

distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP revision that EPA is proposing to disapprove would not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this proposed SIP disapproval, if finalized, will not in-and-of itself create any new regulations, but will simply disapprove certain State requirements for inclusion in the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629,

February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The TCEQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA performed an EJ analysis, as is described above in the section titled, “Environmental Justice Considerations.” The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 17, 2023.

Earthea Nance,

Regional Administrator, Region 6.

[FR Doc. 2023–08498 Filed 4–20–23; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 309 and 310

RIN 0970–AC99

Elimination of the Tribal Non-Federal Share Requirement

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: OCSE proposes to eliminate the non-Federal share of program expenditures requirement for Tribal child support enforcement programs including the 90/10 and 80/20 cost sharing rates. Based upon the experiences of and consultations with Tribes and Tribal organizations, we have determined that the non-Federal share requirement limits growth, causes disruptions, and creates instability.

DATES: Consideration will be given to written comments on this notice of proposed rulemaking (NPRM) received on or before June 20, 2023.

ADDRESSES: You may submit comments, identified by [docket number and/or Regulatory Information Number (RIN) number], by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Written comments may be submitted to: Office of Child Support Enforcement, Attention: Director of Policy and Training, 330 C Street SW, Washington, DC 20201.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Chad Sawyer, Senior Policy Specialist, OCSE Division of Policy and Training, at ocse.dpt@acf.hhs.gov or (202) 774–2323. 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:

Submission of Comments

Comments should be specific, address issues raised by the proposed rule, and explain reasons for any objections or

recommended changes. Additionally, we will be interested in comments that indicate agreement with the proposal. We will not acknowledge receipt of the comments we receive. However, we will review and consider all comments that are germane and received during the comment period. We will respond to comments in the preamble to the final rule.

Public Consultations

To obtain the broadest public participation possible on the proposed rule, OCSE conducted a combination public face-to-face and virtual Tribal Consultation on April 6, 2023. The importance of consultation with Indian Tribes was affirmed through Presidential Memoranda in 1994, 2004, 2009, 2021, and 2022 and Executive Order 13175 in 2000.

We published a Tribal Dear Colleague Letter (TDCL–23–02) with the specific location, date, and time of the consultation, and disseminated notices to all comprehensive and start-up Tribal child support enforcement programs. Additionally, OCSE collaborated with the Administration for Children and Families, Administration for Native Americans, and National Association of Tribal Child Support Directors to disseminate the letter to Tribes and Tribal organizations that do not have a child support enforcement program.

At the consultation, Tribal leaders or their designees in attendance made oral presentations and/or provided written comments for the record if they chose. After the publication of the proposed rule in the Fall 2022 Unified Agenda of Regulatory and Deregulatory Actions, OCSE received supportive written comments from States and Tribal child support enforcement programs.

We encouraged persons who made oral presentations at the consultation to also submit written comments in support of their presentations. Testimonies were recorded and will be included in the public record of comments on the proposed rule.

Prior Consultations

45 CFR 309.130(d) requires a Tribe or Tribal organization¹ to provide a non-Federal share of program expenditures in the amount of 10 percent during the first 3 years of operation and 20 percent during subsequent years. Since the inception of the Tribal Child Support Enforcement Program, Tribes and Tribal organizations have submitted oral and written feedback, testimony, and blanket waiver requests regarding the

non-Federal share requirement and cost sharing rates. The non-Federal share requirement and rates have been longstanding issues discussed at Tribal Consultations and OCSE listening sessions with Tribal child support directors.

In August 2011, one Tribe submitted testimony at the ACF Tribal Consultation regarding the non-Federal share requirement. The Tribe expressed that the cost sharing requirement was unreasonable since they had no land base, virtually no resources to provide any financial profit, and no taxable income to use for the non-Federal share. In the March 2012 ACF Tribal Consultation, another Tribe provided comments that they lacked a land base to meet the non-Federal share requirement. In April 2019, three Tribes and the National Association of Tribal Child Support Directors submitted testimony at the HHS Tribal Budget Consultation and requested consultation on the non-Federal share requirement. In September 2019, the non-Federal share requirement was on the 2019 ACF Tribal Consultation agenda. During the 2019 ACF Tribal Consultation, 20 Tribes provided testimony discussing the challenges they encounter in providing 20 percent of the approved and allowable program expenditures every fiscal year (FY). They described how the requirement limits growth, causes disruptions, and creates instability in their child support enforcement programs. For example, they mentioned competing with other Tribal departments for limited resources to operate their programs and having to make difficult budget and service reductions, despite the complex and growing needs of their communities. The 2019 ACF consultation also included Tribal written testimony requesting the repeal of the non-Federal share requirement. During the 2020 ACF Tribal Consultation, 2021 HHS Regional Consultation, and 2021 HHS Tribal Budget Consultation, Tribes continued to discuss their problems with meeting the non-Federal share, reiterate their request for an expedited resolution, and recommend the elimination of the non-Federal share requirement.

In addition to Tribal Consultations, OCSE conducted many virtual and in-person listening sessions with Tribal child support enforcement programs, held separately or in conjunction with Tribal child support enforcement conferences or association meetings. At these sessions, Tribes and Tribal organizations described the difficulties of providing the non-Federal share through cash or in-kind contributions during the first 3 years and thereafter.

The issue of meeting the non-Federal share has also been raised multiple times at the ACF Tribal Advisory Committee meetings. Tribal leaders have asked for the elimination of the non-Federal share requirement during these meetings.

OCSE received several requests for blanket waivers of the non-Federal share of program expenditures that were beyond the waiver authority under 45 CFR 309.130(e). In 2016, 10 Tribes submitted a request for a blanket waiver based on the Tribal waiver provision in the HHS Tribal Consultation Policy. Also, in 2016, the National Association of Tribal Child Support Directors and the National Tribal Child Support Association submitted separate but similar letters to OCSE requesting a blanket waiver for the same reasons discussed in the Tribal requests. The 12 blanket waiver requests indicated that the non-Federal share requirement was disruptive and posed hardships. The requests also indicated that the non-Federal share requirement did not adequately reflect consultation, circumstances unique to Tribal communities, or authorizing statute that permits funding for Tribal child support enforcement programs. Specifically, they argued that section 455(f) of the Social Security Act (the Act) does not impose a match requirement and, therefore, OCSE should not impose one through regulation. Most recently, in FY 2022, a Tribe requested a blanket waiver for their child support program and for other programs based on the waiver flexibilities contained in Executive Order 13132.

OCSE denied all the blanket waiver requests of the non-Federal share of program expenditures in accordance with 45 CFR 309.130(e). Section 309.130(e) describes the circumstances and criteria for requesting a temporary waiver of the non-Federal share requirement. This regulation is binding on OCSE and does not permit blanket waivers. The Tribal waiver provisions under the HHS Tribal Consultation Policy and Executive Order 13132 are limited “to the extent practicable and permitted by law.” Given this limitation, OCSE had no authority to grant blanket waivers.

Statutory Authority

This NPRM is published in accordance with section 455(f) of the Social Security Act (the Act) (42 U.S.C. 655(f)). Section 455(f) of the Act requires the Secretary to issue regulations governing the grants to Tribes and Tribal organizations operating child support enforcement programs.

¹ See 45 CFR 309.05 for the definition of Tribe and Tribal organization.

This proposed rule is also published under the authority granted to the Secretary of Health and Human Services by section 1102 of the Act (42 U.S.C. 1302). Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, as may be necessary for the efficient administration of the functions with which the Secretary is responsible under the Act.

Background

The Child Support Enforcement Program was established in 1975 under Title IV–D of the Social Security Act. It functions in all states and several Tribes and territories. State and Tribal child support enforcement programs locate noncustodial parents, establish paternity, establish and enforce support orders, modify orders when appropriate, collect and distribute child support payments, and refer parents to other services. They help to ensure that noncustodial parents provide financial support for their children. Child support payments play an important role in reducing child poverty, lifting nearly three-quarters of a million families out of poverty in 2017.²

Prior to the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Pub. L. 104–193), title IV–D of the Act did not include direct funding for Tribes and Tribal organizations seeking to operate their own child support enforcement programs. Indirect Federal funding was available for a Tribe or Tribal organization that entered into cooperative agreements with a state and the state delegated functions of their child support program to the Tribe or Tribal organization. PRWORA amended section 455(f) of the Act and authorized the Secretary to provide direct funding to Tribes and Tribal organizations to operate child support enforcement programs under title IV–D and to promulgate implementing regulations. Implementing regulations are contained in 45 CFR parts 309 and 310.

On August 21, 2000, OCSE published the NPRM for the Tribal Child Support Enforcement Program (65 FR 50800). Prior to publishing the NPRM, OCSE conducted numerous consultations, including a series of six Nation-to-Nation consultations with Tribes, Tribal organizations, and other interested parties across the country (65 FR 50804). OCSE also set up a toll free “800” number to allow for additional

comments and input by Tribes and solicited further input from previous consultation participants to help OCSE understand the issues raised during the consultation process.

The NPRM proposed requirements that Tribes and Tribal organizations must meet to be eligible for title IV–D funding and provided guidance on how they could apply for and, upon approval, receive direct funding for the operation of their child support program (65 FR 50800). Based upon Tribal recommendations during the consultations, OCSE used the state child support enforcement program as a model but eased the technical requirements applicable to the states in recognition of the unique circumstances of Tribes and Tribal organizations (65 FR 50804). As such, the NPRM included a substantially lower cost sharing rate than is required of the states under title IV–D (65 FR 50823).

The NPRM stated that OCSE considered several different funding approaches that controlled costs, including performance-based funding, funding based on cost per child to operate the program, capping certain costs, and state-cost based funding (65 FR 50823). OCSE engaged in extensive deliberations over the issue of funding for Tribal child support enforcement programs. After careful consideration of the advantages and disadvantages of each cost control funding approach, ultimately, the Secretary proposed open-ended funding with a Tribal match (65 FR 50823). The NPRM proposed that Tribes and Tribal organizations provide a 10 percent match during the start-up period and first 3 years of operation, with the match increasing to 20 percent thereafter (65 FR 50823). The NPRM also included a waiver provision allowing the Secretary to waive the non-Federal share for Tribes and Tribal organizations that lacked sufficient resources and met certain specific criteria (65 FR 50823). Additionally, the NPRM indicated that “if the Secretary determines based on experience and consultation with Tribes that the 80/20 match rate is disruptive to the program and imposes hardship to Tribes, the regulations will be revised accordingly” (65 FR 50823).

The Tribal Child Support Enforcement Program final rule was promulgated on March 30, 2004 (hereinafter final rule) and included a revised cost sharing provision (69 FR 16638). In the final rule, OCSE indicated that it received numerous comments from Tribes objecting to the cost sharing requirement. In response, OCSE again expressed concern regarding the control of costs in the Tribal child support

enforcement program, stating that “unlike other Tribal grant programs, the funding for Tribal IV–D programs are not sum certain grants,” meaning a specified and set amount of funds (69 FR 16667). OCSE further stated that the cost sharing requirement was maintained after determining “that a non-Federal share in expenditures is necessary, based on the principle that better programs and better management result when local resources are invested” (69 FR 16667). However, in response to comments, the match requirement was changed to allow 100 percent funding during the start-up period, not to exceed 2 years, and, capped at \$500,000 per 45 CFR 309.130(c)(1). OCSE noted that the non-Federal match for start-up costs was eliminated in recognition that “Tribes just beginning title IV–D child support enforcement may have very limited funds for this activity” (69 FR 16646).

In accordance with 45 CFR 309.10(a) and (b), to apply for and receive Federal funding to operate a Tribal child support enforcement program, a Tribe or Tribal organization must have at least 100 children under the age of majority as defined by Tribal law or code, in the population subject to the jurisdiction of the Tribal court or administrative agency. The age of majority is the age at which a person is considered an adult, which is typically 18 years old. The requirement to have at least 100 children under the age of 18 years old helps to ensure that Tribes and Tribal organizations will have enough potential child support cases to be cost effective. However, 45 CFR 309.10(c) permits a waiver of this requirement when a Tribe or Tribal organization submits a request with the required information demonstrating that it can provide the services required under 45 CFR part 309 in a cost-effective manner even though the population subject to Tribal jurisdiction includes fewer than 100 children.

The Tribal child support enforcement program regulation permits Federal funding in two ways. When Tribes or Tribal organizations do not meet the regulatory requirements to operate a child support enforcement program, they may apply for start-up funding in accordance with 45 CFR 309.16. Start-up funding enables Tribes and Tribal organizations with the basic governmental and administrative capabilities to work towards meeting the requirements to operate a child support enforcement program in accordance with the regulation. The start-up application must include a program development plan, detailing the specific steps a Tribe or Tribal organization will

² See Assistant Secretary for Planning and Evaluation, *Fact Sheet: Approaches for engaging fathers in child support programs* (October 2021), available at <https://aspe.hhs.gov/reports/father-engagement-child-support>.

take to become compliant with the requirements of 45 CFR 309.65(a), and the timeframe associated with each step. Federal funding for start-up costs is limited to \$500,000, which must be used within two years after the first day of the quarter after the start-up application was approved, in accordance with 45 CFR 309.16(c).

When Tribes or Tribal organizations determine that they meet the regulatory requirements to operate a child support enforcement program, they may apply for comprehensive funding in accordance with 45 CFR 309.15. The application must include a Tribal IV–D plan that demonstrates compliance with the 14 required elements described in 45 CFR 309.65(a). For example, a Tribe must have procedures to accept all applications, safeguard personal and confidential information, and locate noncustodial parents and their assets. During the first 3 years of operating a child support program, Tribes or Tribal organizations receive Federal grant funds equal to 90 percent of the total amount of approved and allowable expenditures, in accordance with 45 CFR 309.130(c)(2). During the fourth year and subsequent years, Tribes or Tribal organizations receive Federal grant funds equal to 80 percent of the total amount of approved and allowable expenditures, in accordance with 45 CFR 309.130(c)(3). Tribes and Tribal organizations must provide the non-Federal share of program expenditures, either 10 percent or 20 percent, with cash or in-kind contributions pursuant to 45 CFR 309.130(d).

45 CFR 309.130(e) permits, under certain circumstances, a temporary waiver of part or all of the non-Federal share of program expenditures. This provision includes two types of temporary waiver requests that a Tribe or Tribal organization may submit for consideration: “anticipated temporary waiver request” and “emergency waiver request.” Both waiver requests must be submitted in accordance with the procedures specified in 45 CFR 309.130(e)(2) through (4). These procedures require the submission of extensive information and documentation to demonstrate the temporary lack of resources and justify the waiver request.

Under 45 CFR 309.130(e)(1)(i), when Tribes or Tribal organizations anticipate that they will be temporarily unable to contribute part or all of the required non-Federal share of program funding, they must submit an anticipated temporary waiver request. The anticipated waiver, due no later than 60 days before the start of the funding period, is more restrictive because

untimely or incomplete requests will not be considered, in accordance with 45 CFR 309.130(e)(1)(i). Many Tribal child support enforcement programs have been denied anticipated waivers because of untimely or incomplete requests. An untimely anticipated waiver request means a Tribe submitted the request after the deadline of August 1 pursuant to 45 CFR 309.130(e)(1)(i). An incomplete anticipated waiver request means a Tribe did not include all the information required by 45 CFR 309.130(e)(2) through (4), such as portions of the Tribal budget sufficient to demonstrate the extent of the funding shortfall and uncommitted funds.

Under 45 CFR 309.130(e)(1)(ii), after the start of the funding period, if an emergency situation occurs, such as a hurricane or flood, that warrants a waiver of the non-Federal share of program expenditures, Tribes or Tribal organizations may submit an emergency waiver request. Over the years, the emergency waiver has been requested more frequently than the anticipated waiver for a number of reasons, most recently due to natural disasters and public health emergencies.

Justification

The purpose of this proposed rule is to eliminate the non-Federal share requirement for Tribal child support enforcement programs because it limits growth, causes disruptions, and creates instability. The proposed rule reflects OCSE’s comment in the 2000 NPRM that the matching requirement would be revised accordingly if the Secretary determines, based on experience gained through operations of Tribal child support enforcement programs and consultation with Tribes, that the 80/20 match rate is disruptive to the program and imposes hardship to Tribes (65 FR 50823). The proposed rule also responds to feedback and recommendations submitted during Tribal Consultations and OCSE listening sessions about the hardship of meeting the non-Federal share requirement.

Tribal child support enforcement programs are beneficial for Tribal Nations, particularly given their ability to provide services to families in a manner that is consistent with tribal values and cultures. For example, Tribes or Tribal organizations exercise their sovereignty over their members, ensure parental responsibility, increase family disposable income, incorporate Tribal culture and traditions, offer unique services like non-cash support, and reduce the need for other supportive services such as Temporary Assistance for Needy Families (TANF). In FY 2021, Tribal child support enforcement

programs collected \$53 million in child support payments and 97 percent went to families.³ Native American children in Tribal areas with child support enforcement programs are in great need of child support, especially since 53 percent of Native American children in these areas lived in single-parent families.⁴ According to data from the 2015 American Community Survey, nearly one-third of Native Americans living in Tribal areas with a child support program lived below the poverty line in 2015 (that year, the poverty line for a family of three was \$20,090).⁵ This poverty rate was more than twice the poverty rate for Americans in general (15 percent). Particularly stark is the poverty rate among Native American children living in these areas, which was 40 percent.⁶

Tribal child support enforcement programs are also beneficial for states, specifically in enforcing state child support orders and collecting child support payments in intergovernmental cases. 45 CFR 309.120(a) requires a Tribal child support enforcement program to extend the full range of services to respond to all requests from, and cooperate with, state and other Tribal child support enforcement programs. This includes recognizing and enforcing child support orders issued by a state or another Tribe or Tribal organization, in accordance with 45 CFR 309.120(b). For example, when a Tribal child support enforcement program receives a request for assistance from a state, they register the state child support order in Tribal court and enforce it. Then the Tribe collects the child support payment from the noncustodial parent and sends it to the state in accordance with 45 CFR 309.115(d). Without this assistance from Tribal child support enforcement programs, states are, for the most part, unable to collect child support payments because they lack jurisdiction to enforce their child support orders in Tribal Nations. In FY 2021, Tribal child support enforcement programs collected and sent \$11 million in child support

³ See OCSE 2021 Tribal Infographic at https://www.acf.hhs.gov/sites/default/files/documents/ocse/tribal_infographic_2021.pdf.

⁴ See OCSE Exploring Tribal Demographic Data: Part Two at <https://www.acf.hhs.gov/css/ocsedatablog/2023/01/exploring-tribal-demographic-data-part-two>.

⁵ See OCSE Exploring Tribal Demographic Data: Part One at <https://www.acf.hhs.gov/css/ocsedatablog/2022/11/exploring-tribal-demographic-data-part-one>.

⁶ Id.

payments to states, other Tribes, and countries.⁷

Yet, to date, few Tribes and Tribal organizations operate child support enforcement programs, although funding was authorized 18 years ago. Out of the 574 federally recognized Tribes, only 60 operate Tribal child support enforcement programs despite the flexible eligibility requirements to receive program funding.⁸ A majority of the Tribal child support enforcement programs were established between 2008 and 2014. In the past 5 years, only one Tribal child support enforcement program was established. Currently, there is only one Tribe in the start-up phase, completing the necessary work to meet the regulatory requirements to operate a Tribal child support enforcement program. OCSE has heard that the non-Federal share requirement is a major barrier preventing Tribes and Tribal organizations from applying for program funding, despite the need for Tribal child support enforcement services. For example, during the 2019 ACF Tribal Consultation, one Tribe testified that they had been considering adding a child support program; however, hearing all the testimony with concerns about the non-Federal share requirement dissuaded them from starting one. This testimony mirrors comments OCSE staff have heard from prospective Tribes during presentations or conversations about the Tribal child support enforcement program.

Many Tribes and Tribal organizations face systemic, historical, and ongoing issues that impact their ability to meet the non-Federal share.⁹ For example, some Tribes have high rates of unemployment and families living below the poverty level, have limited and vulnerable Tribal enterprises that generate revenue, are in rural underdeveloped communities, are exposed to greater environmental threats, and lack robust economies. In fact, 45 CFR 309.130(e)(4) includes some of these same issues that impact a Tribe's ability to meet the non-Federal share and support a request to waive this requirement. Additionally, most Tribal child support directors have indicated that they often compete with other Tribal departments and programs to obtain limited Tribal government

funding. Economic downturns and disasters in Tribal Nations reduce these limited government funds even further and force Tribal officials to make tough decisions about how to allocate and use funds and resources. These issues, at least in part, make the non-Federal match too burdensome.

Federal laws regarding real property exacerbate the burden by restricting how Tribes and Tribal organizations can claim Tribally owned property as part of their non-Federal share of program expenditures. Many Tribal child support enforcement programs are housed in Tribally owned property. When an entity owns a building and/or office space and it is claimed or contributed to the award, 45 CFR 75.436 requires that the building and/or office space must be valued using depreciation, whether claimed as an administrative cost or for cost sharing purposes. Depreciation must be computed in accordance with 45 CFR 75.436(d). This means that the Tribal property cannot be assessed at the fair market value as if the Tribal child support enforcement program is renting or leasing it. As such, Tribal child support enforcement programs claim depreciation, maintenance, and insurance (OCSE-IM-20-05). For these Tribes, using depreciated value may be substantially less than using fair market value for a tribally owned property or office space.

Even if a Tribe or Tribal organization operates a child support enforcement program, the non-Federal match requires the program be limited in other ways, which negatively impacts vulnerable Tribal families and children. Meeting the non-Federal share disproportionately drives programmatic and fiscal decisions. For example, most Tribal child support enforcement programs use incurred cost from Tribal court personnel who process child support cases as part of their contribution toward the non-Federal share. The number of such cases fluctuates and relies on parents attending court hearings, which may pose a burden on parents with low incomes, transportation challenges, or disabilities. Most Tribal child support directors have indicated that they had to defer filling vacancies, performing automation or system upgrades, and paying for required security assessments to access the Federal Parent Locator Service, which helps in locating noncustodial parents and their assets. Some Tribal child support directors have also indicated that they have delayed acquiring any system automation due to the cost and subsequently their proportionate non-

Federal share and are, instead, using Microsoft tools such as Word and Excel to manage their caseloads. As a result, many Tribal child support enforcement programs struggle to operate with resource deficits.

These resource deficits prevent some Tribal programs from expanding beyond the delivery of core child support services, such as establishing paternity and locating noncustodial parents and their assets. Many cannot provide intensive case management for low-income noncustodial parents due to staffing shortages. Intensive case management is used to identify barriers to paying child support, make appropriate referrals, monitor compliance and outcomes, and collaborate with other social service programs to ensure noncustodial parents receive services that help them become responsible parents and pay consistent and reliable child support. Many also lack the resources to pursue discretionary, competitive grant opportunities awarded under section 1115 of the Act, which promote innovation and research. Using funds from section 1115(a) of the Act, OCSE offers grant opportunities periodically, based on available funding each year, to state and Tribal child support enforcement programs, or their state umbrella agencies. Section 1115 demonstration grants must be used for research and to improve the child support enforcement program. Each funding opportunity is unique, and applications must respond to the outlined project goals and requirements in the announcement.

During Tribal Consultations and listening sessions, many Tribal child support enforcement programs have expressed their fears about closing their child support program because they cannot provide the required non-Federal share. When a Tribe cannot afford the non-Federal share and does not obtain a waiver of this requirement, they do not receive any Federal funds to operate their child support enforcement program. Consequently, they are forced to close their program and may refer their Tribal parents to another Tribe for child support services. In FY 2017, a Tribe closed their child support enforcement program because they were unable to meet the non-Federal share of program expenditures. In the Tribe's letter regarding the closure of their program, they shared that the match contribution for a Tribal child support enforcement program is a barrier for any Tribe to be successful. In the FYs 2020, 2021, and 2022 waiver requests, most Tribes and Tribal organizations indicated they were in jeopardy of

⁷ See OCSE 2021 Tribal Infographic at https://www.acf.hhs.gov/sites/default/files/documents/ocse/tribal_infographic_2021.pdf.

⁸ See U.S. Department of Interior Indian Affairs Tribal Leader Directory at <https://www.bia.gov/service/tribal-leaders-directory>.

⁹ See U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (December 2018), available at <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>.

shutting down without a waiver of part or all of the required non-Federal share. They indicated that they were unclear when Tribal enterprises, which were already vulnerable before the economic downturn, would recover and generate enough revenue to help them meet the non-Federal share. Additionally, although 45 CFR 309.75(e) permits Tribal child support enforcement programs to charge an application fee or recover costs, most Tribes and Tribal organizations do not charge fees or recover costs since many Tribal families are low income. Therefore, they do not generate program income that could be used for the non-Federal share.

Temporary waivers of the non-Federal share of program expenditures do not provide a sufficient or permanent solution. Although 45 CFR 309.130(e)(4) identifies issues faced by most Tribes and Tribal organizations, such as little or no economic development, it also requires documentary evidence to support statements about how these issues impact meeting the non-Federal share. Meeting these requirements in annual applications for a waiver due to intractable economic reasons or for unforeseen emergencies imposes a significant administrative and paperwork burden for Tribal child support enforcement programs. It requires Tribes and Tribal organizations to redirect time and resources away from administering their programs and meeting the pressing needs of their communities when they are often already under resourced. Over the years, many Tribal child support enforcement programs have indicated that they have not applied for a waiver due to the extensive submission procedures, which act as barriers to accessing relief. In response, Tribes submitted blanket waiver requests, as indicated previously, to make these waivers of the non-Federal share more accessible and effective over multiple fiscal years.

Until recently, OCSE received and approved very few waiver requests. For example, between FYs 2016 and 2019, OCSE granted 10 waivers of the non-Federal share. Beginning in 2020 due to the declared national public health emergency for the COVID-19 pandemic, OCSE provided flexibilities for emergency waiver submissions, which encouraged more Tribes and Tribal organizations to apply. Under the pandemic flexibilities, OCSE understood that Tribal child support enforcement programs were unable to provide a portion of their Tribal budget or make attempts to secure the necessary funds and in-kind contributions from other sources in accordance with 45 CFR

309.130(e)(2)(iii) and (v). As a result, OCSE approved waivers in larger numbers: 31 in FY 2020, 27 in FY 2021, and 12 in FY 2022. The emergency waiver flexibilities will end when the COVID-19 Public Health Emergency ends on May 11, 2023 (see OCSE-DCL-23-04). But the need for these waivers was not just due to the pandemic. Instead, the pandemic exacerbated and highlighted longstanding difficulties with meeting the non-Federal share. Tribes and Tribal organizations may be unable to overcome the procedural barriers to apply for and receive a waiver and may have to terminate their child support enforcement program if they are unable to provide the non-Federal share or receive a waiver. Eliminating the non-Federal share will provide a permanent solution to the administrative burdens, access barriers, and limited effect of the temporary waivers.

Waiver requests also impose an administrative burden on OCSE, without providing a long-term solution. By eliminating the non-Federal share requirement, OCSE can better use its expertise, resources, and efforts to build collaborative, government-to-government relationships with Tribes and Tribal organizations to foster innovation, engage in human centered design projects, and focus on topics that advance program priorities and improve outcomes for recipients of Tribal child support enforcement services.

Although OCSE previously determined during drafting of the Tribal Child Support Enforcement Program regulations that a non-Federal match was important to ensure “better programs and better management” (69 FR 16667), it has now reconsidered that conclusion after seeing the Tribal child support enforcement program in practice during the past two decades. Based on its experience, OCSE now concludes that its oversight tools are sufficient, without the non-Federal share match, to monitor use of funds for IV-D expenditures and consider cost containment. The Tribes show in their budget submissions and communications with OCSE that they are engaged in operating successful programs and using Federal funds properly, efficiently, and effectively, in accordance with 45 CFR 309.60(b). The primary method for evaluating and ensuring allowable and appropriate costs is through the budget submission, review, and approval process. 45 CFR 309.15(c) requires Tribal child support enforcement programs to submit a budget to receive Title IV-D funding to administer their child support enforcement programs. Budgets must

include the detailed information specified in 45 CFR 309.130(b) and OCSE guidance, such as quarterly estimate of expenditures, narrative justification for each cost category, and copies of contracts (see Tribal Child Support Budget Toolbox and OCSE PIQT-21-01).¹⁰ OCSE and OGM review Tribal budget submissions for compliance with 45 CFR parts 309, 310, 75, and other applicable Federal laws. During the review of Tribal budgets, OCSE and OGM examine the estimates of program expenditures, determine whether the budget narratives and documentation justify costs, and approve allowable costs charged to the Title IV-D grant before awarding funds. OCSE reviews the entire budget in detail to ensure the costs are reasonable and necessary given the caseload size and other demographic and geographic factors. OCSE compares contract costs to industry standards and similar contracts from other child support enforcement programs. For questionable costs, OCSE works with the Tribe to obtain additional information or revise or remove those costs when warranted. For example, OCSE determined that a Tribe’s contract costs for information technology development were higher than the industry standard and worked with the Tribe to secure a reduction in the costs before approving the contract.

45 CFR 309.145 describes the allowable costs for Tribal child support enforcement programs and requires such costs to be reasonable, necessary, and allocable to the program. 45 CFR 309.130(h) mandates compliance with 45 CFR part 75, which describes the uniform administrative requirements and cost principles. 45 CFR 75.403 through 75.405 provide specific requirements for determining whether costs are allowable, reasonable, and allocable. Since OCSE must approve a Tribe’s budget before OGM issues a notice of grant award, OCSE has direct oversight over Tribal expenditures before Tribal child support enforcement programs drawdown and use Title IV-D funds at the start of the fiscal year. After OCSE approves a Tribe’s budget, a Tribe may request additional funds by submitting the information specified in 45 CFR 309.130(f)(1). If the increase in funds impacts the Tribal IV-D plan, the Tribe must also submit a plan amendment in accordance with 45 CFR 309.130(f)(2). A Tribe must provide the required information and documentation and the costs must

¹⁰ See the optional Tribal Budget and Justification Narrative Template at https://www.acf.hhs.gov/sites/default/files/documents/ocse/Tribal_budget_justification_narrative_template.docx.

comply with the Federal regulations before OCSE approves the request for an increase in funds. This ensures that increases in approved Tribal budgets are reasonable, necessary, allowable, and appropriate.

Additionally, OCSE uses a variety of technical assistance methods to assess needs and provide support to Tribes on the uniform grant requirements and cost principles. When reviewing Tribal budgets, OCSE analyzes issues and trends in expenditures and uses that information to deliver training and to ensure funds are used efficiently and effectively for all parties. OCSE also provides annual and tailored training and technical assistance about Tribal budget and grant requirements during site visits, regional meetings, national webinars, and conferences. Site visits help OCSE to obtain and understand information about how Tribes and Tribal organizations use Title IV–D funds to operate and administer their Tribal child support enforcement programs. OCSE regional office staff work closely with Tribal child support staff to answer questions, share best practices, review budgets and grant reports, and monitor the administration and performance of Tribal child support enforcement programs.

As evidenced by years of Federal review, Tribes and Tribal organizations have demonstrated the importance of spending Federal grant funds prudently, efficiently, and effectively. Tribes are invested in helping noncustodial and custodial parents support their children financially and emotionally. Accordingly, OCSE is now of the view that Tribes and Tribal organizations will continue to provide Tribal resources, such as Tribally owned building or office space, to ensure the success of their Tribal child support enforcement programs—even in the absence of a mandatory non-Federal match. The Tribal child support enforcement program regulations provide OCSE with sufficient authority to control costs and monitor compliance without the non-Federal share requirement. As a result, the overall Tribal child support enforcement program expenditures of existing Tribes will not rise substantially beyond normal cost increases due to factors like inflation, filling vacancies, or upgrading equipment and systems. The impact to the Federal budget will be modest.

Even with the elimination of the non-Federal share, OCSE does not expect that every federally recognized Tribe or Tribal organization will request funding to operate a Tribal child support enforcement program, meaning that OCSE expects only a modest and

gradual increase in program expenditures. Prospective Tribes and Tribal organizations may not have the needed administrative capacity or infrastructure to operate a child support enforcement program. They may not have 100 children under the age of majority. Although they may request a waiver of this requirement (45 CFR 309.10(c)), the waiver must demonstrate that their prospective Tribal child support enforcement program will be cost effective (45 CFR 309.10(c)(1)(iii)). Additionally, prospective Tribes and Tribal organizations may not want to comply with the extensive requirements and procedures required to receive funding (45 CFR 309.65). A Tribal court can hear child support cases without the Tribe administering a child support enforcement program. Administering a Tribal child support enforcement program and working with parents on such a vulnerable and sensitive subject is complex and demanding. Instead of operating their own Tribal child support enforcement program, they may jointly operate a program or may receive child support services from an existing Tribal child support enforcement program. In sum, and for the reasons discussed above, OCSE projects the number of new Tribal child support enforcement programs to grow modestly before plateauing, thus preventing a dramatic increase in Federal costs. And any such increase in Federal costs is offset by the benefits that this proposed rule would provide in helping to prevent existing Tribal child support enforcement programs from closing and provide a permanent solution to the problems related to the non-Federal share requirement. However, even if eliminating the non-Federal share results in many more Tribes and Tribal organizations applying for and receiving approval to operate a child support enforcement program, Tribal participation in this program is, in fact, what Congress intended when it authorized funding under PRWORA. This will ensure the opportunity for Tribal families to receive child support enforcement services that reflect and affirm their Tribal cultures and traditions, create financial stability, and family economic well-being to help lift Tribal families out of poverty.

Section-By-Section Discussion of the Provisions of This Proposed Rule

This NPRM proposes to eliminate the non-Federal share for Tribal child support enforcement programs. The following is a discussion of the regulatory provisions included in this NPRM.

Section 309.15 What is a Tribal IV–D program application?

In § 309.15(a)(2)(iii), we propose removing the language “; and either:” at the end of that provision and inserting a “.” in their place. Section 309.15(a)(2)(iv) requires the initial application for funding to include a statement that the Tribe or Tribal organization has or will have the non-Federal share of program expenditures available. Section 309.15(a)(2)(v) permits a request for a waiver of the non-Federal share in accordance with § 309.130(e). We propose removing § 309.15(a)(2)(iv) and (v) due to the elimination of the non-Federal share.

Section 309.45 When and how may a Tribe or Tribal organization request reconsideration of a disapproval action?

Section 309.45(g) indicates that disapproval of start-up funding, a request for waiver of the 100-child rule, and a request for waiver of the non-Federal Tribal share is not subject to administrative appeal. We propose amending § 309.45(g) by removing “, and a request for waiver of the non-Federal Tribal share.” Revised paragraph (g) will read as follows: “Disapproval of start-up funding and a request for waiver of the 100-child rule is not subject to administrative appeal.”

Section 309.75 What administrative and management procedures must a Tribe or Tribal organization include in a Tribal IV–D plan?

Section 309.75(e) describes the requirements for a Tribe and Tribal organization that intends to charge an application fee or recover costs in excess of the fee. Collected fees and recovered costs are considered program income and deducted from total allowable costs in accordance with 45 CFR 309.75(e)(4) and 45 CFR 75.307(e)(1). Due to the proposed elimination of the non-Federal share requirement, we propose revising § 309.75(e) to require Tribal child support enforcement programs to have procedures that prohibit charging fees and recovering costs and to remove paragraphs (e)(1) through (4).

Section 309.85 What records must a Tribe or Tribal organization agree to maintain in a Tribal IV–D plan?

Section 309.85(a)(6) requires a Tribe or Tribal organization to maintain records on any fees charged and collected, if applicable. As previously stated, collected fees and recovered costs are considered program income and deducted from total allowable costs in accordance with 45 CFR 309.75(e)(4) and 45 CFR 75.307(e)(1). Due to the

proposed elimination of the non-Federal share requirement, we propose removing § 309.85(a)(6) and redesignating § 309.85(a)(7) to (a)(6).

Section 309.130 How will Tribal IV–D programs be funded and what forms are required?

In § 309.130(b)(2)(iii), we propose removing the language “and for funding under § 309.65(a) either:” at the end of that provision and replacing it with a “.”. Section 309.130(b)(2)(iv) requires the annual Tribal budget submissions to include a statement certifying that the Tribe or Tribal organization has or will have the non-Federal share of program expenditures. Section 309.130(b)(2)(v) permits a request for a waiver of the non-Federal share in accordance with paragraph (e) of this section. We propose removing § 309.130(b)(2)(iv) and (v) due to the elimination of the non-Federal share requirement.

Section 309.130(c) describes the Federal share of program expenditures for start-up funding and for initial and ongoing grant funding to administer a Tribal child support enforcement program. We propose amending § 309.130(c)(2) by removing “during a 3-year period,” replacing “90” with “100”, and adding “and thereafter” following “made during that period.” We propose amending § 309.130(c)(3) by removing § 309.130(c)(3)(i), redesignating paragraph (c)(3)(ii) to (c)(3), and replacing “90” with “100”. We propose these revisions to indicate that the Federal share of program expenditures will be 100 percent due to the elimination of the non-Federal share requirement.

Section 309.130(d) describes the requirements for the non-Federal share of program expenditures. We propose removing § 309.130(d) due to the elimination of the non-Federal share requirement.

Section 309.130(e) describes the requirements for permitting a temporary waiver of part or all of the non-Federal share of program expenditures. We propose removing § 309.130(e) due to the elimination of the non-Federal share requirement.

Section 309.130(f) describes the requirements for requesting increases in the approved Tribal budget and § 309.130(f)(3) addresses how budget increases impact the non-Federal share. We propose redesignating § 309.130(f) to 309.130(d) and removing § 309.130(f)(3).

Section 309.130(g) describes how to obtain Federal funds and § 309.130(h) requires compliance with the uniform administrative requirements and cost principles. We propose redesignating

§ 309.130(g) and (h) to (e) and (f), respectively.

Section 309.155 What uses of Tribal IV–D program funds are not allowable?

Section 309.155(c) prohibits a Tribe or Tribal organization from using Federal IV–D funds for any expenditures that have been reimbursed by fees or costs collected, including any fee collected from a state. We propose removing § 309.155(c) and redesignating § 309.155(d), (e), (f), and (g) to (c), (d), (e), and (f), respectively.

Section 309.170 What statistical and narrative reporting requirements apply to Tribal IV–D programs?

Section 309.170(b)(8) requires a Tribe or Tribal organization to provide annual information and statistics on the total amount of fees and costs recovered. We propose removing § 309.170(b)(8) and redesignating § 309.170(b)(9) to (b)(8).

Section 310.10 What are the functional requirements for the Model Tribal IV–D System?

Section 310.10(c) requires the Model Tribal IV–D System to record and report any fees collected, either directly or by interfacing with state or Tribal financial management and expenditure information. We propose removing § 310.10(c) and redesignating § 310.10(d), (e), (f), (g), and (h) to (c), (d), (e), (f), and (g), respectively.

Section 310.20 What are the conditions for funding the installation, operation, maintenance and enhancement of Computerized Tribal IV–D Systems and Office Automation?

Section 310.20(a) describes the conditions that must be met for Federal financial participation for Computerized Tribal IV–D Systems. We propose replacing “90” with “100”.

Paperwork Reduction Act

No new information collection requirements are imposed by these regulations.

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 proposed rule will not result in a significant impact on a substantial number of small entities. The primary impact is on Tribal governments. Tribal governments are not considered small entities under the Regulatory Flexibility Act.

Regulatory Impact Analysis

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule meets the standards of Executive Orders 12866 and 13563 because it creates equity, promotes predictability, and reduces burdens and hardships for Tribal child support enforcement programs. The non-Federal share requirement limits growth, causes disruptions, and creates instability. Eliminating it encourages expansion of services and enforcement remedies, removes a financial barrier for prospective Tribes and Tribal organizations, prevents closure of existing Tribal child support enforcement programs, and provides a permanent solution to longstanding problems. This will ensure Tribal families receive child support services that reflect and affirm their cultures and traditions and that promote parental responsibility and increase disposable family income and financial stability.

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this NPRM is significant and was accordingly reviewed by OMB.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). ACF does not anticipate that this proposed rulemaking is likely to have an economic impact of \$100 million or more in any 1 year, and, therefore, does not meet the definition of “economically significant” under Executive Order 12866. Based upon the increase in program expenditures from existing Tribal child support enforcement programs and the modest growth of new programs due to the elimination of the non-Federal share, we anticipate that the costs associated with this proposed rule will be the following: FY 2025 \$17.2m; FY 2026 \$19m; FY 2027 \$26.4m; FY 2028 34.3m; and FY 2029 \$42.6m.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an annual expenditure by state, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation). That threshold level is currently approximately \$164 million. This proposed rule does not impose any mandates on state, local, or Tribal governments, or the private sector, that will result in an annual expenditure of \$164 million or more.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency’s determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. We certify that we have assessed this proposed rule’s impact on the well-being of families. The purpose of the Tribal child support enforcement program is to strengthen the financial and social stability of families. This proposed rule eliminates the burden and hardships imposed by non-Federal share requirement for Tribal child support enforcement programs, which limits growth, causes disruptions, and creates instability. Eliminating it encourages expansion of services and enforcement remedies, removes a financial barrier for prospective Tribes and Tribal organizations, and prevents closure of existing Tribal child support enforcement programs. The proposed rule will have a positive effect on family well-being. It will ensure Tribal families receive child support services that reflect and affirm their cultures and traditions and that promote parental responsibility and increase disposable family income and financial stability.

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 and 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 rule does not have federalism

impact as defined in the executive order.

List of Subjects

45 CFR Part 309

Child support, Grant programs—social programs, Indians—tribal government, Reporting and record keeping requirements.

45 CFR Part 310

Child support, Grant programs—social programs, Indians. (Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program.)

Xavier Becerra,

Secretary, Department of Health and Human Services.

For the reasons stated in the preamble, the Department of Health and Human Services proposes to amend 45 CFR parts 309 and 310 as set forth below:

PART 309—TRIBAL CHILD SUPPORT ENFORCEMENT (IV–D PROGRAM)

■ 1. The authority citation for part 309 continues to read as follows:

Authority: 42 U.S.C. 655(f) and 1302.

■ 2. Amend § 309.15 by:
■ a. Revising paragraph (a)(2)(iii); and
■ b. Removing (a)(2)(iv) and (v).

The revision reads as follows:

§ 309.15 What is a Tribal IV–D program application?

(a) * * *

(2) * * *

(iii) A narrative justification for each cost category on the form.

* * * * *

■ 3. Amend § 309.45 by revising paragraph (g) to read as follows:

§ 309.45 When and how may a Tribe or Tribal organization request reconsideration of a disapproval action?

* * * * *

(g) Disapproval of start-up funding and a request for waiver of the 100-child rule is not subject to administrative appeal.

* * * * *

■ 4. Amend § 309.75 by revising paragraph (e) introductory text and removing paragraphs (e)(1) through (4) to read as follows:

§ 309.75 What administrative and management procedures must a Tribe or Tribal organization include in a Tribal IV–D plan?

* * * * *

(e) Procedures that prohibit charging fees and recovering costs.

§ 309.85 [Amended]

■ 5. Amend § 309.85 by removing paragraph (a)(6) and redesignating paragraph (a)(7) as new paragraph (a)(6).

■ 6. Amend § 309.130 by:

■ a. Revising paragraphs (b)(2)(iii) and (c)(2);

■ b. Removing paragraph (c)(3)(i);

■ c. Redesignating paragraph (c)(3)(ii) as paragraph (c)(3) and revising newly designated paragraph (c)(3);

■ d. Removing paragraph (d) and (e);

■ e. Redesignating paragraph (f) as paragraph (d) and revising newly designated paragraph (d); and

■ f. Redesignating paragraphs (g) and (h) as paragraphs (e) and (f).

The revisions read as follows:

§ 309.130 How will Tribal IV–D programs be funded and what forms are required?

* * * * *

(b) * * *

(2) * * *

(iii) A narrative justification for each cost category on the form.

* * * * *

(c) * * *

(2) Beginning with the first day of the first quarter of the funding grant specified under § 309.135(a)(2), a Tribe or Tribal organization will receive Federal grant funds equal to 100 percent of the total amount of approved and allowable expenditures made during that period and thereafter for the administration of the Tribal child support enforcement program.

(3) A Tribe or Tribal organization will receive Federal grant funds equal to 100 percent of pre-approved costs of installing the Model Tribal IV–D System.

(d) *Increase in approved budget.* (1) A Tribe or Tribal organization may request an increase in the approved amount of its current budget by submitting a revised SF 424A to ACF and explaining why it needs the additional funds. The Tribe or Tribal organization should submit this request at least 60 days before additional funds are needed, to allow the Secretary adequate time to review the estimates and issue a revised grant award, if appropriate.

(2) If the change in Tribal IV–D budget estimate results from a change in the Tribal IV–D plan, the Tribe or Tribal organization must submit a plan amendment in accordance with § 309.35(e), a revised SF 424, and a revised SF 424A with its request for additional funding. The effective date of a plan amendment may not be earlier than the first day of the fiscal quarter in which an approvable plan is submitted in accordance with § 309.35(f) of this part. The Secretary must approve the plan amendment before approving any additional funding.

§ 309.155 [Amended]

■ 7. Amend § 309.155 by removing paragraph (c) and redesignating paragraphs (d) through (g) as paragraphs (c) through (f);

§ 309.170 [Amended]

■ 8. Amend § 309.170 by removing paragraph (b)(8) and redesignating paragraph (b)(9) as new paragraph (b)(8)'

PART 310—TRIBAL CHILD SUPPORT ENFORCEMENT (IV–D PROGRAM)

■ 9. The authority citation for part 310 continues to read as follows:

Authority: 42 U.S.C. 655(f) and 1302.

§ 310.10 [Amended]

■ 10. Amend § 310.10 by removing paragraph (c) and redesignating paragraphs (d) through (h) as paragraphs (c) through (g).

■ 11. Amend § 310.20 by revising paragraph (a) to read as follows:

§ 310.20 What are the conditions for funding the installation, operation, maintenance and enhancement of Computerized Tribal IV–D Systems and Office Automation?

(a) *Conditions that must be met for FFP at the applicable matching rate in § 309.130(c) of this chapter for Computerized Tribal IV–D Systems.* The following conditions must be met to obtain 100 percent FFP in the costs of installation of the Model Tribal IV–D System and FFP at the applicable matching rate under § 309.130(c) of this chapter in the costs of operation, maintenance, and enhancement of a Computerized Tribal IV–D System:

* * * * *

[FR Doc. 2023–07861 Filed 4–20–23; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA–2023–0012]

RIN 2127–AM54

Side Underride Guards

AGENCY: National Highway Traffic Safety Administration (NHTSA); Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This ANPRM responds to Section 23011(c) of the November 2021 Infrastructure Investment and Jobs Act (IIJA), commonly referred to as the

Bipartisan Infrastructure Law (BIL), which directs the Secretary to conduct research on side underride guards to better understand their overall effectiveness, and assess the feasibility, benefits, costs, and other impacts of installing side underride guards on trailers and semitrailers. The BIL further directs the Secretary to report the findings of the research in a **Federal Register** notice to seek public comment. In addition, this ANPRM also responds to a petition for rulemaking from Ms. Marianne Karth and the Truck Safety Coalition (TSC).

DATES: You should submit your comments early enough to ensure that the docket receives them not later than June 20, 2023.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to

www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.transportation.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you must submit your request directly to NHTSA's Office of the Chief Counsel. Requests for confidentiality are governed by 49 CFR part 512. NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. If you would like to submit a request for confidential treatment, you may email your submission to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or you may contact him for a secure file transfer link. At this time, you should not send a duplicate hardcopy of your electronic CBI submissions to DOT headquarters. If you claim that any of the information or documents provided to the agency constitute confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with part 512, to the Office of the Chief Counsel. Your request must include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR 512.8) and a certificate, pursuant to § 512.4(b) and part 512, Appendix A. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket at the address given above.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Ms. Lina Valivullah, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590 (telephone) 202–366–8786, (email) Lina.Valivullah@dot.gov.

For legal issues: Ms. Callie Roach, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590, (telephone) 202–366–2992, (email) Callie.Roach@dot.gov.

SUPPLEMENTARY INFORMATION: