DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 284

RIN 0970–AB65

Methodology for Determining Whether an Increase in a State's Child Poverty Rate Is the Result of the TANF Program

AGENCY: Administration for Children and Families, HHS.

ACTION: Proposed rule.

SUMMARY: The Administration for Children and Families is proposing a methodology to determine the child poverty rate in each State. If a State experiences an increase in its child poverty rate of 5 percent or more as a result of its Temporary Assistance for Needy Families (TANF) program, the State must submit and implement a corrective action plan. This requirement is a part of the new welfare reform block grant program enacted in 1996.

DATES: You must submit comments by November 23, 1998. We will not consider comments received after this date in developing the final rule.

ADDRESSES: You may mail or hand-deliver comments to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW, 7th Floor West, Washington, DC 20447. You may also transmit comments electronically via the Internet. To transmit comments electronically, or download an electronic version of the proposed rule, you should access the ACF Welfare Reform Home Page at http://www.acf.dhhs.gov/news/welfare and follow the instructions provided.

We will make all comments available for public inspection at the Office of Planning, Research and Evaluation, 7th Floor West, 901 D Street, SW, Washington, DC 20024, from Monday through Friday between the hours of 9 a.m. and 4 p.m. (This is the street address as opposed to the mailing address above.)

We will only accept written comments. In addition, all your comments should:

- Be specific;
- Address only issues raised by the proposed rule;
- Where appropriate, propose alternatives;
- Explain reasons for any objections or recommended changes; and
- Reference the specific section of the proposed rule that you are addressing.

We will not acknowledge individual comments. However, we will review and consider all comments that are germane and received during the comment period.

FOR FURTHER INFORMATION, CONTACT: Dennis Poe at 202–401–4053.

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.

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I. The Personal Responsibility and Work Opportunity Reconciliation Act

On August 22, 1996, President Clinton signed ''The Personal Responsibility and Work Opportunity Reconciliation Act of 1996''—or PRWORA—into law. The first title of this new law, ''Block Grants for Temporary Assistance for Needy Families,'' (section 103, Pub. L. 104–193) established a comprehensive welfare reform program designed to change dramatically the nation's welfare system. The new program is called Temporary Assistance for Needy Families, or TANF, in recognition of its focus on time-limiting assistance and moving recipients into work.

PRWORA repealed the existing welfare program known as Aid to Families with Dependent Children (AFDC), which provided cash assistance to needy families on an entitlement basis. It also repealed the related programs known as the Job Opportunities and Basic Skills Training (JOBS) program and Emergency Assistance (EA).

The new TANF program went into effect on July 1, 1997, except in States that elected to submit a complete plan and implement the program at an earlier date.

This landmark welfare reform legislation dramatically affects not only needy families, but also intergovernmental relationships. It challenges Federal, State, Tribal and local governments to foster positive changes in the culture of the welfare system and to take more responsibility for program results and outcomes.

This new legislation also gives States and Tribes the authority to use Federal welfare funds ''in any manner that is reasonably calculated to accomplish the purpose'' of the new program. It provides them broad flexibility to set eligibility rules and decide what benefits are most appropriate, and it offers States and Tribes an opportunity to try new, far-reaching ideas so they can respond more effectively to the needs of families within their own unique environments.

II. The Child Poverty Rate Provision

A. Legislative History

One of the concerns of Congress in passing PRWORA was potential harm to children that might result from the loss of Federal entitlement to benefits or the unsuccessful efforts of their caretakers to achieve self-sufficiency within the five-year time limit for receipt of federally-funded TANF assistance.

To address this concern, Congress amended the Social Security Act to add section 413(i) (42 USC 613(i)). This section requires each State to submit an annual statement of the child poverty rate in the State and a corrective action plan if the rate exceeds a certain threshold as a result of the State's TANF program.

Section 413(i)(5) directs the Secretary to issue regulations establishing a methodology for States to determine the child poverty rate and sets out a non-exclusive list of factors the methodology must take into account.

The Balanced Budget Act of 1997 amended section 413(i) to delay the due date for the initial report on a State's child poverty rate from 90 days after enactment to May 31, 1998. It also modified the factors to be used in the methodology by making the county-by-county estimates of children in poverty, as determined by the Census Bureau, subject to the availability of the data.

(Note: ACF issued a Program Instruction on May 29, 1998, clarifying that we, not the State, will send each State the Census Bureau estimate of the number of children in poverty and that the State need not submit a statement of its child poverty rate to us by May 31, 1998, as specified in the statute. We further explained that we would be publishing an NPRM to propose a methodology for determining whether an increase in the State's child poverty rate is the result of the TANF program in the near future. See TANF–ACF–PI–98–4.)

B. Summary of the Statutory Provisions

Section 413(i)(1) of the Social Security Act (the Act) requires the chief executive officer of each State to submit annually to the Secretary a statement of the child poverty rate in the State. The first statement, due May 31, 1998, must report on the child poverty rate at the time of enactment of PRWORA, or August 22, 1996.

Section 413(i)(2) specifies that, in subsequent years, if the child poverty rate in a State increases by 5 percent or more from the previous year as a result of the State's TANF program, the State shall prepare and submit a corrective action plan to the Secretary.

Section 413(i)(3) provides that the corrective action plan shall outline the manner in which the State will reduce the child poverty rate in the State and include a description of the actions to be taken by the State under the plan.

Section 413(i)(4) specifies that the State shall implement the corrective action plan until the State determines that the child poverty rate in the State is less than the lowest child poverty rate on the basis of which the State was required to submit the corrective action plan.

Section 413(i)(5) requires the Secretary to establish the methodology by which a State would determine the child poverty rate and specifies three factors that the Department must take into account in developing the methodology: the number of children who receive free or reduced-price lunches; the number of Food Stamp households; and, to the extent available, the county-by-county estimates of children in poverty as determined by the Census Bureau.

III. Regulatory Framework

A. External Consultation

In the spirit of both regulatory reform and PRWORA, we implemented a broad and far-reaching consultation strategy prior to publication of the NPRM for the TANF program. This proposed rule was published November 20, 1997 (62 FR 62124). We continued our commitment to external consultation in developing this NPRM.

We held two types of external consultations. First, we raised issues related to this provision in the general TANF consultation meetings with representatives of State and local government; non-profit, advocacy, and community organizations; foundations; and others. Second, we held consultations focused specifically on this provision with State groups and technical, statistical, and policy experts. We also spoke with representatives from the Federal statistical community, including the U.S. Bureau of the Census; the Office of Management and Budget; the U.S. Department of Agriculture for the Food Stamp program; and numerous representatives from advocacy, public interest, and research organizations that focus on child economic well-being.

The purpose of these discussions was to gain a variety of informational perspectives about the potential benefits and pitfalls of alternative regulatory approaches. We solicited comments, and we worked to ensure that concerns raised during this process were shared with both the staff working on individual regulatory issues and key policy makers.

These consultations were very useful in helping us identify key issues and evaluate policy options. However, we would like to emphasize that we are issuing these regulations as a proposed rule. Thus, all interested parties have the opportunity to voice their concerns and to react to specific policy proposals. We will review comments we receive during the comment period and will take them into consideration before issuing a final rule.

B. Related Regulations under Development

We published the NPRM to address the work, accountability, and data collection and reporting provisions of the new State TANF program in the **Federal Register** on November 20, 1997 (62 FR 62124).

On March 2, 1998, we published in the **Federal Register** (63 FR 10264) the NPRM to address the provision in PRWORA entitled Bonus to Reward Decrease in Illegitimacy which would reward decreases in out-of-wedlock childbearing.

On July 22, 1998, we published an NPRM on the Tribal Work and TANF Programs (63 FR 39366). Over the next several months, we expect to issue an NPRM on high performance bonus awards and an interim final rule on Welfare To Work data collection.

C. Regulatory Reform

In its latest *Document Drafting Handbook* the Office of the Federal Register supports the efforts of the National Performance Review and encourages Federal agencies to produce more reader-friendly regulations. In drafting this proposed rule, we have paid close attention to this guidance. Individuals who are familiar with prior welfare regulations should notice that this package incorporates a distinctly different, more readable style.

IV. Discussion of the NPRM

A. Issues in the Development of the NPRM

The percentage of children in poverty in the United States is a frequently used indicator of child well-being and many, both within Congress and without, are concerned about the impact of the TANF program on children. The child poverty rate in the United States is among the highest in the developed world.

The best source of data on child poverty is the Census Bureau. Historically, the Census Bureau has been tracking family and individual poverty rates in the United States for approximately three decades. In 1963–64, Mollie Orshansky of the Social Security Administration developed a set of poverty thresholds for families of different sizes based on the economy food plan (a minimum-cost diet developed by the Department of Agriculture.) Orshansky's thresholds were adopted as a quasi-official Federal definition of poverty in 1965 and as the Federal Government's official statistical definition of poverty in 1969. (Since 1969, the thresholds have been updated for price changes, using the Consumer Price Index.)

The most reliable source of data for calculating State level child poverty is the Decennial Census. The Bureau of the Census produces an annual series of national and State poverty rates during the intercensus years based upon data from the March Current Population Survey. Unfortunately, the small sample sizes for individual States result in significant uncertainty in these estimates, making them unsatisfactory for State reporting of child poverty.

The Census Bureau has a program to develop more reliable intercensus estimates of child poverty at the State and local level. This effort was given further impetus with the passage of the Improving America's Schools Act of 1994, which required the Department of Education to work with the National Academy of Sciences and the Bureau of the Census to develop State and local estimates of children in poverty, ages 5 through 17. With funding from DHHS, this work has been expanded to include estimates for children in poverty, ages 0 through 4.

Based on our analysis of the statute and information on Census Bureau data, Food Stamp data, and school lunch data, we identified several general, data, and methodological issues. These issues are discussed in greater detail below. Our consultations with external groups were particularly helpful in clarifying

data issues and evaluating alternative approaches and options.

The general issues we identified included:

- How should we use the three factors identified in the law in developing State child poverty rates?
- What additional factors, if any, should we use?
- How should these factors be weighted?
- What flexibility and options should a State have in determining the child poverty rate for its State?

Some of the data and methodological issues included:

- How should we account for limitations in Census Bureau data, e.g., until recently, measuring only children ages 5–17 and excluding certain sources of income such as taxes and in-kind transfers?
- What factors should we propose in order to identify the effect of the TANF program on any increases in child poverty?
- Other than Census Bureau data, what are the alternative sources of data related to child poverty and how might they be used?
- Given that some of the potential data sources have confidence intervals around their estimates, what confidence interval would be appropriate for each State's child poverty rate?

We discuss specific issues as follows

1. Measurement of Child Poverty and the Census Bureau Data

The Census Bureau develops estimates of child poverty, by State, based on the Current Population Survey (CPS) and a sampling size of approximately 55,000 households. The Bureau considers these State estimates to be moderately reliable and releases three-year averages for States, along with standard error rates, to reduce the chances that these estimates will be misinterpreted. The most recent data available on State child poverty estimates are for calendar year 1996.

In response to demand for sub-state data, the Census Bureau recently launched a program called Small Area Income and Poverty Estimates. It is a new program that will provide estimates of income and poverty for States and counties between decennial censuses. In January, 1998, the Bureau made available county income and poverty estimates for 1993. It plans to provide estimates for years 1995 through 1998, and periodically thereafter. From a program perspective, county-level data will be available only every other year, and the available data will be at least two years old.

Many external consultants expressed concern about the limitations in the Census Bureau child poverty data and its reliance on the official definition of poverty, particularly the exclusion of important types of income and the failure to deduct certain types of expenses when determining family income. For example, in-kind assistance such as housing assistance and Food Stamp benefits are not counted as income even though such assistance is clearly available to meet basic needs. Similarly, expenses such as work expenses and child support paid are not available to meet such needs.

Initially, some external groups were also concerned about the lack of Census Bureau poverty data on children 0 through 4 years, as child poverty is more acute for children in this age group. Since DHHS is funding the Census Bureau estimates for children in poverty for this age group, this information will be incorporated into the child poverty estimates we get from the Census Bureau.

We considered these concerns carefully in our development of this NPRM. We believe that Congress, by including in the statute two non-exclusive factors beyond the Census Bureau poverty measure, intended that we develop a methodology that will take into account and adjust for some of the limitations in the Census Bureau data.

However, we approached the drafting of this regulation with a desire not to deviate too far from the official Census measure. The official measure is the most widely-used measure of poverty, and significant deviations from this measure could limit the credibility and acceptance of estimates of child poverty rates developed for this provision. As data collection capabilities improve, we believe it may be possible to amend our proposed methodology to take advantage of such improvements. We welcome public comments on these issues.

Also related to the Census Bureau measure of child poverty was the recommendation by some external groups that our methodology focus on more extreme poverty. That is, in addition to, or instead of, considering the percent of children in families with incomes at or below 100 percent of poverty, we should consider the percent of children in families with incomes at or below a lower threshold, such as 50 percent of poverty. Additional research and model development by the Census Bureau would be necessary, however, before we would be able to consider such an approach. The current Census Bureau model for estimating State level child poverty exploits the strengths of additional databases, such as IRS tax data and Food Stamp data, to supplement the Current Population data. The value of these additional data for estimating extreme poverty is unknown, but experts believe that it would be less than the current model of 100 percent of the poverty level. We welcome public comment about the desirability and feasibility of pursuing this alternative. More information on the Census methodology is available on the Internet at the Census Bureau's poverty page.

2. Use of County-by-County Estimates of Children in Poverty in the Methodology

The legislation requires us to use, to the extent available, county-by-county estimates of children in poverty as determined by the Census Bureau. However, section 413(i) requires States to report on child poverty at the State level, and State-level estimates are more relevant to the purpose of this provision. Furthermore, county-by-county estimates are only available biennially.

Most external consultants recommended that we use the State estimates of children in poverty as determined by the Census Bureau, rather than the specific county-by-county estimates. The State estimates represent the first step in calculating the county by county estimates and reflect the same data and factors as the county-by-county estimates; the data are also compatible because the Census Bureau reconciles its county-by-county and State estimates so that the total is the same for each State; *i.e.*, the county-by-county estimates are adjusted so that the total for all the counties in a State is the same as in the State estimates calculated in the first step. We believe this approach is consistent with Congressional expectations and represents the most prudent use of the Census Bureau county-by-county estimating procedure.

3. Use of Food Stamp Data in the Methodology

The legislation requires us to take into account the number of Food Stamp households. Nationally, trends in Food Stamp caseloads generally track closely with trends in poverty. Further, Food Stamp data are available on a more timely basis than estimates based on the Census methodology.

However, nearly 40 percent of Food Stamp households contain no children.

After considering the focus of the law in relation to child poverty and reflecting on the discussion with external consultants, we concluded that we should propose the use of data on

Food Stamp households with children rather than the total number of Food Stamp households.

4. Use of Free and Reduced-Price School Lunch Data in the Methodology

The third factor specified in the Act is ''the number of children receiving free or reduced-price lunches.'' Over the past several years both the proportion of lunches served free or at a reduced price and the proportion of student enrollment approved for free or reduced-price meals have risen steadily. During the same time period, poverty rates have fallen. There are several likely reasons that free and reduced-price school lunch trends have not tracked poverty rates. Free and reduced-price lunch benefits are available to children in families with incomes up to 185 percent of the poverty level. Income trends in this eligible population will not necessarily mirror trends in the poverty population. In addition, changes in policy and procedures in the school lunch program during the past several years have likely influenced the rates at which children are certified for and/or participate in the program.

Given the lack of correspondence between school lunch data and poverty trends in recent years, these data received the least weight in our methodology. We have not required that States submit it, but we propose that States may provide it, at their option.

We are proposing that, if a State chooses to provide school lunch data, it must report the proportion of students certified for free and reduced-price meals. The Department of Agriculture indicates that changes in certification data primarily reflect changes in eligibility rates and in the propensity to apply for the program. Meal counts also reflect these two factors but are further affected by changes in the propensity to actually obtain a school meal on a given day such as school attendance rates or the number of serving days in a school year. Therefore, we believe that data on the proportion of students certified for free or reduced-price school lunches represent more useful data than the number of meals served.

5. Relative Importance of Various Factors in the Methodology

We did not give equal consideration to the three statutory factors. Rather, we give the greatest consideration to the Census Bureau methodology because it provides the most objective estimates of child poverty rates by States. However, given the limitations in the Census Bureau data, we propose that States provide supplemental information, in certain circumstances, that may adjust for these limitations, i.e., if the estimate of the State's child poverty rate increased five percent or more over the two year period.

6. Clarification of the Term ''Five Percent Increase''

The statute speaks to an increase in the child poverty rate of 5 percent. We want to clarify that a 5 percent increase does not mean a 5 percentage point increase in poverty. Rather, it means that the most recent child poverty rate is at least 5 percent higher than (i.e., 1.05 times) the previous year's rate. For example, an increase of 5 percent would mean an increase in the poverty rate of 20 percent to 21 percent.

We are taking this interpretation because it is the clearest reading of the statute and the one interpretation that will give the statute meaning; that is, it would be very unlikely that we would ever see an increase of 5 percentage points in a State's child poverty rate from one year to the next. In addition, we believe Congress would want to know about and have States take corrective action long before that occurred.

B. Summary of the Provisions of the Proposed Rule

Section 413(i) of the Act requires the Secretary to establish a methodology by which each State would determine the child poverty rate in the State. It specifies three factors that we must take into account in developing the methodology: The number of Food Stamp households; the number of children who receive free or reduced-price lunches; and, to the extent available, county-by-county estimates of children in poverty as determined by the Census Bureau.

Section 413(i) also specifies a deadline which requires the chief executive officer of each State to submit to DHHS by May 31, 1998, and annually thereafter, a statement of the State's child poverty rate. As noted earlier, we issued a Program Instruction to States explaining that we would provide to each State the Census Bureau's estimate of child poverty in each State as a first step in a proposed methodology and that no action by the State was required in relation to this deadline. (See TANF–ACF–PI–98–4.)

We are proposing a sequential methodology to implement the statute. There are five major steps in the proposed methodology. Not all States or Territories will need to participate in all steps. The methodology for the Territories is similar but includes some necessary modifications.

Step 1

- Annually, when we receive the data from the Census Bureau, we will provide each State with an estimate of the number and percentage of children living at or below 100 percent of the Federal poverty threshold within the State. This estimate will be for the calendar year that is two years prior to the current calendar year, e.g., in 1998, we will provide an estimate for calendar year 1996. The estimates we provide will be the Census Bureau estimates incorporating county level estimates of poverty.
- In 1999, and annually thereafter, we will determine for each State, at the 80 percent confidence level, the change in the percent of children in poverty for the most recent two year period for which the data are available, e.g., in 1999, we will provide data comparing calendar years 1996 and 1997; and provide this information to the State.

Step 2

- If the child poverty rate in a State did not increase by five percent or more, we will conclude that the State has met the requirements of section 413(i) of the Act, and the State will not be required to submit supplemental information.
- If the child poverty rate in a State increased by 5 percent or more, we propose to require that the State provide supplemental information to adjust, explain, or account for this increase. We propose that the State, within 60 days—

1—Must provide data on the average monthly number of households with children that receive Food Stamp benefits for each of the two most recent calendar years for which data are available. (We expect that the data submitted in 1999 will cover calendar years 1997 and 1998.);

2—Must provide data on any changes in legislation, policy, or program procedures that have had a substantial impact on the number of households with children receiving Food Stamp benefits during the same two year period, including data on sub-populations affected; and

3—May provide, at State option, other information such as the proportion of students certified for free or reduced-price school lunches or estimates of child poverty derived from an independent source. These data may cover any pertinent time period, *e.g.*, the two-year period for which the child poverty rate was determined or the most recent two year period for which data are available. An independent source may include studies by research or advocacy organizations, universities, or independent evaluation and analysis

offices associated with State executive branch agencies or State legislatures.

• If the Food Stamp data are based on population counts, States may simply report the average monthly number for each of the two calendar years and the simple difference between them. If the Food Stamp data are based on monthly samples, States must include the calculated standard errors of each annual estimate.

Note: Alternatively, if a State chooses to accept the increase in child poverty as indicated by the Census data, it may skip steps two and three and move directly to step four—the assessment of the impact of the State's TANF program on child poverty.

Step 3

• We will review the Food Stamp and other data provided by the State, including data on substantive legislative, policy, and program changes affecting the number of households with children receiving Food Stamp benefits. If we determine that these data indicate a subsequent improvement, commensurate with the poverty increase in the Census data, it would not be necessary for the State to proceed to Step 4 because the more recent data indicate child poverty is already improving.

Step 4

• If we determine that the Food Stamp and other data provided by the State do not indicate a subsequent commensurate decrease in child poverty as addressed in Step 3, we propose to notify the State that it must, within 60 days, provide an assessment (and the information and evidence on which the assessment was based) of the impact of the State's TANF program on the child poverty rate. In this instance, we propose to give the States and Territories broad latitude in the information they provide.

Step 5

• We will review the information provided by the State, along with other data available such as the State's TANF plan and eligibility criteria, other supportive services and assistance programs, and the State's economic circumstances. If we determine that the increase in the child poverty rate is the result of the State's TANF program, we will notify the State that it is required to submit a corrective action plan within 90 days.

• To the extent that data are available and the procedures applicable, the Territories are subject to the same methodology as described for the States. One modification, however, is necessary. Since the Census Bureau does not estimate a child poverty rate for the Territories, ACF will compute an estimate of the percentage of children in poverty and the estimated child poverty rate for the Territory, based on information submitted by the Territory. Subsequent procedural steps are the same as for States, i.e., as applicable, we will review supplemental data to determine whether the child poverty rate increased by 5 percent or more; review the Territory's assessment of whether the increase in the child poverty rate was a result of the TANF program; and require the development of a corrective action plan, as necessary.

Note: We call to the Territories' attention that this NPRM proposes to require the retention and availability of 1996 calendar year data on households with children that received Food Stamp benefits.

We believe this approach will begin with and use the most reliable, objective data on child poverty available for all States and Territories; help assure that the child poverty rate for each jurisdiction accurately reflects its economic and other circumstances; and require that States and Territories provide only those data necessary, readily available, and most appropriately provided by them. States have more timely access to Food Stamp and other data to supplement the Census Bureau estimates, and both States and Territories are in a better position to explain any relationship to the TANF program. We anticipate, however, that only a small number of States and Territories will need to provide these data and an even smaller number will be required to submit a corrective action plan.

C. Section-By-Section Discussion

What Does This Part Cover? (§ 284.10)

This section of the proposed rule provides a summary of 45 CFR part 284. Part 284 proposes a methodology for determining State child poverty rates, including a determination of whether the child poverty rate increased as a result of the TANF program. It also covers the content and duration of the corrective action plan.

In § 284.10(b), we indicate that any Territory that has never operated a TANF program would not be subject to these rules. We included this provision to address American Samoa's situation. American Samoa did not operate an AFDC program, and it has not yet elected to operate a TANF program. Unless its status changes, we would exempt American Samoa from the requirements of this part.

What Definitions Apply to This Part? (§ 284.11)

This section proposes definitions of the terms used in part 284. It includes key technical terms used in the methodology for clarity.

The statute requires States to submit a ''statement of the child poverty rate'' using various factors, including ''county-by-county estimates of children in poverty as determined by the Census Bureau.'' These two references to the term ''poverty'' need further clarification. We refer to estimates provided by the Census Bureau of the percentage of children in a State in families with incomes below 100% of the poverty threshold as ''children in poverty.'' The term ''Census methodology'' means the methods developed by the Census Bureau for estimating the number and percentage of children in poverty in each State.

We use the term ''child poverty rate'' when referring to the sequential methodology proposed in this part for determining whether a State will be required to submit a corrective action plan.

We propose to define ''date of enactment'' to mean calendar year 1996. Although the statute requires the State to provide to DHHS a statement of the child poverty rate in the State as of the date of enactment of PRWORA (August 22 1996), these data are available only on a calendar year basis. We believe that using the available calendar year data is the most feasible way to determine child poverty rates and consider the impact of the TANF program on these rates.

Although section 419(5) of the Act, as amended, defines ''State'' as the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam and American Samoa, we have proposed, for this part, to define ''Territory'' in a separate definition to mean the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

We have done this for clarity as some data limitations and some procedural steps in the proposed methodology do not apply to the Territories. We have outlined the steps for determining the child poverty rate for States in §§ 284.20 through 284.30 and specified how the process differs for Territories in § 284.35.

You will note that we use the term ''we'' throughout the regulation and preamble. We have defined ''We (and any other first person plural pronouns)'' to mean the Secretary of the Department of Health and Human Services or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human

Services, and the Administration for Children and Families.

Who Must Submit Information to ACF to Carry out the Requirements of this Part? (§ 285.15)

Section 413(i)(1) of the Act specifies that the chief executive officer of the State (or Territory) shall submit to the Secretary the annual statement of the State's (Territory's) child poverty rate. Other subsections require action by the ''State.''

Given the widespread concern for the needs and circumstances of children, we believe it is appropriate that the chief executive officer of a State (Territory) carry out these responsibilities. We have proposed in § 284.15 that the chief executive officer, or his or her designee, submit the information required by this part. For editorial simplicity, however, we have used the term ''State'' or ''Territory'' throughout part 284 rather than the more cumbersome term ''chief executive officer of the State.''

What information will we provide to each State to estimate the number of children in poverty? (§ 284.20)

Annually, we propose to provide each State with an estimate of the number and percentage of children in poverty within the State. The estimates we provide will be those determined by the Census Bureau and will incorporate calculations by the Census Bureau using the methodology it has developed for small-area (e.g., county-level) estimates of poverty.

The first annual estimate will be an estimate of the number and percentage of children in poverty for calendar year 1996. Subsequent year estimates will also be for the calendar year two years preceding, e.g., the second annual estimate will be for calendar year 1997. The two-year time differential reflects the amount of time it takes for the Census Bureau to collect and analyze the data sources used in its model.

Although the law states that ''the chief executive officer of each State shall submit to the Secretary a statement of the child poverty rate in the State* * *,'' we are proposing to provide this information to the States in order to reduce burden on States and others. Because the Census Bureau data are collected at the Federal level, we are in a position to obtain and distribute these data more efficiently to States. (It did not seem reasonable to require each State to contact the Census Bureau for child poverty information and forward it back to us.)

We have not referenced or incorporated the May 31st date specified in the statute in this NPRM. We will, however, send to the States the annual child poverty estimates as soon as they are available from the Census Bureau.

In § 284.20(b), we propose that annually we will determine for each State, at the 80 percent confidence level, the change in the percentage of children in poverty for the applicable two year period and provide each State with its percentage of change. (The 1999 percentage change will cover the change between calendar years 1996 and 1997.)

We are proposing the use of the 80 percent confidence level because, while the Census methodology will provide us a point estimate of the poverty rate, there is a high probability that the actual poverty rate will not be exactly the same as the point estimate. Rather, the actual poverty rate likely will lie somewhere near the estimate. Statistical procedures will allow us to determine the range around which the actual estimate lies, with varying degrees of confidence.

This range is important because year-to-year changes in State-level child poverty rates may simply reflect points within the confidence interval. The estimate may indicate that the child poverty rate has changed when in fact it has not.

We will require a particular level of statistical certainty in determining a State's poverty rate in order to avoid erroneously concluding that a State's poverty rate has increased by 5 percent or more.

We propose to require States to submit additional data only when we conclude, with 80 percent confidence, that the rate has increased by 5 percent or more. While an 80 percent confidence level is not considered to be a high level of confidence in a scientific context of hypothesis testing, a four-fifths likelihood is certainly high enough in a practical context to justify concern that the child poverty rate may have in fact increased sufficiently to warrant attention.

More importantly, we believe the 80 percent confidence level offers greater protection to children. We have proposed the 80 percent confidence level (instead of the commonly used 95 percent confidence level) in order to ascertain more sensitively any percentage change in the child poverty rate. The choice of a particular confidence level affects the quality of statistical information.

For example, the risk of choosing a narrower confidence band is that it may provide a false indication of change in the poverty rate when no significant change has occurred. However, the consequences of choosing a higher percent confidence level are far more serious, in a programmatic sense, as they may lead us to conclude that the child poverty rate has not changed significantly when, in fact, it has.

In determining the 80 percent confidence interval, we will use a one-tailed (rather than two-tailed) statistical test because we want to ensure that we have determined the point estimate of any increase in the child poverty rate with 80 percent certainty. We would use a two-tailed statistical test only if we wanted to determine the point estimates of both increases and decreases in the child poverty rate with 80 percent probability. Therefore, the one-tailed test is the appropriate test to use to ensure that the real increase is at least 5 percent. (A test is one-tailed when the alternative hypothesis states a direction such as the mean (average) increase in the child poverty rate for a given year is GREATER THAN zero.)

The Census Bureau may update the assumptions and features of its methodology occasionally. Further, estimates may need to be refined after initial publication. Should the Census Bureau alter its methodology or subsequently update previously published estimates, we will base the estimates of change in poverty on the most updated methods and estimates. If, for example, the Census Bureau changes a model assumption from one reporting period to the next, we will re-estimate the number of children in poverty for that year. This re-estimate will be solely for the purpose of calculating the change; it will help ensure that any estimated changes do not result from changes in the methodology.

What Information Must the State Provide if the Estimate of a State's Child Poverty Rate Has Increased Five Percent or More Over the Two Year Period? (§ 284.25)

If we have determined, with 80 percent confidence, that the child poverty rate in a State did increase by 5 percent or more, we propose in paragraph (b) to require that the State must submit data within 60 days on Food Stamp participation. The State may also submit other information.

We propose, in paragraph (c), to require that the State provide data on the average monthly number of households with children receiving Food Stamp benefits for each of the two most recent calendar years for which data are available. For example, we expect that the Food Stamp data submitted in 1999 will cover calendar years 1997 and 1998.

We also propose that the State, at its option, may submit other information in

relation to the child poverty rate for the same most recent two year period. This information could include changes in the proportion of students certified for free or reduced-price school lunches or estimates of child poverty derived from an independent source. As noted earlier, studies of child poverty are being conducted by a variety of entities including, research and advocacy organizations, universities, and evaluation and analysis offices associated with State executive branch agencies or State legislatures.

We propose, in paragraphs (c)(1) and (c)(2) that States submitting the average monthly number of Food Stamp households with children under age 18 may elect to calculate such number based upon either:

- Population counts (e.g., from its administrative data system); or
- Monthly samples of Food Stamp recipient households based on generally accepted scientific sampling methods, i.e., each recipient household has a known, non-zero probability of being drawn into the sample.

A State submitting the average monthly number of Food Stamp recipient households with children under 18 based upon population data for each month would then calculate the simple difference between yearly averages.

If a State chooses to use monthly samples of its Food Stamp recipient caseload for each of the twelve months to develop an estimate of the average monthly number of Food Stamp households with children under 18, such State would be required to submit:

- The estimated average monthly number of households; and
- Estimated sampling errors (standard errors).

We expect that a State using the sampling method will have its sampling plan available for review and submission as needed. A State using its Food Stamp Quality Control sampling plan will not be asked to submit its plan.

In paragraph (c)(3), we propose that the State must submit information on any changes in legislation, policy, or program procedures that have had, during the same period for which Food Stamp data are provided, a substantial impact on the number of households with children receiving Food Stamp benefits. Specifically, the State must submit data relative to determining how such changes affected the Food Stamp population as a whole or any sub-population.

We will review the Food Stamp information provided by the State under paragraph (c). The purpose of our review will be to determine whether the average monthly number of households with children receiving Food Stamps indicates a subsequent improvement commensurate with the poverty increase in the Census data, taking into account any additional information provided by the State.

If we determine that the number of households with children receiving Food Stamp benefits did not indicate an improvement commensurate with the poverty increase in the Census data, we will review any additional data the State has provided. Unless we determine that this additional data provides sufficient documentation that either child poverty did not go up in the State or that there was a subsequent improvement, commensurate with the poverty increase in the Census data, we will notify the State that information on the impact of TANF on the child poverty rate must be submitted.

How Will We Determine the Impact of TANF on the Increase in the State Child Poverty Rate? (§ 284.30)

Section 413(i) of the Act requires States to submit corrective action plans only if the State's child poverty rate has increased by 5 percent or more as a result of TANF.

In § 284.30, we propose that those States identified, based on the determination made in § 284.25, must make an assessment of the impact of the TANF program on its child poverty rate. The State's assessment, and the information on which the assessment was based, must be provided to us within 60 days.

The State's assessment of the impact of the TANF program will be based on the same two-year time period used to determine State's child poverty rate. For example, the poverty rate for 1996–1997 will be compared to the TANF (or prior program) in effect for the same years.

Paragraph (a) of this section includes examples of information or evidence that a State may submit as a part of its assessment. States may identify and provide other pertinent information as well.

In assessing the impact of the TANF program, the State, for example, might review its TANF program and policies, the percentage of eligible persons receiving TANF, the TANF application disapproval rates, and numbers of cases sanctioned or closed; and the economic and other circumstances in the State, e.g., factory and base closings, rise in unemployment rates; and participation rates of other assistance programs. A State should review the evidence to form a broad picture of contributing circumstances and not consider factors in isolation. An increase in State unemployment, for example, cannot by itself be put forward to account for the increase in the child poverty rate if restrictive TANF eligibility policies are also in place.

During the consultation process, some experts expressed doubt that a single methodology could be used by all States to statistically attribute changes in child poverty rates. Many factors contribute to such changes in ways that may vary from State to State and from year to year.

It is the Department's responsibility to determine whether a State or Territory's child poverty rate has increased as a result of the TANF program in the State or Territory, and this is a responsibility we take seriously. We will thoroughly examine the assessment provided by the State as well as a range of other available information. At the same time, however, we propose to give States flexibility in reviewing their programs, policies, and economic and other circumstances; assessing the effect of the TANF program on child poverty rates; and providing evidence of alternative factors they believe may have contributed to the increase.

We expect that a State or Territory will also take this responsibility seriously and will provide an assessment in sufficient detail to enable us to make our determination. However, if a State submits only a conclusory statement—with no information, evidence, or assessment—we will conclude that a corrective action plan is required.

Paragraph (b) of this section proposes that we will review the information provided by the State, in addition to other available information (such as the State's TANF plan and eligibility criteria, other supportive service or assistance plans, and a State's economic circumstances); make a determination; and notify the State if a corrective action plan is required.

How Will the Methodology for the Territories Differ? (§ 284.35)

Not all of the steps proposed for States in the previous sections are applicable to Territories. For example, ''estimates of children in poverty as determined by the Census Bureau'' are calculated only for the 50 States and the District of Columbia, but not for the Territories. Further, the Food Stamp Program does not operate in the Commonwealth of Puerto Rico and American Samoa.

Therefore, we are proposing a modified but similar process for the Territories. In § 284.35, we propose that, in the absence of Census Bureau

estimates, ACF will compute the estimated percentage of children in poverty for each Territory. We will base our computations on the information submitted by the Territory as specified in paragraph (b) or (c) of this section. This information must include Food Stamp data, if available. If the Territory does not have a Food Stamp program, it must provide other information such as the proportion of students certified for free or reduced-price school lunches or other estimates of child poverty derived from independent sources.

For example, in 1998, we will compute the estimated percentage of children in poverty for each Territory for calendar year 1996. In 1999, we will compute the estimated percentage of children in poverty for calendar year 1997. We will also determine, at the 80 percent confidence level (if the data are sample data), the percentage change between calendar years 1996 and 1997. We will perform these computations annually for the applicable two year period, based on the annual information submitted by the Territory.

If the child poverty rate in the Territory did not increase between one year and the next, we will conclude that the Territory has met the requirements of section 413(i) and notify it that no further information from or action by the Territory is required for that two year period.

If the estimate of the child poverty rate increased by 5 percent or more from one year to the next, we propose in paragraph (g) to require that the Territory submit data for calendar year 1998. This data would be the Food Stamp data, if available, as specified in paragraph (b) or other data as specified in paragraph (c).

This proposed action parallels the proposed action required from States in § 284.25(c). We believe that these more recent data will help illustrate, for both States and Territories, any positive trends and show the current effect of a State or Territory's program and policies.

Based on the data submitted in paragraph (g), we will determine whether the child poverty rate has increased 5 percent or more. If it has, we will notify the Territory that it must submit an assessment (and the information and evidence on which the assessment was based) of whether the child poverty rate increased as a result of the Territory's TANF program. We reference the examples of information and evidence described in § 284.30(a).

We will review the assessment submitted by the Territory, along with other available information; make a determination whether the increase in the child poverty rate is a result of the Territory's TANF program; and notify the Territory whether it is or is not required to submit a corrective action plan as specified in §§ 284.40 and 284.45.

When is a Corrective Action Plan Required? (§ 284.40)

This section proposes that only those States and Territories for which we have concluded that the child poverty rate has increased by 5 percent or more as a result of TANF are required to submit corrective action plans. The State and the Territory must submit the plan within 90 days of the date we notify it of our determination under §§ 284.30 or 284.35.

What is the Content and Duration of the Corrective Action Plan? (§ 284.45)

The Act does not provide express authority for us to prescribe regulations regarding the content and duration of corrective action plans. Therefore, this section restates the statutory provisions.

However, we want to provide additional explanation of the statutory language on the duration of the corrective action plan. Paragraph (b) of this section re-states section 413(i)(4) of the Act. This section requires that the State implement the corrective action plan ''until the State determines that the child poverty rate in the State is less than the lowest child poverty rate on the basis of which the State was required to submit the corrective action plan.''

The ''lowest child poverty rate'' means the five percent threshold above the first year in the two year comparison period. For example, a State with a 20 percent child poverty rate in the first year of the two year comparison period would have a five percent threshold of 21 percent and would be required to implement its corrective action plan until its child poverty rate dropped below 21 percent.

V . Regulatory Impact Analyses

A. Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. This proposed rulemaking implements statutory authority based on broad consultation and coordination.

The Executive Order encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. As described elsewhere in the preamble, ACF consulted with State and local officials, their representative organizations, and a broad range of technical and interest group representatives.

We discuss the input received during the consultation process in previous sections of the preamble. To a considerable degree, this NPRM reflects the information provided by, and the recommendations of, the groups with whom we consulted.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 603, 605) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. Small entities are defined in the Regulatory Flexibility Act to include small businesses, small non-profit organizations, and small governmental agencies. This rule will affect only States, the District of Columbia, and certain Territories. Therefore, the Secretary certifies that this rule will not have a significant impact on small entities.

C. Paperwork Reduction Act

In developing this proposed rule, we had very little discretion with respect to the kinds of data States and Territories must report to the Secretary. Thus, the burden of reporting data on the Food Stamp program is mandated by the statute. We have estimated the burden in this section and do not view it as significant. We have exercised discretion by developing an approach that will help States and Territories meet the statutory requirements with the least burden.

We will send to the States the Census Bureau data on the number and percentage of children reported to have fallen below the poverty level and will compute for the Territories the percentage of children in poverty based on the information provided by the Territory. Only those States and Territories whose child poverty rate increased 5 percent or more will be required to submit further information. This approach is designed to lessen the burden on these jurisdictions. However, we invite comments on this approach and the possible impact it may have on States and Territories.

To the extent possible, this proposed rule relies on existing data sources. The Census methodology is based on available data from the Bureau of the Census, the U.S. Department of Agriculture, and the U.S. Department of the Treasury. Sample or universe data on the number of households with children that receive Food Stamp benefits are reported by the States to the

U.S. Department of Agriculture (USDA) and are available from the States or the USDA. Also, States report to USDA data on the number of students certified to receive free and reduced-price school lunches.

However, this proposed rule does contain information collection activities that are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA). Under the PRA, no persons are required to respond to a collection of information unless it displays a valid OMB control number. As required by the PRA, we have submitted the proposed data collection requirements to OMB for review and approval. We are using this NPRM as a vehicle for seeking comment from the public on these information collection activities.

There are four circumstances in the proposed rule that will create a reporting burden:

- A Territory provides data to us on which we will base our computation of an estimate of the percentage of children in poverty and the change in the percentage (§ 284.35);
- A State or Territory provides evidence that the estimated increase in poverty was less than 5 percent (§ 284.25(c) and § 284.35(g));
- A State or Territory provides evidence that the increase in the child poverty rate was not the result of the TANF program (§ 284.30 and § 284.35(h)); and
- A State or Territory submits a corrective action plan (§ 284.40 and § 284.45).

The annual burden estimates include any time involved compiling and abstracting information, assembling any other material necessary to provide the requested information, and transmitting the information.

Prior to the development of this estimate, we researched the burden estimates for similar OMB-approved data collections in our inventory, and those pending OMB approval, and consulted with knowledgeable Federal officials.

All 50 States, the District of Columbia, and the Territories of Guam, Puerto Rico, and the United States Virgin Islands are potential respondents to all of the proposed data collections. The annual burden estimates for these data collections are:

Instrument or requirement	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Submission of Data by Territory for Computation of an Estimate of the Percentage of Children in Poverty and the Change in the Percentage (§ 284.35)	3	1	40	120
Submission of Food Stamp Data and/or Alternative Evidence That Child Poverty Level Did Not Increase by 5% or More (§ 284.25(c) and § 284.35(g))	54	1	40	2,160
Documentation for Relationship of TANF to the Increase in Child Poverty Level (§ 284.30 and § 284.35(h))	54	1	80	4,320
Corrective Action Plan (§ 284.40 and § 284.45)	54	1	160	8,640

Estimated Total Annual Burden Hours: 15,240.

We have over-estimated the burden hours for part 284 for ease of discussion and public review of the burden. We expect that only a few States will experience an increase of 5 percent or more in their child poverty rate and will need to provide Food Stamp or additional data; even fewer will need to submit information in relation to the TANF program; and a very few will be required to submit a corrective action plan.

We encourage States, organizations, individuals, and other parties to submit comments regarding the information collection requirements to ACF (at the address above) and to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, 725 17th Street, Washington, DC 20503, ATTN: Desk Officer for ACF.

To ensure that public comments have maximum effect in developing the final regulations and the data collection requirements, we urge that each comment clearly identify the specific section or sections of the proposed rule that the comment addresses and follow the same order as the regulations.

We will consider comments by the public on these proposed collections of information in:

- Evaluating whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical utility;
- Evaluating the accuracy of our estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used, and the frequency of collection;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- 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., the electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed rules between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is assured of having its full effect if OMB receives it within 30 days of publication. This OMB review schedule does not affect the deadline for the public to comment to ACF on the proposed rules.

D. 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 any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 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 rule and is consistent with the statutory requirements. In addition, section 205 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this proposed rule would not impose a mandate that will result in the

expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 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.

E. Congressional Review

This proposed rule is not a ''major'' rule as defined in 5 U.S.C., Chapter 8.

List of Subjects in 45 CFR Part 284

Grant programs—Social programs, Public Assistance programs; Reporting and recordkeeping requirements; Poverty.

(Catalogue of Federal Domestic Assistance Programs: 93.558 TANF programs—State Family Assistance Grants, Assistance grants to Territories, Matching grants to Territories, Supplemental Grants for Population Increases and Contingency Fund; 93.595 Welfare Reform Research, Evaluations and National Studies.)

Dated: May 13, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: June 9, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we propose to amend 45 CFR Ch. II by adding part 284 to read as follows:

PART 284—CHILD POVERTY RATES

Sec.
284.10 What does this part cover?
284.11 What definitions apply to this part?
284.15 Who must submit information to ACF to carry out the requirements of this part?
284.20 What information will we provide to each State to estimate the number of children in poverty?
284.25 What information must the State provide if the estimate of a State's child poverty rate has increased by five percent or more over the two year period?
284.30 What information must the State provide to explain the impact of TANF on the increase in child poverty?
284.35 How will the methodology for the Territories differ?
284.40 When is a corrective action plan due?
284.45 What is the content and duration of a corrective action plan?

Authority: 42 U.S.C. 613(i)

§ 284.10 What does this part cover?

(a) This part describes the methodology to be used to determine State child poverty rates, as required by section 413(i) of the Social Security Act, including determining whether the child poverty rate increased by 5 percent or more as a result of TANF. It also describes the content and duration of the corrective action plan.

(b) The requirements of this part do not apply to any Territory that has never operated a TANF program.

§ 284.11 What definitions apply to this part?

The definitions that apply to this part are:

ACF means the Administration for Children and Families.

Act means the Social Security Act, unless otherwise specified.

Census methodology means the methods developed by the Census Bureau for estimating the number and percentage of children in poverty in each State.

Child poverty rate means the result of the methodology described in this part to determine the percentage of children in poverty in each State and Territory. The State child poverty rate will be based on the Census methodology and may also include the number of households with children receiving Food Stamp benefits and additional data submitted by a State. The child poverty rate for a Territory will be computed by ACF based on data submitted by the Territory.

Children in poverty means estimates resulting from the Census methodology of the percentage of children in a State that live in families with income below 100 percent of the federal poverty level.

Date of enactment means calendar year 1996.

State means each of the 50 States of the United States and the District of Columbia.

TANF means the Temporary Assistance for Needy Families program, as enacted by section 103 of Pub. L. 104–193 (42 U.S.C. 601–619).

Territories means American Samoa, Guam, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

We (and any other first person plural pronouns) means the Secretary of Health and Human Services or any of the following individuals and organizations acting in an official capacity on the Secretary's behalf: The Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

§ 284.15 Who must submit information to ACF to carry out the requirements of this part?

The chief executive officer of the State or Territory, or his or her designee, is responsible for submitting the information required by this part to us.

§ 284.20 What information will we provide to each State to estimate the number of children in poverty?

(a) Annually, we will provide each State with an estimate of the number and percentage of children in poverty within the State, as determined by the Census Bureau using the Census methodology. The annual estimate will be for the calendar year two years previous. (The first annual estimate in 1998 will be an estimate of children in poverty for calendar year 1996.)

(b) In 1999, and annually thereafter, we will determine for each State, at the 80 percent confidence level, the change in the percentage of children in poverty for the applicable two calendar year period based on the Census Bureau data, and provide each State with its percentage of change. (The first determination of percentage change will cover the change between calendar years 1996 and 1997.)

§ 284.25 What information must the State provide if the estimate of a State's child poverty rate has increased five percent or more over the two year period?

(a) If the estimate of a State's child poverty rate did not increase by 5 percent or more, at an 80 percent confidence interval, from one year to the next, we will conclude that a State has satisfied the statutory requirements of section 413(i) of the Act, and notify the State that no further information from or action by the State is required for the applicable two calendar year period.

(b) If the estimate of a State's child poverty rate increased by 5 percent or more from one year to the next, we will notify the State that it has 60 days to submit the data required in paragraph (c) of this section.

(c) If required under paragraph (b) of this section, the State must submit data on the average monthly number of households with children that received Food Stamp benefits for each of the two most recent years for which data are available. (We expect that the data submitted in 1999 will cover calendar years 1997 and 1998.) The State may also submit other evidence covering any pertinent time-period, including the proportion of students certified for free or reduced-price school lunches or estimates of child poverty that were derived from an independent source.

(1) If a State reports Food Stamp data based on population counts, it must

report the average monthly number for each of the two calendar years and the difference between them.

(2) If a State reports Food Stamp data based on monthly samples, it must include the calculated standard errors of each annual estimate.

(3) If there has been a change in legislation, policy, or program procedures that have had a substantial impact on the number of households with children receiving Food Stamps during the period for which we are requesting Food Stamp data, the State must submit data relevant to determining how that change(s) affected the number of Food Stamp households with children, including data on sub-populations affected by the change.

(d) Based on the information submitted by the State under paragraph (c) of this section, if the average monthly number of households with children receiving Food Stamp benefits within the State indicates a subsequent improvement, commensurate with the poverty increase in the Census data, we will conclude that the State has satisfied the statutory requirements of section 413(i) of the Act, and that no further information from or action by the State is required.

(e) If the average monthly number of households with children receiving Food Stamp benefits within the State did not indicate a subsequent decrease in child poverty commensurate with the increase shown by the Census data, we will review any additional data the State has provided. Unless this additional data provides sufficient documentation that either child poverty did not go up in the State or there was a subsequent commensurate decline, we will notify the State that it must provide the information described in § 284.30.

§ 284.30 What information must the State provide to explain the impact of TANF on the increase in child poverty?

(a) If we have determined under § 284.25, that the State must submit its assessment (and the information and evidence on which the assessment is based) of whether the child poverty rate has increased as a result of the State's TANF program, the State's assessment, and the information on which the assessment is based, must cover the two year period for which the child poverty rate is determined, and must be submitted to us within 60 days. Examples of such information may include—

(1) Evidence that TANF program rules did not economically disadvantage children from one calendar year to the next to the extent that such policies could account for a 5 percent or more increase in the child poverty rate. For example, if TANF income eligibility rules did not limit program participation and program cash benefits did not decrease substantially, a State could assert that increases in the child poverty rate occurred independently of TANF. A State could also provide other TANF program evidence, such as the percentage of eligible individuals receiving TANF, the number of applicants disapproved, sanction rates, numbers of cases terminated as a result of time limits, and numbers of cases terminated as a result of failing to meet work requirements;

(2) Evidence that other factors account for the increase in the child poverty rate, such as changes in economic or social conditions, *e.g.*, an increase in the State's unemployment rate. For example, a State that met the definition of a ''needy State'' under section 403(b)(6) of the Act for an extended period of time within the applicable two year period could assert that increases in the child poverty rate resulted from non-TANF factors; or

(3) An alternate justification that demonstrates that changes in the child poverty rate within the State did not result from TANF. For example, a State could submit data from other assistance programs that provide evidence that increases in the child poverty rate did not result from TANF.

(b) We will review the State's assessment, along with other available information such as the State's TANF plan and eligibility criteria, other supportive services and assistance programs, and the State's economic circumstances; make a determination whether the child poverty rate has or has not increased by 5 percent or more as a result of the State's TANF program; and notify the State whether it must submit a corrective action plan as described in §§ 284.40 and 284.45.

(c) If we determine that the child poverty rate has not increased by 5 percent or more as a result of the State's TANF program, we will conclude that the State has met the requirements of section 413(i) and notify the State that no further information from or action by the State is required for the applicable two calendar year period.

§ 284.35 How will the methodology for the Territories differ?

(a) To the extent that data are available and the procedures applicable, the Territories are subject to the same methodology used to determine the child poverty rate in the 50 States and the District of Columbia.

(b) Since the Census Bureau methodology does not estimate a child poverty rate for the Territories, each Territory must, beginning in 1998, and annually thereafter, submit to ACF the Food Stamp data described in § 284.25(c).

(c) If the Food Stamp data are not available for a Territory because it did not operate a Food Stamp program for the applicable year, it must, beginning in 1998, and annually thereafter, submit other information on which the child poverty rate may be determined, such as the proportion of students certified for free or reduced-price school lunches or estimates of child poverty derived from independent sources. (In 1998, the Territory must submit data for calendar year 1996; in 1999, the Territory must submit data for calendar year 1997.)

(d) Based on the data specified in paragraph (b) or (c) of this section submitted for calendar year 1996, we will compute an estimate of the percentage of children in poverty for the Territory for calendar 1996.

(e) Based on the data specified in paragraph (b) or (c) submitted for calendar year 1997, we will compute an estimate of the percentage of children in poverty for calendar year 1997. We will also determine, at the 80 percent confidence level (if the data are sample data), the change in the percentage of children in poverty between calendar years 1996 and 1997. We will do this annually thereafter for the applicable two year period.

(f) If the estimate of the child poverty rate in the Territory did not increase by 5 percent of more, at an 80 percent confidence level, we will conclude that the Territory has satisfied the requirements of section 413(i) of the Act. We will notify the Territory that no further information from or action by the Territory is required for the applicable two year period.

(g) If the estimate of the child poverty rate in the Territory increased by 5 percent or more from one year to the next, the Territory must submit the information in paragraph (b) or (c) of this section for the subsequent calendar year. For example, if the child poverty rate increased between calendar years 1996 and 1997, the Territory must submit data for calendar year 1998. We will review these data and determine whether the child poverty rate has or has not increased by 5 percent or more.

(h) If we determine that the child poverty rate has increased 5 percent or more, we will notify the Territory that it must submit an assessment (and the information and evidence on which the assessment was based) of whether the child poverty rate increased as a result of the TANF program in the Territory.

Examples of such information and evidence are found in § 284.30(a).

(i) We will review the assessment provided by the Territory, along with other available data on the Territory's TANF plan and eligibility criteria, other supportive services and assistance plans, and economic circumstances; make a determination whether the increase in the child poverty rate is due to the Territory's TANF program; and notify the Territory whether a corrective action plan is required as specified in § 284.40 and § 284.45.

§ 284.40 When is a corrective action plan due?

Each State and Territory must submit a corrective action plan to ACF within 90 days of the date we notify it that, as a result of TANF, its child poverty rate increased by 5 percent or more for the applicable two calendar year period.

§ 284.45 What is the content and duration of the corrective action plan?

(a) The corrective action plan must outline the manner in which the State or Territory will reduce the child poverty rate in the State and include a description of the actions to be taken by the State or the Territory under such a plan.

(b) A State or Territory shall implement the corrective action plan until the State or Territory determines that the child poverty rate in the State is less than the lowest child poverty rate on the basis of which the State was required to submit the corrective action plan.

[FR Doc. 98–25384 Filed 9–22–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 286 and 287

RIN 0970–AB78

Tribal Temporary Assistance for Needy Families Program (Tribal TANF) and Native Employment Works (NEW) Program

AGENCY: Administration for Children and Families.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On July 22, 1998, the Administration for Children and Families (ACF) published a Notice of Proposed Rule Making (NPRM) for the Tribal Temporary Assistance for Needy Families Program (Tribal TANF) and the Native Employment Works (NEW) Program with a comment period of 60 days, ending September 21, 1998. We are now extending the comment period for an additional 60 days for the purpose of allowing Tribes and other interested parties sufficient time for review and to formulate comments on the NPRM.

DATES: You must submit comments by COB November 20, 1998.

ADDRESSES: You may mail or hand-deliver comments to the Administration for Children and Families, Office of Community Services, Division of Tribal Services, 5th Floor, 370 L'Enfant Promenade, SW, Washington, DC 20447. You may also transmit written comments electronically via the Internet. To transmit comments electronically, or download an electronic version of the proposed rule, you should access the ACF Welfare Reform Home Page at http:/www.acf.dhhs.gov/news/welfare and follow any instructions provided.

We will make all comments available for public inspection on the 5th Floor, 901 D Street, SW, Washington, DC 20447, from Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m. Eastern time, except for holidays.

FOR FURTHER INFORMATION CONTACT: John Bushman, Director, Division of Tribal Services, Office of Community Services, ACF, at 202–401–2418; Raymond Apodaca, Tribal TANF Team Leader at 202–401–5020; or Ja-Na Oliver, (NEW) Team Leader at 202–401–5713.

Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 from Monday through Friday between the hours of 8:00 a.m. and 7:00 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The NPRM was published July 22, 1998, in the **Federal Register** [63 FR 39366–39429] with a 60 day comment period. Based on information received from the Tribes and other interested parties, it has been determined that additional time is needed to review the NPRM.

Comment Procedures

We will not consider comments received beyond the 120 day comment period in developing the final rule. Because of the large volume of comments we anticipate, we will accept written comments only. In addition, your comments should:

- Be specific;
- Address issues raised by the proposed rule;
- Where appropriate, propose alternatives;
- Explain reasons for any objections or recommended changes; and
- Reference the specific section of the proposed rule that you are addressing.

We will not acknowledge the comments we receive. However, we will review and consider all comments that are germane and that are received during the comment period.

(Catalog of Federal Domestic Assistance Programs: 93.558, TANF programs—Tribal Family Assistance Grants; 93.559—Loan Fund; 93.594—Native Employment Works Program; 93.959—Welfare Reform Research, Evaluations and National Studies)

Dated: September 17, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–25390 Filed 9–18–98; 1:57 pm]

BILLING CODE 4184–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 197

[USCG–1998–3786]

RIN 2115–AF64

Commercial Diving Operations

AGENCY: Coast Guard, DOT.

ACTION: Advanced notice of proposed rulemaking; extension of comment period.

SUMMARY: In response to public requests, the Coast Guard is extending the period for public comment on its Advance Notice of Proposed Rulemaking (ANPRM), Commercial Diving Operations, published in the **Federal Register** on June 26, 1998. The comment period will be extended for 45 days.

DATES: Comments must reach the Docket Management Facility on or before November 9, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility (USCG–1998–3786), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401