. Charging and collecting genetic testing costs from initiating States has proven administratively burdensome to responding States. In addition, the cost of genetic testing has decreased dramatically from $1000 or more to as little as $150 under State contracts.

Both State agencies retain the right to charge fees and recover costs in interstate cases. However, in international cases receiving services under section 454(32)(C) of the Act, States must provide services without requiring an application or charging fees to the FRC or foreign obligee. Therefore, we have renumbered current paragraph (d)(4) as proposed paragraph (e)(2) and revised it to read as follows: ''Each State IV–D agency may recover its costs of providing services in intergovernmental non-IV–A cases in accordance with § 302.33(d) of this chapter, except that a IV–D agency may not recover costs from an FRC or from a foreign obligee in that FRC, when providing services under sections 454(32) and 459A of the Act.'' The limitation on cost recovery has been added as required by Federal law. Services between FRCs must be cost free. States entering a state-level arrangement with a non-FRC country under section 459A may elect to provide cost-free services but are not mandated to do so. Accordingly, this section refers to FRCs rather than using the more inclusive term ''country.'' However, there is no similar prohibition to charging fees or recovering costs in cases with Tribal IV–D agencies. In addition, Tribal IV–D agencies have the option under § 309.75(e) to charge fees and recover costs.

Proposed Section 303.11—Case Closure Criteria

In intergovernmental cases, a responding State IV–D agency may apply any of the criteria for case closure set out in current regulations at 45 CFR 303.11. Existing paragraphs (b)(1) through (b)(11) pertain to all IV–D cases. Current § 303.11(b)(12) allows a case to be closed when the initiating State fails to take an action essential for the responding State to provide services. This provision currently is the only existing criterion specifically applicable in interstate cases. We propose revising § 303.11(b)(12) to read as follows: ''The IV–D agency documents failure by the initiating agency to take an action which is essential for the next step in providing services.'' Therefore, this case closure criterion would apply to all intergovernmental IV–D cases.

We have added a new paragraph § 303.11(b)(13) providing an additional case closure criterion under which the responding State agency is authorized to close its intergovernmental case based on a notice under § 303.7(c)(12) from the initiating agency that it has closed its case. Under proposed paragraph § 303.7(c)(12), as discussed above, an initiating State agency must notify the responding agency ''within 10 working days of case closure that the initiating State IV–D agency has closed its case pursuant to § 303.11.'' It is not relevant to the responding State agency under which case closure provision of § 303.11(b) the initiating agency has closed its case; it is relevant only that it has done so and timely notified the responding agency. Upon receipt of such a notice, the responding agency would have authority to correspondingly close its case, without having another basis.

The proposed changes to § 303.11 provide a basis for the responding agency to close an intergovernmental case due to lack of necessary action by the initiating agency or upon notice that the initiating agency has closed its case.

Part 305—Program Performance Measures, Standards, Financial Incentives, and Penalties

Proposed Section 305.63—Standards for Determining Substantial Compliance With IV–D Requirements

We have made conforming changes to Part 305 at § 305.63 to correct outdated cross-references and to include cross-references to the new proposed § 303.7.

Part 308—Annual State Self-Assessment Review and Report

Proposed Section 308.2—Required Program Compliance Criteria

We have made conforming changes to Part 308 at § 308.2 to correct outdated cross-references and to include cross-references to the new proposed requirement in § 303.7. While the language has been revised to reflect the corresponding changes to referenced provisions in § 303.7, we only have added two new program compliance criteria for State Self-Assessments.

First, as discussed earlier, we propose a timeframe under § 303.7(a)(6): 30 days for a State to provide ''any information requested * * * for a controlling order determination and reconciliation of arrearages.'' We propose to add this measurable requirement as a performance criterion in both initiating (§ 308.2(g)(1)(vi)) and responding (§ 308.2(g)(2)(vi)) cases.

A second new performance area involves case closure criteria. As discussed previously under § 303.7 and § 303.11, we impose time-measured requirements for notification of the other State when closing a case. Measurable performance criteria are established where we impose timeframes. Accordingly, we add notification regarding case closure in both initiating (§ 308.2(g)(1)(iv)) and responding (§ 308.2(g)(2)(vii)) cases.

IV. Impact Analysis

Paperwork Reduction Act of 1995

There is a new requirement imposed by these regulations. Proposed § 303.7(d)(5) adds a notice requirement where the initiating agency has requested a controlling order determination. In this case, the responding agency must:

''(i) File the controlling order determination request with the appropriate tribunal in its State within 10 working days of receipt of the request or location of the noncustodial parent, whichever occurs later;''

For this new regulatory requirement statewide Child Support Enforcement systems are already required to have the functionality to generate the documents necessary to establish an order of support. This new regulatory requirement would be considered a minor change or enhancement to a statewide CSE system.

Under paragraph (d)(5)(ii) of the section, the responding Agency must: ''(ii) Notify the initiating State agency, the Controlling Order State and any State where a support order in the case was issued or registered, of the controlling order determination and any reconciled arrearages within 30 calendar days of receipt of the determination from the tribunal.''

This provision should not increase the information collection burden on the State(s) because a Child Support Enforcement Network (CSENet) transaction for transmitting information about the determination of the controlling order to other states already exists. CSENet already has a transaction: *ENF Provide—GSCOE–enforcement—Provision of information, new controlling order.* It is sent by the responding state—the transaction is used to reply to an Enforcement request notifying the Initiating jurisdiction that a new controlling support order is in effect. The amount of the reconciled arrearages can also be transmitted via CSENet in an information data block.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents 54	Average burden hours per response	Total burden hours
Systems modification	One time system enhancement	60 labor hours per State to modify statewide CSE system.	3,240 hours.

With respect to the information collection burden associated with proposed § 303.7(d)(5)(i), the Administration for Children and Families will consider comment by the public on this proposed collection of information in the following areas:

1. Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;

2. Evaluating the accuracy of ACF's estimate of the proposed collection of information, including the validity of the methodology and the assumptions used;

3. Enhancing the quality, usefulness, and clarity of the information to be collected; and

4. Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic mechanical, or other technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, either by fax to 202–395–6974 or by e-mail to OIRA *submission@omb.eop.gov.* Please mark faxes and emails to the attention of the desk officer for ACF.

It should be noted that the requirements of the Paperwork Reduction Act of 1995 [(44 U.S.C. 3507(d)], regarding reporting and recordkeeping, apply to the federally-mandated intergovernmental forms referenced in the regulations, (OMB No. 0970–0085). The Office of Management and Budget has reauthorized the use of these forms until January 31, 2011.

Regulatory Flexibility Analysis

The Secretary certifies that, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Act.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. These proposed rules provide solutions to problems in securing child support and paternity determinations for children in situations where the parents and children live apart and in different jurisdictions and the Department has determined that they are consistent with the priorities and principles of the Executive Order. There are minimal costs associated with these proposed rules.

These regulations are significant under section 3(f) of the Executive Order because they raise novel policy issues and therefore have been reviewed by the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $130 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rules and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the proposed rule.

The Department has determined that this proposed rule is not an economically significant rule and will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $130 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

Congressional Review

This notice of proposed rule making is not a major rule as defined in 5 U.S.C. chapter 8.

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 negatively 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. The required review of the regulations and policies to determine their effect on family well-being has been completed and these regulations will have a positive impact on family well-being as defined in the legislation by helping to ensure that parents support their children even when they reside in separate jurisdictions and will strengthen personal responsibility and increase disposable family income.

Executive Order 13132

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments or is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed regulation does not have federalism impact as defined in the Executive Order. However, consistent with Executive Order 13132, the Department specifically solicits comments from State and local government officials on this proposed rule.

List of Subjects

45 CFR Part 301

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Part 302

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Part 305

Child support, Grant programs/social programs, Accounting.

45 CFR Part 308

Auditing, Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Daniel C. Schneider,

Acting Assistant Secretary for Children and Families.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

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

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for part 301 is revised to read as follows:

Authority: 42 U.S.C. 651 through 658, 659A, 660, 664, 666, 667, 1301, and 1302.

2. Amend § 301.1 by republishing the introductory text and adding the following definitions alphabetically:

§ 301.1 General definitions.

When used in this chapter, unless the context otherwise indicates:

* * * * *

Central authority means the agency designated by a government to facilitate support enforcement with a foreign reciprocating country (FRC) pursuant to section 459A of the Act.

* * * * *

Controlling order state means the State in which the only order was issued or, where multiple orders existed, the State in which the order determined by a tribunal to control prospective current support pursuant to the UIFSA was issued.

Country means a foreign country (or a political subdivision thereof) declared to be an FRC under section 459A of the Act and any foreign country (or political subdivision thereof) with which the State has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with Federal law pursuant to section 459A(d) of the Act.

* * * * *

Form means a federally-approved document used for the establishment and enforcement of support obligations whether compiled or transmitted in written or electronic format, including but not limited to the Order/Notice to Withhold Income for Child Support, and the National Medical Support Notice. In interstate IV–D cases, such forms include those used for child support enforcement proceedings under the UIFSA. *Form* also includes any federally-mandated IV–D reporting form, where appropriate.

Initiating agency means the agency from which a referral for action is

forwarded to a responding agency and could include a State IV–D agency, a Tribal IV–D agency or a country as defined in these regulations.

Intergovernmental IV–D case means a case in which the dependent child(ren) and the noncustodial parent live in different jurisdictions that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV–D case may include any combination of referrals between States, Tribes, and countries.

Interstate IV–D case means a IV–D case in which the noncustodial parent lives and/or works in a different State than the custodial parent and child(ren). Unless otherwise specified, the term applies both to one-state and to two-state interstate cases.

* * * * *

One-state interstate IV–D case means an interstate case where a State exercises its jurisdiction over the nonresident parent or otherwise takes direct establishment, enforcement or other action, in accordance with the long-arm provisions of the UIFSA or other State law.

* * * * *

Responding agency means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV–D case.

* * * * *

Tribunal means a court, administrative agency, or quasi-judicial entity authorized under State law to establish, enforce, or modify support orders or to determine parentage.

Uniform Interstate Family Support Act (UIFSA) means the model act promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and mandated by section 466(f) of the Act to be in effect in all States.

PART 302—STATE PLAN REQUIREMENTS

3. The authority citation for part 302 is revised to read as follows:

Authority: 42 U.S.C. 651 through 658, 659A, 660, 664, 666, 667, 1302, 1396a (a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

4. Revise § 302.36 to read as follows:

§ 302.36 Provision of services in intergovernmental IV–D cases.

(a) The State plan shall provide that, in accordance with § 303.7 of this chapter, the State will extend the full range of services available under its IV–D plan to:

(1) Any other State;

(2) Any Tribal IV–D program operating under § 309.65(a) of this chapter; and

(3) Any country as defined in § 303.1 of this chapter.

(b) The State plan shall provide that the State will establish a central registry for intergovernmental IV–D cases in accordance with the requirements set forth in § 303.7(b) of this chapter.

PART 303—STANDARDS FOR PROGRAM OPERATIONS

5. The authority citation for part 303 is revised to read as follows:

Authority: 42 U.S.C. 651 through 658, 659A, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

6. Revise § 303.7 to read as follows:

§ 303.7 Provision of services in intergovernmental IV–D cases.

(a) *General Responsibilities.* A State IV–D agency must:

(1) Establish and use procedures for managing its intergovernmental IV–D caseload that ensure provision of necessary services as required by this section and include maintenance of necessary records in accordance with § 303.2 of this part;

(2) Periodically review program performance on intergovernmental IV–D cases to evaluate the effectiveness of the procedures established under this section;

(3) Ensure that the organizational structure and staff of the IV–D agency are adequate to provide for the administration or supervision of the following functions specified in § 303.20(c) of this part for its intergovernmental IV–D caseload: intake; establishment of paternity and the legal obligation to support; location; financial assessment; establishment of the amount of child support; collection; monitoring; enforcement, review and adjustment, and investigation;

(4) Use federally-approved forms in intergovernmental IV–D cases. When using a paper version, providing one copy of each form and supporting documents meets this requirement;

(5) Transmit requests for information and provide requested information electronically to the greatest extent possible in accordance with instructions issued by the Office;

(6) Within 30 working days of receiving a request, provide any order and payment record information requested by a State IV–D agency for a controlling order determination and reconciliation of arrearages;

(7) Notify the other agency within 10 working days of receipt of new information on an intergovernmental case; and

(8) Cooperate with requests for limited services, including locate, service of process, assistance with discovery, teleconferenced hearings, administrative reviews, and high-volume automated administrative enforcement in interstate cases under section 466(a)(14) of the Act.

(b) *Central registry.* (1) The State IV–D agency must establish a central registry responsible for receiving, transmitting, and responding to inquiries on all incoming intergovernmental IV–D cases.

(2) Within 10 working days of receipt of an intergovernmental IV–D case, the central registry must:

(i) Ensure that the documentation submitted with the case has been reviewed to determine completeness;

(ii) Forward the case for necessary action either to the central State Parent Locator Service for location services or to the appropriate agency for processing;

(iii) Acknowledge receipt of the case and request any missing documentation; and

(iv) Inform the initiating agency where the case was sent for action.

(3) If the documentation received with a case is inadequate and cannot be remedied by the central registry without the assistance of the initiating agency, the central registry must forward the case for any action that can be taken pending necessary action by the initiating agency.

(4) The central registry must respond to inquiries from initiating agencies within 5 working days of receipt of the request for a case status review.

(c) *Initiating State IV–D agency responsibilities.* The initiating agency must:

(1) Determine whether or not there is a support order or orders in effect in a case using the Federal and State Case Registries, State records, information provided by the recipient of services, and other relevant information available to the State;

(2) Determine in which State a determination of the controlling order and reconciliation of arrearages may be made where multiple orders exist;

(3) Determine the appropriateness of using its one-state interstate remedies to establish paternity and establish, modify, and enforce a support order, including medical support and income withholding;

(4) Within 20 calendar days of determining that the noncustodial parent is in another jurisdiction and, if appropriate, receipt of any necessary information needed to process the case:

(i) If the agency has determined there are multiple orders in effect under paragraph (c)(1) of this section, ask the appropriate intrastate tribunal for a determination of the controlling order

and for a reconciliation of arrearages or determine the request for such a determination will be made through the appropriate responding agency; and

(ii) Unless the case requires intrastate action in accordance with paragraphs (c)(3) or (4)(i) of this section, refer any intergovernmental IV–D case to the appropriate State central registry, Tribal IV–D program, or central authority of a country for action;

(5) Provide the responding agency sufficient, accurate information to act on the case by submitting with each case any necessary documentation and intergovernmental forms;

(6) Within 30 calendar days of receipt of the request for information, provide the responding agency with an updated intergovernmental form and any necessary additional documentation, or notify the responding agency when the information will be provided;

(7) Notify the responding agency at least quarterly of interest charges, if any, owed on overdue support under an initiating State order being enforced in the responding jurisdiction;

(8) Submit all past-due support owed in IV–D cases that meet the certification requirements under § 303.72 of this part for Federal tax refund offset, and such past-due support, as the State determines to be appropriate, for other Federal enforcement techniques, such as administrative offset under 31 CFR 285.3 and passport denial under section 452(k) of the Act.

(9) Report overdue support to Consumer Reporting Agencies, in accordance with section 466(a)(7) of the Act and § 302.70(a)(7) of this chapter;

(10) Send a request for review of a child support order to another State within 20 calendar days of determining that a request for review of the order should be sent to the other State and of receipt of information from the requestor necessary to conduct the review in accordance with section 466(a)(10) of the Act and § 303.8 of this part;

(11) Distribute and disburse any support collections received in accordance with this section and §§ 302.32, 302.51, and 302.52 of this chapter, sections 454(5), 454B, 457, and 1912 of the Act, and instructions issued by the Office;

(12) Notify the responding agency within 10 working days of case closure that the initiating State IV–D agency has closed its case pursuant to § 303.11 of this part;

(13) Instruct the responding agency to close its interstate case and to stop any withholding order or notice the responding agency has sent to an employer before the initiating State transmits a withholding order or notice to the same or another employer unless the two States reach an alternative agreement on how to proceed; and

(14) If the initiating agency has closed its case pursuant to § 303.11 and has not notified the responding agency to close its corresponding case, make a diligent effort to locate the obligee, including use of the Federal Parent Locator Service and the State Parent Locator Service, and accept, distribute and disburse any payment received from a responding agency.

(d) *Responding State IV–D agency responsibilities.* Upon receipt of a request for services from an initiating agency, the responding agency must:

(1) Accept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that jurisdiction;

(2) Within 75 calendar days of receipt of an intergovernmental form and documentation from its central registry:

(i) Provide location services in accordance with § 303.3 of this part if the request is for location services or the form or documentation does not include adequate location information on the noncustodial parent;

(ii) If unable to proceed with the case because of inadequate documentation, notify the initiating agency of the necessary additions or corrections to the form or documentation;

(iii) If the documentation received with a case is inadequate and cannot be remedied without the assistance of the initiating agency, process the case to the extent possible pending necessary action by the initiating agency;

(3) Within 10 working days of locating the noncustodial parent in a different State, the responding agency must forward/transmit the forms and documentation to the central registry in the State where the noncustodial parent has been located and notify the initiating agency and central registry where the case has been sent;

(4) Within 10 working days of locating the noncustodial parent in a different jurisdiction within the State, forward/transmit the forms and documentation to the appropriate jurisdiction and notify the initiating agency and central registry of its action;

(5) If the request is for a determination of controlling order:

(i) File the controlling order determination request with the appropriate tribunal in its State within 10 working days of receipt of the request or location of the noncustodial parent, whichever occurs later; and

(ii) Notify the initiating State agency, the Controlling Order State and any State where a support order in the case was issued or registered, of the controlling order determination and any reconciled arrearages within 30 calendar days of receipt of the determination from the tribunal;

(6) Provide any necessary services as it would in an intrastate IV–D case including:

(i) Establishing paternity in accordance with § 303.5 of this part and attempting to obtain a judgment for costs should paternity be established;

(ii) Establishing a child support obligation in accordance with § 302.56 of this chapter and §§ 303.4, 303.31 and 303.101 of this part;

(iii) Processing and enforcing orders referred by an initiating agency, whether pursuant to UIFSA or other legal processes, using appropriate remedies applied in its own cases in accordance with §§ 303.6, 303.31, 303.32, 303.100 through 303.102, and 303.104 of this part;

(iv) Collecting and monitoring any support payments from the noncustodial parent and forwarding payments to the location specified by the initiating agency. The IV–D agency must include sufficient information to identify the case, indicate the date of collection as defined under § 302.51(a) of this chapter, and include the responding State's case identifier and locator code, as defined in accordance with instructions issued by this Office; and

(v) Reviewing and adjusting child support orders upon request in accordance with § 303.8 of this part;

(7) Provide timely notice to the initiating agency in advance of any hearing before a tribunal that may result in establishment or adjustment of an order;

(8) When there is an arrearage assigned to the responding State in a separate case, establish and use procedures to allocate collections, proportionately, between arrearages assigned to the responding State in that separate case and to arrearages owed to an obligee in, or assigned to, the initiating State, when the initiating State has requested assistance from the responding State in collecting those arrearages;

(9) Identify any fees or costs deducted from support payments when forwarding payments to the initiating agency in accordance with paragraph (d)(6)(iv) of this section;

(10) Within 10 days of receipt of a request for case closure from an initiating agency under paragraph (c)(13) of this section, stop the

responding State's income withholding order or notice and close the intergovernmental IV–D case, unless the two States reach an alternative agreement on how to proceed; and

(11) Notify the initiating agency when a case is closed pursuant to § 303.11 of this part.

(e) *Payment and recovery of costs in intergovernmental IV–D cases.* (1) The responding IV–D agency must pay the costs it incurs in processing intergovernmental IV–D cases, including the costs of genetic testing. If paternity is established, the responding agency must seek a judgment for the costs of testing from the alleged father who denied paternity.

(2) Each State IV–D agency may recover its costs of providing services in intergovernmental non-IV–A cases in accordance with § 302.33(d) of this chapter, except that a IV–D agency may not recover costs from an FRC or from a foreign obligee in that FRC, when providing services under sections 454(32) and 459A of the Act.

7. Amend § 303.11 by revising paragraph (b)(12) and adding a new paragraph (b)(13) to read as follows:

§ 303.11 Case closure criteria.

* * * * *

(b) * * *

(12) The IV–D agency documents failure by the initiating agency to take an action which is essential for the next step in providing services; and

(13) The initiating agency has notified the responding State that the initiating State has closed its case under § 303.7(c)(12).

* * * * *

PART 305—PROGRAM PERFORMANCE MEASURES, STANDARDS, FINANCIAL INCENTIVES, AND PENALTIES

8. The authority citation for part 305 is revised to read:

Authority: 42 U.S.C. 609(a)(8), 652(a)(4) and (g), 658 and 1302.

§ 305.63 [Amended]

9. Amend § 305.63 by

a. Removing ''interstate'' and adding ''intergovernmental'' in its place wherever it occurs in paragraphs (c)(2) through (5) and paragraphs (d)(1) through (4);

b. Removing ''§ 303.7(a), (b) and (c)(1) through (6) and (8) through (10)'' and adding ''§ 303.7 (a), (b), (c), (d)(1) through (5) and (7) through (12), and (e)'' in its place wherever it occurs in paragraphs (c)(2) through (5); and

c. Removing ''§ 303.7(a), (b) and (c)(4) through (6), (c)(8) and (9)'' and adding ''§ 303.7 (a)(4) through (8), (b), (c), (d)(2) through (5) and (7) and (12)'' in its place wherever it occurs in paragraphs (d)(1) through (4).

PART 308—ANNUAL STATE SELF-ASSESSMENT REVIEW AND REPORT

10. The authority citation for part 308 continues to read as follows:

Authority: 42 U.S.C. 654(15)(A) and 1302.

11. Amend § 308.2 by:

a. Removing ''interstate'' and adding ''intergovernmental'' in its place wherever it occurs in paragraphs (b)(1), (c)(1) and (2), and (f)(1);

b. Removing ''§ 303.7(a), (b) and (c)(4) through (6), (c)(8) and (9)'' and adding ''§ 303.7 (a)(4) through (8), (b), (c), (d)(2) through (5) and (7) and (12)'' in its place wherever it occurs in paragraphs (b)(1), (c)(1) and (2), and (f)(1); and

c. Revising paragraph (g) to read as follows:

§ 308.2 Required program compliance criteria.

* * * * *

(g) *Intergovernmental services.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. For all intergovernmental cases requiring services during the review period, determine the last required action and determine whether the action was taken during the appropriate timeframe:

(1) Initiating intergovernmental cases:

(i) Except when a State has determined that one-state action is required in accord with § 303.7(c)(2), (3) or (4)(i), within 20 calendar days of determining that the noncustodial parent is in another jurisdiction and, if appropriate, receipt of any necessary information needed to process the case, referring that case to the appropriate State Central Registry, Tribal IV–D program, or central authority of the country for action pursuant to § 303.7(c)(4)(ii) of this chapter;

(ii) If additional information is requested, providing the responding agency with an updated form and any necessary additional documentation, or notify the responding agency when the information will be provided, within 30 calendar days of the request pursuant to § 303.7(c)(6) of this chapter;

(iii) Within 20 calendar days after determining that a request for review of the order should be sent to the other State IV–D agency and of receipt of information necessary to conduct the review, sending a request for review and adjustment pursuant to § 303.7(c)(10) of this chapter;

(iv) Within 10 working days of closing its case pursuant to § 303.11 of this chapter, notifying the responding agency pursuant to § 303.7(c)(12) of this chapter;

(v) Within 10 working days of receipt of new information on a case, notifying the responding State pursuant to § 303.7(a)(7) of this chapter;

(vi) Within 30 working days of receiving a request, providing any order or payment record requested by a responding agency for controlling order determination and reconciliation of arrears pursuant to § 303.7(a)(6) of this chapter.

(2) Responding intergovernmental cases:

(i) Within 10 working days of receipt of an intergovernmental IV–D case, the central registry reviewing submitted documentation for completeness, forwarding the case to the State Parent Locator Service (SPLS) for location services or to the appropriate agency for processing, acknowledging receipt of the case, and requesting any missing documentation from the initiating agency, and informing the initiating agency where the case was sent for action, pursuant to § 303.7(b)(2) of this chapter;

(ii) The central registry responding to inquiries from initiating agencies within five working days of a receipt of request for case status review pursuant to § 303.7(b)(4) of this chapter;

(iii) Within 10 days of locating the noncustodial parent in a different jurisdiction within the State or in a different State, forwarding/transmitting the forms and documentation in accordance with Federal requirements pursuant to § 303.7(d)(3) and (4) of this chapter;

(iv) Within two business days of receipt of collections, forwarding any support payments to the initiating jurisdiction pursuant to section 454B(c)(1) of the Act;

(v) Within 10 working days of receipt of new information notifying the initiating jurisdiction of that new information pursuant to § 303.7(a)(7) of this chapter;

(vi) Within 30 working days of receiving a request, providing any order or payment record requested by an initiating agency for controlling order determination and reconciliation of arrears pursuant to § 303.7(a)(6) of this chapter;

(vii) Within 10 days of receipt of a notice or request for case closure from an initiating agency under § 303.7(c)(13) of this chapter, stopping the responding State's income withholding order or notice and closing the responding State's case, pursuant to § 303.7(d)(10) of this chapter, unless the two States

reach an alternative agreement on how to proceed.

* * * * *

[FR Doc. E8–28812 Filed 12–5–08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 71, 114, 115, 122, 170, 171, 172, 174, 175, 176, 178, 179, and 185

[Docket No. USCG–2007–0030]

RIN 1625–AB20

Passenger Weight and Inspected Vessel Stability Requirements

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Coast Guard is reopening the period for public comment on its notice of proposed rulemaking (NPRM) on regulations governing the stability of passenger vessels and the maximum number of passengers that may safely be permitted on board a vessel.

DATES: The comment period for the proposed rule published at 73 FR 49244, August 20, 2008, is reopened. Comments and related material will be accepted on or before February 6, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2007–0030 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Mr. William Peters, U.S. Coast Guard, Office of Design and Engineering Standards, Naval Architecture Division (CG–5212), telephone 202–372–1371. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the ''Vessel Passenger Crowding Stability Criteria Study.'' All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2007–0030) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2007–0030'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing comments and the study: To view the comments and the study, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2007–0030 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Background and Purpose

On August 20, 2008, The Coast Guard published an NPRM entitled ''Passenger Weight and Inspected Vessel Stability Requirements'' (73 FR 49244). During the NPRM's original comment period, which ended November 18, 2008, members of the public requested that the Coast Guard add to the docket a study cited in support of certain stability findings that resulted in proposed changes to 46 CFR part 171 in the NPRM.

The 12-page study, entitled the ''Pontoon Vessel Passenger Crowding Stability Criteria Study,'' was added to the docket on October 30, 2008 (document number USCG–2007–0030–0139.1). Following the addition of the study, members of the public stated that they did not have sufficient time to review and comment on this study before the close of the comment period.

The Coast Guard is reopening the comment period for 60 days. The comment period will close on February 6, 2009. This reopening will permit you additional time to review and comment on the study; additionally, you are reminded that you may comment on any comments placed in the docket. We may change the proposed rules in response to the comments received.

Dated: December 2, 2008.

Howard L. Hime,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. E8–28979 Filed 12–5–08; 8:45 am]

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