

enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: January 28, 1999.

**William J. Muszynski,**

*Deputy Regional Administrator, Region 2.*

Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7642.

#### Subpart HH—New York

2. Part 62 is amended by adding § 62.8103(c)

#### § 62.8103 Identification of plan

\* \* \* \* \*

(c) On October 7, 1998 and supplemented on November 5, 1998, the New York State Department of Environmental Conservation submitted revisions to the State Plan which incorporates emission limits and compliance schedules as amended by EPA on August 25, 1997 (65 FR 45116).

[FR Doc. 99–2983 Filed 2–8–99; 8:45 am]

BILLING CODE 6560–50–P

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Administration for Children and Families

#### 45 CFR Parts 301, 302, 303, 304, and 305

RIN 0970–AB81

#### Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation Audit and Penalty

**AGENCY:** Office of Child Support Enforcement (OCSE), HHS.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This rule eliminates regulations, in part or in whole, rendered obsolete by or inconsistent with, Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),

enacted August 22, 1996, and its technical amendments, Pub. L. 105–33, the Balanced Budget Act of 1997 (BBA), Pub. L. 105–89, the Adoption and Safe Families Act of 1997, and Pub. L. 105–200, the Child Support Performance and Incentive Act of 1998. These revisions are consistent with the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate mandated burdens on States, other governmental agencies or the private sector.

**DATES:** These regulations are effective February 9, 1999. Consideration will be given to comments received by April 12, 1999.

**ADDRESSES:** Send comments to: Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447. Attention: Director, Policy and Planning Division, Mail Stop: OCSE/DPP. Comments will be available for public inspection Monday through Friday 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address.

You may also transmit written comments electronically via the Internet. To transmit comments electronically, or download an electronic version of the rule, you should access the Administration for Children and Families Welfare Reform Home Page at "http://www.acf.dhhs.gov/hypernews/" and follow any instructions provided.

**FOR FURTHER INFORMATION CONTACT:** Marilyn R. Cohen, Policy Branch, OCSE, (202) 401–5366, e-mail: mcohen@acf.dhhs.gov.

#### SUPPLEMENTARY INFORMATION:

##### Statutory Authority

These regulations are published under the authority granted to the Secretary by section 1102 of the Act. Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

##### Background

This rule is in response to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate mandated burdens on States, other governmental agencies or the private sector, and in compliance with

section 204 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4.

The Presidential Memorandum required agencies, by June 1, 1995, to conduct a page-by-page review of all regulations to eliminate or revise those that are outdated or otherwise in need of reform. OCSE formed a regulation reinvention workgroup to exchange views, information and advice with respect to the review of existing regulations in order to eliminate or revise those regulations that are outdated, unduly burdensome, or unproductive. This group is made up of representatives of Federal, State and local government staff elected officials. The workgroup conducted such a review which resulted in a final rule issued December 20, 1996 (61 FR 67235) which made both substantive and technical changes. In our analysis of existing regulations, we took a cautionary approach recognizing that significant legislation to overhaul the welfare system, including major reform to the child support enforcement program, was actively pending before the 104th Congress. Accordingly, numerous existing rules would potentially be affected. Therefore, we deferred recommending any changes in existing rules which might be impacted by enactment of a legislative change. We considered the changes in the final rule as only the first part of our response to the President's Regulation Reinvention Initiative.

Since the enactment of PRWORA, the workgroup has been reviewing the regulations to identify additional regulations which should be revised as obsolete or inconsistent with PRWORA. The workgroup surveyed our State partners who tended toward a regulatory philosophy under which Federal statutory mandates will not be reiterated in regulation, regulating beyond the statute will be minimized, and policy guidance to States will be developed collaboratively. In addition to the workgroup, we also held a series of meetings with advocacy groups to obtain their input on implementation of PRWORA. Further revisions were made with the enactment of the BBA. This rule reflects input from major stakeholders including the National Governors Association, the National Conference of State Legislatures and the American Public Human Services Association, formerly known as the American Public Welfare Association. This interim final rule eliminates identified regulatory requirements which were rendered obsolete by, or are inconsistent with, the child support provisions enacted under PRWORA, the BBA, and the Adoption and Safe

Families Act of 1997. For clarity in some sections, we are stating the entire regulation in order to review the revisions in context. However, we are accepting comments only on those portions that are revised.

### Description of Regulatory Provisions

We are making technical revisions, including recodification, to the following regulations.

#### Section 301.1 General Definitions

The citations for "Assigned support obligation" and for "Assignment" "under § 232.11 of this chapter" are removed wherever they appear throughout 45 CFR part 301 of Chapter III and replaced with, "section 408(a)(3) of the Act". Section 232.11 of Chapter II was removed by ACF through rulemaking. Section 232.11 dealt with the AFDC program which has been repealed. Therefore, we are substituting a reference to the new statutory assignment provisions for the replacement program under title IV-A of the Act. We are updating the definition for "Central registry" by replacing "URESAs" with "UIFSAs". In addition, the term, "AFDC" is revised to "title IV-A" in the title and in the definition for "Non-AFDC Medicaid recipient" as PRWORA repealed the AFDC program.

#### Part 302 State Plan Requirements

The term "absent parent" is removed wherever it appears and replaced by "noncustodial parent", and the term "absent parents" is removed wherever it appears and replaced by "noncustodial parents" throughout 45 CFR part 302 of Chapter III for consistency with preferred statutory terminology adopted in PRWORA for title IV-D of the Act.

In addition, the term "AFDC" is removed wherever it appears and replaced by "title IV-A", and the term "non-AFDC" is removed wherever it appears and replaced by "non-IV-A" throughout 45 CFR part 302 of Chapter III. We are making these revisions as PRWORA repealed the AFDC program and substituted a new program under title IV-A.

#### Section 302.12 Single and Separate Organizational Unit

The authority for § 302.12 is section 1102 of the Act. We are revising paragraph (a)(1) by removing paragraph (a)(1)(i) and redesignating (a)(1)(ii) as (a)(1)(i) and (a)(1)(iii) as (a)(1)(ii). Paragraph (a)(1)(i) allows the single State agency designated to operate the IV-D program to be the agency, designated pursuant to § 205.100, that serves as the single State agency under

the title IV-A program. We are making this revision as there is no longer a single State agency requirement under title IV-A and no agency designated pursuant to § 205.100.

#### Section 302.31 Establishing Paternity and Securing Support

The authority for section 302.31 is section 454(4) of the Act which provides for the establishment of paternity or the establishment, modification, or enforcement of child support obligations for recipients of titles IV-A, IV-E, XIX, and those Food Stamp recipients who must cooperate with the IV-D program, and section 454(5) of the Act which provides for distribution of support payments for individuals under title IV-A, and section 1102 of the Act which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act. We are revising paragraph (a)(2) by removing "and reciprocal arrangements adopted with other States when appropriate", and replacing it with, "regarding intrastate and interstate establishment and enforcement of support obligations". We are making this revision because the Uniform Interstate Family Support Act (UIFSA) is not a "reciprocal" law. As specified by section 466(f) of the Act, States must have UIFSA in effect by January 1, 1998.

We are removing paragraph (a)(3) as the title IV-A State plan requirements in 45 CFR 233.20(a)(3)(v) regarding retained support were made obsolete by PRWORA. Therefore, proceedings for handling retained support for title IV-A cases are in accordance with State law. In paragraph (b), we are removing "from the IV-A, IV-E or Medicaid agency that there has been", and inserting "of". In addition, we are removing from paragraph (c), "from the IV-A, IV-E or Medicaid agency" and "by the IV-A, IV-E or Medicaid agency, as appropriate". The latter two revisions are necessary because PRWORA amended section 454(29) of the Act to allow each State the option of choosing either the title IV-D agency, or the title IV-A, IV-E, title XIX, or Food Stamp agency as having the responsibility of determining good cause.

#### Section 302.32 Collection and Disbursement of Support Payments by the IV-D Agency

The authorities for § 302.32 are section 454B of the Act which provides for collection and disbursement of support payments, section 457 of the Act which provides for the distribution of collected support, and section 1102 of

the Act. We are revising the title by changing the term "distribution" to "disbursement". We are revising the introductory text to include the effective date by which States must establish a State disbursement unit (SDU) by October 1, 1998, or, if a State, which as of August 22, 1996, processed the receipt of child support payments through local courts, October 1, 1999. We are revising paragraph (a) by removing reference to "§ 232.11" and replacing it with "section 408(a)(3) of the Act" because certain AFDC program regulations were repealed, including § 232.11, by 62 FR 64301, the conforming regulations issued by OFA as a result of the repeal of the AFDC program.

Additionally, we are removing paragraphs (b), (c), (d), and (e) as new distribution requirements are set forth in section 457 of the Act and these regulatory paragraphs are inconsistent with the newly enacted distribution requirements for collections in Temporary Assistance for Needy Families program (TANF) cases. We are not setting forth the new distribution rules in regulation. Due to these revisions, we are redesignating paragraph (f) as paragraph (b). We are revising the title of paragraph (b) by replacing "distribution" with "disbursement". We are further revising paragraph (b)(1) by removing "15 calendar" and replacing it with the "2 business" days due to the requirement under section 454B that payments be disbursed within 2 business days of receipt by the SDU. Those States that do not meet SDU requirements until October 1, 1999 are to maintain timeframes from former 45 CFR 302.32(f)(1) in the meantime.

We are revising redesignated paragraph (b)(2) by removing "§ 232.11 of this title" and replacing it with "section 408(a)(3)" as § 232.11 is now obsolete; and by removing the end of the final sentence, "distributed as follows:" and replacing it with "disbursed within the following timeframes". In addition, we are removing paragraph (b)(2)(i) and replacing it with new paragraph (b)(2)(i) to read, "Except as specified under paragraph (b)(2)(iv) of this section, if the SDU sends payment to the family (other than payments sent to the family from the State share of assigned support collections), the SDU must send these payments within 2 business days of the end of the month in which payment was received by the State."

We are revising paragraph (b)(2)(ii) by changing the reference in the introductory text from "(f)(2)(iv)" to "(b)(2)(iv)", by removing subparagraph (A) in its entirety and removing the

designation "(B)", and by connecting the introductory text to the remaining text in "(B)", by changing the capital in "When" to lower case and replacing the "15 calendar" days with "2 business" days. Subparagraph "(A)" is removed to correspond to PRWORA's removal of former section 457(b)(3) directives in the Act. Former section 457(b)(3) required States to send collections in excess of the month's assistance payment and up to the amount of the monthly support obligation to the AFDC family. In addition, we are changing the reference from "(f)(2)(iv)" to "(b)(2)(iv)".

We are also revising paragraph (b)(2)(iv) by removing "or State" after "Federal" because section 457 of the Act requires State income tax refund offsets to be distributed like other collections, rather than like Federal income tax refund offsets. The citation "§ 302.51(b)(5) of this part" is replaced with "section 457(a)(2)(iv) of the Act" which specifies how Federal income tax refund offset collections must be distributed. The timeframe for distribution of Federal tax refunds is differentiated from the timeframe for periodic payments where the payment is distributed within 2 business days of receipt from the employer or other source of periodic income as specified in section 454B(c) on account of section 464 of the Act.

We are revising paragraph (b)(3), by adding the designation "(i)" followed by "Except as provided under paragraph (b)(3)(ii) of this section" before the introductory text where "Amounts" is changed to lower case, and by removing paragraphs (b)(3)(i) and (b)(3)(ii) in their entirety because they are inconsistent with requirements for distribution under section 457 of the Act and disbursement timeframes under section 454B of the Act. Paragraph (b)(3)(iii) is redesignated as (b)(3)(ii). We are also revising new paragraph (b)(3)(i) by removing "as follows:" and replacing it with "pursuant to section 457 of the Act, within 2 business days of initial receipt in the State". Additionally, to conform to section 457 of the Act's new distribution requirements for collection from Federal tax income refund offsets, we are revising new paragraph (b)(3)(ii), by removing "or State" after "Federal" income tax refund offset, and the citation "§ 302.51(b)(5)" and replacing it with "section 457(a)(2)(iv) of the Act".

#### *Section 302.34 Cooperative Arrangements*

Section 302.34 implements section 454(7) of the Act which provides the authority for State IV-D agencies to enter into cooperative arrangements with appropriate courts and law

enforcement officials and Indian tribes or tribal organizations to assist the State agency in administering the child support State plan. Therefore, we are amending the first sentence of this section by replacing the "and" and the period with commas and adding "Indian tribes or tribal organization" as appropriate entities for the State IV-D agency to enter into cooperative arrangements. Also, we are amending this section by removing from the 3rd sentence the phrase, "including the immediate transfer of the information obtained under § 235.70 of this title to the court or law enforcement official". We are making this revision because that regulatory cite under the former AFDC program no longer exists and, therefore, no information is obtained pursuant to this section.

#### *Section 302.35 State Parent Locator Service*

Section 302.35 implements sections 454(8), 453 and 463 of the Act which require State IV-D agencies to establish State Parent Locator Services (SPLS) and specify provisions governing their use. The BBA revised section 454(8) of the Act to articulate the reasons the SPLS may be accessed and to refer to specific privacy safeguards. We are making several technical conforming amendments as follows.

We are revising paragraph (c)(1) by removing the phrase, "or medical support obligations if an agreement is in effect under § 306.2 of this chapter", thus ending the paragraph with "State plan". We are making this revision as part 306 was removed by final rule issued December 20, 1996 (61 FR 67235). We are revising paragraph (c)(2) by adding the phrase, "or to serve as the initiating court in an action to seek an order" after "order" to conform to section 453(c)(2) of the Act which defines authorized persons who may access the Federal Parent Locator Service (FPLS) and was amended in the BBA to add the same phrase.

We are revising paragraph (c)(4) by adding ", visitation" after "kidnapping" to conform to changes to section 463(d) of the Act defining persons authorized to access the FPLS for custody and visitation purposes. In addition, we are adding a new paragraph (c)(5) to conform to amendments made to section 454(8) by the BBA to section 453(c)(4) of the Act which expanded the definition of an "authorized person". Paragraph (c)(5) says, "A State agency that is administering a program operated under a State plan under subpart 1 of part B, or a State plan approved under subpart 2 of part B or under part E."

To conform to amendments made to section 454(8) by the BBA, we are adding a new subsection (d) which provides that "The State PLS shall, subject to the privacy safeguards required under section 454(26) of the Act, disclose only the information described in sections 453 and 463 to the authorized persons specified in such sections for the purposes specified in such sections."

#### *Section 302.50 Support Obligations*

Section 302.50 implements sections 456(a)(2) which provides that the amount of the child support obligation in the court order or the amount determined by the State in accordance with a formula approved by the Secretary determines the amount of the assigned support rights and 452(a)(3) of the Act which provides for Federal review and approval of State child support enforcement plans. We are revising the title of § 302.50 to read "Assignment of rights" to clarify that this section pertains only to those obligations with assigned rights; and revising paragraph (a)(1) by removing "hearing" because administrative processes do not necessarily require hearings. Additionally, we are revising paragraph (b)(1) by adding "or administrative process" after "jurisdiction" because both administrative and court orders are acceptable, and revising paragraph (b)(2) by adding "or administrative" after "court".

#### *Section 302.51 Distribution of Support Collections*

The authorities for § 302.51 are section 457 of the Act, which provides for the distribution of support collections in IV-D cases, and section 1102 of the Act. In paragraph (a)(1) we are making a technical edit by replacing the first mention of "amount" with "amounts" and "represents" with "represent".

The revised section 457 of the Act sets out the method for distributing child support collections. Section 457(a)(2)(iv) creates an exception for Federal tax refund collections. Thus, there is no basis not to follow the general rules for State income tax refund collections. Therefore, in paragraph (a)(3), governing distribution of Federal and State income tax refund offset collections, we are removing "and State" because State income tax refund offsets must first be applied to current support in accordance with section 457 of the Act. In this same paragraph, we are also removing the citations "§§ 303.72(h) and 303.102(g) of this chapter, respectively", and replacing

them with “§ 303.72(h) of this chapter, and section 457(a)(2)(iv) of the Act”.

Section 454B(c)(1) of the Act, added by the BBA, defines the date of collection for distribution. Therefore, for consistency with that statutory section, we are deleting paragraph (a)(5) and redesignating paragraph (a)(4) as (a)(4)(i) to read as follows, “Except as specified under subparagraph (ii), with respect to payments made through income withholding, the date of collection for distribution purposes in all IV–D cases must be the date the income is received by the SDU”. We are adding a new paragraph (a)(4)(ii), which includes this new language: “If current support is withheld by an employer in the month when due, the date of withholding may be deemed to be the date of collection at the option of the State”. SDU requirements are effective October 1, 1998, unless the State qualifies for the one-year delay to continue to process the receipt of child support payments through local courts. States must continue to use the date of collection per former 45 CFR 302.51(a)(4) until there is an SDU which meets the requirements of section 454B of the Act. This paragraph is further revised by redesignating the second sentence in paragraph (a)(4) as paragraph (a)(4)(iii).

We are further amending redesignated paragraph (a)(4)(iii) by adding “When the date of collection pursuant to this subparagraph is deemed to be the date the wage or other income was withheld”, before the remaining text. The changes to paragraph (a)(4) are in response to the State option concerning how to define the “date of collection” provided by the BBA’s technical amendment to section 454B(c)(1) of the Act.

Additionally, we are removing paragraphs (b), (d), and (f) because they are inconsistent with section 457 of the Act and are redesignating paragraph (c) as paragraph (b), and paragraph (e) as paragraph (c). Finally, we are revising new paragraph (b) by replacing “402(a)(26)” with “403(a)(8)”. This revision is made for consistency with the change in the citation of the assignment requirement from former section 402(a)(26) to new section 403(a)(8) of the Act.

#### *Section 302.52 Distribution of Support Collected in Title IV–E Foster Care Maintenance Cases*

This regulation implements section 457(f) of the Act which provides for distribution of support collected in title IV–E foster care cases. Section 457(f) of the Act is identical to former section 457(d) of the Act. However, we are removing the citation under paragraph

(b)(5), “§ 232.11 of this title and section 471(a)(17) of the Act” and replacing it with “sections 408(a)(3) and 471(a)(17) of the Act” to reflect the revocation of § 232.11 and the change in the Act of the location of the assignment provisions.

#### *Section 302.54 Notice of Collection of Assigned Support*

This regulation implements section 454(5)(A) of the Act which requires notice of support collections to individuals receiving assistance under title IV–A. We are removing the citation under paragraph (a)(1) “232.11 of this title” and replacing it with “section 408(a)(3) of the Act” as the current citation is now obsolete.

#### *Section 302.57 Procedures for the Payment of Support Through the IV–D Agency or Other Entity*

This regulation is removed because PRWORA removed the language in former section 466(c) of the Act which authorized payment of support through the IV–D agency or other entity at State option, should a custodial or noncustodial parent request it. All collections in IV–D cases and income withholding collections in cases in which the order was initially issued or modified on or after January 1, 1994 are to be made through the State disbursement unit in accordance with section 466(a)(8)(B) of the Act.

#### *Section 302.70 Required State Laws*

Section 466(a) of the Act contains the required laws and procedures each State must implement as part of its State child support enforcement plan. States may implement provisions using regulation, procedure, or court rule, instead of law, if such regulation, procedure, or rule has the same force and effect as State law on the parties to whom it applies.

For clarification, we are revising paragraph (a) by adding “and part 303 of this chapter” after “Act”, removing “the following” after “implemented”, and adding commas after “for” and “improve”.

We are revising paragraph (d)(1) by replacing “paragraph (a) of this section” with “section 466 of the Act”. We are revising paragraph (d)(2) by replacing “paragraph (a)(2) of this section” with “section 466(a)(2) of the Act”.

#### *Section 302.75 Procedures for the Imposition of Late Payment Fees on Absent Parents Who Owe Overdue Support*

This regulation implements section 454(21) of the Act which provides for the imposition of late payment fees. In paragraph (b)(4), we are removing the

citation, “232.11 of this title” and replacing it with “section 408(a)(3) of the Act” as the former citation has been revoked.

#### *Section 302.80 Medical Support Enforcement*

This regulation implements section 452(f) of the Act. In paragraph (a), we are removing the second sentence to reflect removal of Part 306 made by rule issued December 20, 1996 (61 FR 67235).

#### *Part 303 Standards for Program Operations*

The term “absent parent” is removed wherever it appears and replaced with “noncustodial parent”, the term “absent parents” is removed wherever it appears and replaced with “noncustodial parents”, and the term “absent parents” is removed wherever it appears and replaced with “noncustodial parents” throughout this part for consistency with preferred statutory terminology and to conform to our emphasis on “children first” which focuses on the parent’s relationship with the child rather than on a parent’s absence.

We are also removing the term “AFDC” wherever it appears and replacing it with “title IV–A” and removing the term “non-AFDC” wherever it appears and replacing it with “non-IV–A”. This revision is for consistency with PRWORA which repealed the AFDC program and substituted a new program under title IV–A.

In addition, we are removing the term “IRS” and replacing it with “Secretary of the U. S. Treasury” wherever it appears in this part, except for § 303.72(i) where “IRS” will be replaced with “Department of Treasury”. We are making this revision to implement the Debt Collection Act of 1996 and Executive Order 13019 which transferred the responsibility for the Federal income tax refund offset program from the Internal Revenue Service to the Financial Management Service within the U. S. Treasury.

#### *Section 303.3 Location of Absent Parents*

This rule was issued under authority of section 454(8) and section 1102 of the Act. We are revising paragraph (b)(1) by adding “and other sources” at the end of the paragraph. This revision is for consistency with PRWORA’s expansion of locate resources set forth in section 466(c)(1)(D) of the Act.

### Section 303.5 Establishment of Paternity

This regulation implements section 466(a)(5) of the Act as amended by the Omnibus Budget Reconciliation Act of 1993, PRWORA and the BBA's technical changes. We are revising paragraph (d)(1) to read, "Upon request of any party in a contested paternity case and in accordance with section 466(a)(5)(B) of the Act, and subject to the provisions of paragraph (b), the IV-D agency shall require all parties to submit to genetic tests unless, in the case of an individual receiving aid under the State's title IV-A, IV-E or XIX plan, or those recipients of the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 who are required to cooperate with the child support program, there has been a determination of good cause for refusal to cooperate under section 454(29) of the Act." We are making this revision to conform with revised section 466(c)(1)(A) of the Act which gives the State agency authority to order genetic testing and with revised section 454(29) of the Act which addresses responsibility for determinations of good cause and cooperation.

We are also making a technical correction in paragraph (d)(2) by removing the term, "legal". In addition, we are amending paragraph (e)(1) by adding the phrase "Except as provided in subparagraph (3)" at the beginning of the paragraph, and revising paragraph (e)(3) to read, "If paternity is established and genetic tests were ordered by the IV-D agency, the IV-D agency must pay the costs of such tests, subject to recoupment (if the agency elects) from the alleged father who denied paternity. If a party contests the results of an original test, the IV-D agency shall obtain additional tests but shall require the contestant to pay for the costs of any such additional testing in advance." These revisions are for consistency with section 466(a)(5)(B) of the Act which specifies that the State seek recoupment from the father for costs of genetic testing ordered by the agency if recoupment is sought and that the State must obtain additional testing in any case if an original test result is contested and require payment in advance.

### Section 303.7 Provision of Services in Interstate IV-D Cases

The authorities for this regulation are sections 454(9) and 1102 of the Act. We are revising paragraph (a) by ending the first sentence with "incoming interstate IV-D cases." and removing all remaining text in this subsection because the Uniform Reciprocal

Enforcement of Support Act (URESAs) has been replaced by the Uniform Interstate Family Support Act (UIFSA) which permits direct withholding requests from one State to an employer in another State, and August 22, 1988, the effective date for paragraph (a), has passed. Since all States have long-arm paternity establishment capability under section 201 of UIFSA, we are amending paragraph (b)(1) to require States to use their long-arm statute to establish paternity, when appropriate. We are amending paragraph (b)(2) by removing the language "URESAs petitions and" due to the change from URESAs to UIFSA. These revisions are consistent with PRWORA's mandate that, effective January 1, 1998, all States are required to enact UIFSA. In addition, we are revising paragraph (b)(3) by removing "either the Interstate Child Support Enforcement Transmittal Form or the URESAs Action Request Forms package as appropriate" and replacing it with "Federally-approved interstate forms", and by adding the term, "Federal" before the last word, "forms". OCSE issued revised interstate forms via OCSE-AT-97-06 on May 2, 1997 to conform with UIFSA (OMB No. 0970-0085). We are revising paragraph (b)(6) by replacing the citation "\$ 303.8(f)(1)" with "\$ 303.8" to conform with revisions we are making in § 303.8.

In addition, we are revising paragraph (c)(4) by removing "a URESAs Action Request Form or other alternative State form". This revision is needed because section 311(b) of UIFSA requires the use of Federally-approved interstate forms. We are amending paragraph (c)(7)(iii) by removing "Uniform Reciprocal Enforcement of Support Act" and replacing it with "Uniform Interstate Family Support Act" to conform with the requirement under section 466(f) of the Act that all States enact and implement UIFSA, and replacing "through 303.105" with "through 303.102 and 303.104" as §§ 303.103 and 303.105 are being removed by this rule, as discussed later in the document.

We are making a technical edit in paragraphs (c)(7)(ii) and (iii) by placing the regulatory citations in numerical order. For consistency with the requirement that the State disbursement unit (effective October 1, 1998, except for States as of August 22, 1996 which processed the receipt of child support payments through local courts, where it is effective October 1, 1999,) under section 454B of the Act process collections within 2 business days of receipt in the SDU, we are revising paragraph (c)(7)(iv) by removing the language which reads "no later than 15 calendar days from" and replacing it

with "within 2 business days of" initial receipt in the responding State. In addition, we are revising this paragraph by adding "State disbursement unit for the" after "receipt in the".

For consistency with revised section 457 of the Act which eliminated the exception processing for payments collected via State Income Tax Refund Offset, we are removing the language in paragraph (c)(7)(iv) which reads, "or that the payments were made through State income tax refund offset". To conform to amendments we are making in § 303.8 in this interim final rule, we are revising paragraph (c)(7)(v) by removing the citation "\$ 303.8(f)(2)" and replacing it with "\$ 303.8". Finally, we are revising paragraph (d)(3) to read, "If paternity is established in the responding State, the IV-D agency must attempt to obtain a judgment for the costs of genetic testing ordered by the IV-D agency from the alleged father who denied paternity. If the costs of initial or additional genetic testing are recovered, the responding State must reimburse the initiating State." This revision is for consistency with section 466(a)(5)(B) of the Act which specifies that the State seek recoupment from the father for costs of genetic testing ordered by the agency and that the State must obtain additional testing in any case if an original test result is contested and require payment in advance.

### Section 303.8 Review and Adjustment of Child Support Orders

Section 303.8 implements section 466(a)(10) of the Act. We are amending these paragraphs to update sections that have become obsolete due to the passage of time and for consistency with PRWORA which revised section 466(a)(10) of the Act. These revisions included: (1) Reviews are conducted upon request only (there are no mandated reviews), (2) the State may choose one of three methods to conduct a review (guidelines, automated, cost-of-living adjustment (COLA)), (3) 3-year reviews require no proof of substantial change of circumstances but the States may offer more frequent reviews requiring such proof, (4) in the case of COLA or automated reviews, either party may contest the adjustment within 30 days of the notice of the adjustment, and (5) States must notify parents of their right to request a review not less than once every 3 years (instead of providing a one-time notice). In following the President's Initiative to limit regulations, we are not restating new statutory requirements in regulation.

In § 303.8, we are removing paragraphs (a)(1) and (a)(3) because the

definitions for "adjustment" and "review" are inconsistent with the automated and cost-of-living adjustment (COLA) methods of review authorized by the revised section 466(a)(10) of the Act; therefore, we are replacing the term "definitions" with "definition" in the introductory paragraph (a), and removing the designation "(2)" in front of "parent". We are removing paragraph (b) because it was superseded by paragraph (c) as of October 13, 1993. We are keeping in those paragraphs which are still applicable.

We are redesignating paragraph (c) as paragraph (b), revising the introductory text of paragraph (b) to read as follows: "Pursuant to section 466(a)(10) of the Act, when providing services under this chapter, the State must:". We are revising paragraph (b)(1) by removing "in effect in the State" and replacing with "being enforced under title IV-D of the Act" because section 466(a)(10) of the Act does not restrict review of orders to those in effect in a State. We are revising paragraph (b)(2) to read as follows: "Not less than once every three years, the State shall notify each parent subject to a child support order in the State of the right to request a review of the order, and the appropriate place and manner in which the request should be made" because section 466(a)(1) of the Act revised the one-time notice to notification not less than once every three years.

We are removing redesignated paragraph (b)(3) which was partially placed in the introductory text. We are removing redesignated paragraph (b)(4) because under revised section 466(a)(10) of the Act reviews are required only upon request. We are removing redesignated paragraph (b)(5) because reviews are not mandatory. PRWORA amended section 454(29) of the Act to allow each State the option of choosing either the title IV-D, IV-A, IV-E, XIX, or Food Stamp agency as having the responsibility of determining good cause. We are removing redesignated paragraphs (b)(6) and (7) because the revised section 466(a)(10) of the Act only provides for a contest in the case of a COLA or automated review and for a notice of the right to request a review but allows the State to use their own procedures for other aspects of due process. We are removing redesignated paragraph (b)(8) and paragraphs (d)(1)(i) and (ii) because automated processes and COLAs may also be used in addition to reviews based on guidelines.

We are redesignating paragraph (d)(2) as paragraph (c) which is revised by removing "which results from application of the guidelines" and replacing it with "determined as a result

of a review". We are redesignating paragraph (d)(3) as paragraph (d). We are revising new paragraph (d) to remove the language "to provide for the children's health care needs" when it appears a second time, to remove the redundancy.

In addition, we are removing paragraphs (e)(1) and (e)(2) because the revised section 466(a)(10) of the Act eliminates mandatory 3-year reviews for cases with an assignment of support rights. We are redesignating paragraph (e)(3) as paragraph (e) and revising it to read as follows: "Timeframes for review and adjustment." Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a State must conduct a review of the order and adjust the order or determine that the order should not be adjusted, in accordance with this section." We are making this revision to conform with the revised section 466(a)(10) of the Act which requires reviews upon request.

We are revising paragraph (f) by removing "Effective October 13, 1993 or such earlier date the State may select:", and replacing all of the language in (f)(1) with "In interstate cases, the State with legal authority to adjust the order will conduct the review and adjust the order pursuant to this section when notified that a request has been made". We revised (f)(1) and are removing paragraph (f)(2) because all States must enact and use UIFSA by January 1, 1998 which makes these paragraphs obsolete. Thus, paragraph (f)(3) is redesignated as new paragraph (f)(2).

#### *Section 303.15 Agreements To Use the Federal Parent Locator Service (PLS) in Parental Kidnapping and Child Custody Cases*

This regulation implements sections 454(17) and 463 of the Act as amended by the BBA to address the use of the FPLS for visitation purposes. We are revising paragraphs (a)(1)(i) and (ii) by adding "or visitation" after "custody". We are revising paragraph (a)(2) by adding "or visitation" after the first mention of "custody", and revising paragraph (b)(2) by adding "or visitation" after "custody". These revisions clarify that the FPLS may be used for locating individuals for the purpose of visitation enforcement pursuant to section 463 of the Act.

We are amending paragraph (b) by removing the language "If the State enters" and replacing it with "A State shall enter" and by removing the comma after "regulations" and replacing it with "so that". These revisions are consistent with the amendments in the BBA to sections

454(17) and 463(a) of the Act which require States to have agreements with the Secretary pursuant to section 463 of the Act. In addition, we are revising paragraph (c)(1) by removing "an absent" and replacing it with "a". This revision is for consistency with technical changes that expanded the use of the FPLS for locating either the custodial or noncustodial parent for the purposes specified in section 463 of the Act.

#### *Section 303.20 Minimum Organizational and Staffing Requirements*

The authority for this rule is section 452(a)(2) of the Act. In § 303.20, we are revising paragraph (b)(3) by removing "Reciprocal Enforcement of Support Act" and replacing it with "Uniform Interstate Family Support Act" for conformity with PRWORA requirements at section 466(f) of the Act.

#### *Section 303.21 Safeguarding information*

The authorities for this regulation were sections 454(26) and 1102 of the Act. Section 303.21 applies to "information concerning applicants for and recipients of support enforcement services" and places limitations on the use and disclosure of that information. Because amended sections 453(b)(2), 453(l), and 453(m) of the Act contain numerous new provisions regarding the use, disclosure and safeguarding of information concerning both custodial and noncustodial parents and the purposes for which that information may be used and disclosed, the limited scope of § 303.21 renders it inconsistent with the Act. We are removing § 303.21 and will develop comprehensive guidance consistent with PRWORA's provisions concerning safeguarding information, including any implementing regulations that may be necessary. OCSE issued a final rule August 21, 1998 (63 FR 44795) which included safeguarding information on automated systems. The provisions of the Act and other applicable statutes continue to govern the safeguarding, use and disclosure of information.

#### *Section 303.30 Securing Medical Support*

This rule implements section 452(f) of the Act which requires the Secretary to issue regulations to require State agencies to petition for inclusion of medical support in a child support order whenever health care coverage is available to the noncustodial parent at reasonable cost except as specified by 45 CFR 303.31(b)(1). We are removing paragraph (b), redesignating paragraph

(c) as paragraph (b), and revising it by replacing "paragraphs" with "paragraph" and by removing "and (b)(1)". This revision is for consistency with section 466(a)(19) of the Act which requires States to enact laws under which all child support orders enforced under title IV-D of the Act must include a provision for health care coverage of the child. Therefore, non-IV-A applicants or recipients of services under 45 CFR 302.33 no longer have the option, in receiving IV-D services, to refuse the inclusion of health insurance coverage in the order.

*Section 303.31 Securing and Enforcing Medical Support Obligations*

This rule implements sections 452(f) and 466(a)(19) of the Act. We are revising paragraph (c) by replacing "are available" with "will be provided" and by deleting paragraphs (c)(1) and (c)(2) because receipt of medical support services in IV-D cases is no longer an option for those receiving services under 45 CFR 302.33.

*Section 303.70 Requests by the State Parent Locator Service (SPLS) for Information From the Federal Parent Locator Service (FPLS)*

The authorities for this regulation are sections 453, 454(8), 454(17), 463, and 1102 of the Act. For consistency with revisions to sections 453 and 463 of the Act which expanded the purposes for which States may access the FPLS, we are revising paragraphs (c)(1) and (c)(2) by removing the word, "absent". For consistency with revisions to sections 453, 454(8), and 463 of the Act, we are revising paragraph (d)(1) by removing "solely to locate an individual for the purpose of establishing paternity or securing support or in connection with a parental kidnapping or child custody case" and replacing it with "to obtain information or to facilitate the discovery of any individual in accordance with section 453(a)(2) of the Act for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations, or for determining who has or may have parental rights with respect to a child, or in accordance with section 453(a)(3) of the Act, for enforcing a State law with respect to the unlawful taking or restraint of a child, or for making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act". In paragraph (d)(2), we are removing "of § 303.21 of this chapter" and inserting "of sections 453(b), 453(l), 454(8), 454(17), 454(26), and 463(c) of the Act." These references are to applicable Federal requirements

for safeguarding information obtained through the FPLS.

Finally, section 316(f) of PRWORA adds to the Act new section 453(k)(3), requiring a State or Federal agency that receives information from the FPLS to reimburse the Federal Office of Child Support Enforcement for costs incurred in furnishing the information. The provision is consistent with Federal policy, standards and guidelines pertaining to cost recovery. Thus, we are revising § 303.70(e)(1)(i) by removing all the language after "the Act", revising paragraph (e)(1)(ii) by adding, "or visitation" after "custody", adding a new § 303.70(e)(1)(iii) to read, "Section 453(k) of the Act.", and revising § 303.70(e)(2)(i) by adding "453(k)(3) or" after "453(e)(2),", deleting "and", and adding "except that the IV-D agency shall charge an individual specified in section 453(c)(3) of the Act the fee required under section 453(e)(2) of the Act" after "the Act". This latter added language reflects the Act's mandate that private individuals seeking information from the FPLS be charged a fee. We also added references to section 453(k)(3) in paragraphs (e)(3) and (e)(4) and removed the word "location" in paragraph (e)(4)(i) to reflect the availability of more than just location information from the FPLS.

*Section 303.71 Requests for Full Collection Services by the Secretary of the Treasury*

We are removing the term "Representative" wherever it occurs in § 303.71 and replacing it with "Office". We are making this technical change to update the section to current terminology for Federal Regional Offices. In addition, we are updating paragraph (b) by replacing "1954" with "1986".

*Section 303.72 Requests for Collection of Past-due Support by Federal Tax Refund Offset*

In § 303.72, we are revising paragraphs (a)(1) and (2) by removing the citation "§ 232.11 of this title" and replacing it with "section 408(a)(3) of the Act". We are revising paragraph (h)(1) by removing the phrase, "under § 302.51(b)(4) and (5) and (e) of this chapter" because those subsections are removed by this interim final rule, and replacing it with "in accordance with section 457 of the Act" for consistency with the new distribution requirements under PRWORA. In paragraph (h)(3), we are removing "under § 232.11 of this title, 42 CFR 433.146, or section 471(a)(17) of the Act" and in paragraph (h)(4), we are removing the phrase "§ 302.51(b)(4) and (5) and (e) or

§ 302.52(b)(3) and (4) of this chapter" and replacing it with "section 457 of the Act". We are removing these citation phrases for the reasons stated above.

*Section 303.80 Recovery of Direct Payments*

We are removing § 303.80 because the regulatory basis for the recovery of direct child support payments in IV-A cases was made obsolete when PRWORA ended the AFDC program. This is consistent with the removal of §§ 302.31(a)(3) and (4) which were removed for the same reason. Recovery of direct payments will be in accordance with State law.

*Section 303.100 Procedures for Wage or Income Withholding*

This regulation implements sections 466(a)(1), 466(a)(8) and 466(b) of the Act. Changes to the income withholding requirements in these sections of the Act necessitate numerous changes in this regulation. We are revising the title by removing "wage or", and revising paragraph (a) by removing the term, "wages" and replacing it with "income as defined in sections 466(b)(1) and (8) of the Act", as section 466(a)(8) applies to more than solely wages. We are also removing paragraph (a)(9), which allows States to include forms of income other than wages in its withholding, as it is no longer applicable. This revision necessitates redesignating paragraph (a)(10) as (a)(9). Due to the change in definition, we are also making additional revisions by replacing the two mentions of "wages" in paragraph (b)(1) with "income" and replacing "wage" in paragraph (b)(2)(i) with "income".

We are making a technical change in paragraph (c) by removing "wages" in the introductory text and replacing it with "income", and in paragraph (c)(1) by removing "wages or" and replacing it with "income of". In addition, we are removing paragraph (c)(2) as PRWORA revised section 466(b)(4) to remove the requirement of an advance notice of initiated income withholding. This revision necessitates redesignating paragraph (c)(3) as (c)(2).

We are revising the introductory language in paragraph (d) to read as follows: "Notice to the noncustodial parent in cases of initiated withholding. The State must send a notice to the noncustodial parent regarding the initiated withholding. The notice must inform the noncustodial parent:" This revision is in compliance with section 466(b)(4) which, as stated above, does not require an advance notice. We are adding in a new paragraph (d)(1) a requirement that the notice to the

noncustodial parent include a statement that the withholding has commenced. Accordingly, paragraphs (d)(1)(i) to (iii) are renumbered as new (d)(2) to (4). We removed paragraphs (d)(1)(iv) and (v), paragraph (d)(2) and paragraph (e) because the elimination of the advance notice requirement means that a contest is now after the fact so these paragraphs are no longer applicable.

We are adding a new paragraph (d)(5) which states, "Of the information provided to the employer, pursuant to subsection (e) of this section". The notice requirement in new paragraph (d)(5) is required by section 466(b)(4)(B) of the Act. States can meet this new requirement by providing the noncustodial parent with a copy of the withholding order that is sent to the employer.

Paragraph (f) is redesignated as paragraph (e). We are revising new paragraph (e)(1) by adding "using the standard Federal format" after the word "notice". We are making this revision to conform to section 466(b)(6)(A)(iii) of the Act, which requires the States to issue income withholding notices in a standard format prescribed by the Secretary. On January 27, 1998, the Office of Child Support Enforcement distributed this standard income withholding form to the States in OCSE-AT-98-03 (OMB No. 0970-0154).

We are revising the new paragraph (e)(1)(i) by removing the citation "(f)(1)(iii)" and replacing it with "(e)(1)(iii)"; and revising new paragraph (e)(1)(ii) by removing "10 working" and replacing it with "7 business", removing "wages" and replacing it with "income" and by replacing "State (or such other individual or entity as the State may direct)" with "SDU" in both occurrences; and revising new paragraph (e)(1)(vi) by removing both mentions of "wages" and replacing them with "income". We are revising paragraphs (e)(1)(vii) and (viii) by removing "wages" and replacing it with "income". We are revising paragraph (e)(1)(ix) to read as follows: "(ix) That the employer must withhold from the noncustodial parent's income the amount specified in the notice and pay such amount to the State disbursement unit within 7 business days after the date the noncustodial parent is paid." This change is necessitated by revisions to section 466(b)(6) of the Act which require delivery of the withheld income to the State disbursement unit within 7 (rather than 14) days of the date of withholding.

We are also revising paragraph (e)(2) to conform it to new section 453A of the Act, by removing the citation to "(f)(1)"

and replacing it with "(e)(1)", and removing "entered" and replacing it with "received".

In addition, we are removing paragraph (g) governing administration of withholding because section 466(b)(5) of the Act was revised to eliminate the requirement that the States designate a public entity for the administration of income withholding. This revision necessitates redesignation of paragraph (h) as paragraph (f).

We are revising redesignated paragraph (f), Interstate withholding, to provide updated standards for program operations for both the traditional two-state interstate income withholding remedy and UIFSA's new one-state direct income withholding remedy. Redesignated paragraph (f) incorporates PRWORA's revisions to section 466(b)(6) of the Act which was revised to recognize the direct income withholding procedures at section 502 of UIFSA. UIFSA provided the first legal authority for the issuance of interstate withholding orders across State lines to employers in another State. Section 466(f) of the Act mandates the States to enact UIFSA. Paragraph (f)(1) is revised to state the general interstate income withholding requirement that State law must require employers to honor income withholding orders issued by any State.

Redesignated paragraph (f)(2) is revised to implement the choice of law rules governing direct income withholding appearing at section 466(b)(6)(A)(i) of the Act. This provision of the Act contains the exception to the general rule under which the employer is required to withhold funds as directed in the withholding order. This exception, as stated in new paragraph (f)(2), applies in direct income withholding and requires the employer to follow the income withholding law of the State of the employee's work-state to determine the appropriate processing fees, withholding limits, time periods for implementing and remitting payments, and the priorities for withholding and allocation of income for multiple claims.

Redesignated paragraph (f)(3) is revised to contain the existing requirements for the traditional two-state interstate income withholding, rather than direct income withholding. Paragraph (f)(3)(i) derives from former paragraph (h)(1) and allows States to require registration of out-of-state orders provided the sole purpose of the registration is to obtain jurisdiction of the order for enforcement purposes. Paragraph (f)(3)(ii) derives from former paragraph (h)(3) and contains the applicable time frames and referral

requirements placed upon the initiating State in an interstate income withholding action. Paragraph (f)(3)(iii) derives from former paragraph (h)(4) and requires the State responding to a request for interstate income withholding to implement it in accordance with this section's general income withholding requirements. Paragraph (f)(3)(iv) derives from former paragraph (h)(5)(iv) and requires the State responding to the interstate income withholding request to notify the initiating State when the noncustodial parent is no longer employed in that State.

We are redesignating paragraph (i) as paragraph (g) and revising it by removing "between October 1, 1985, and January 1, 1994, or modified after January 1, 1994," and replacing it with "whether or not being enforced under the State IV-D plan.". We are making this revision because this portion of paragraph (g) became outdated. We are also revising new paragraph (g) by removing "in order to ensure that withholding as a means of support is available if arrearages occur without the necessity of filing an application for IV-D services" because this language merely restates the requirements of section 466(a)(8)(A).

#### *Section 303.101 Expedited Processes*

This regulation implements sections 466(a)(2) and 466(c) of the Act. We are revising this section for consistency with PRWORA's revisions to the required expedited processes detailed at sections 466(a)(2) and (c) of the Act. We are revising paragraph (a) to read as follows: "Definition." Expedited processes means administrative and judicial procedures (including IV-D agency procedures) required under section 466(a)(2) and (c) of the Act." We are revising paragraph (b)(1) by adding "modify," after "establish," due to PRWORA's revisions to section 466(a)(2) of the Act extending expedited processes to include modification actions. Additionally, we are removing paragraphs (c)(4) and (5), redesignating paragraph (c)(6) as paragraph (c)(4), and revising the new paragraph (c)(4) by adding "administrative or" before "judicial". These revisions are for consistency with the language of section 466(c)(1) which does not require the use of presiding officers and the flush language following section 466(c)(1) of the Act that allows for an appeal on the record to an administrative or judicial tribunal.

*Section 303.102 Collection of Overdue Support by State Income Tax Refund Offset*

The authorities for this regulation are sections 1102 and 466(a)(3) of the Act under which the States must implement procedures to offset State income tax refunds for past-due child support debts. We are revising paragraph (a)(1) by removing “§ 232.11 of this title or” and replacing it with “section 408(a)(3) of the Act”. For better flow of subject matter, we are redesignating paragraph (c) as paragraph (d), paragraph (d) as (e) and paragraph (e) as (c). Former section 466(a)(3)(B) specified that State tax must be distributed as arrearages. That section was amended to refer only to distribution under section 457. Section 457(a)(2)(iv) specifies that Federal income tax refund offsets are applied to past-due support. However, section 457 does not direct State tax refund offsets to be applied in the same manner. Therefore, we are revising new paragraph (d) by removing paragraph (d)(2), removing the denotation for paragraph (d)(1), thus making it introductory text, removing the citation to “§ 302.51(e)” and replacing it with “§ 302.51(c)”, and by removing “; and” at the end of the paragraph and replacing it with a period. This conforms § 303.102 to requirements under section 457 of the Act. For the same reason, we are also revising paragraph (g) by removing subparagraphs (1)(i) through (iii), placing the denotation “(i)” directly after “(g)(1)”, adding “in accordance with section 457 of the Act” to the end of paragraph (g)(1), redesignating paragraph (g)(1)(iv) as (g)(1)(ii), and removing the citation to “§ 302.51(e)” in (g)(1)(ii) and replacing it with “§ 302.51(c)”.

*Section 303.103 Procedures for the Imposition of Liens Against Real and Personal Property*

The authorities for this section are sections 466(a)(4) and 1102 of the Act and the matter following section 466(a)(19) of the Act. We are removing this section for two reasons. First, paragraph (b) is inconsistent with the revised 466(a)(4) of the Act under which liens arise by operation of law and liens arising in other States are entitled to full faith and credit in the State where the property is located. Second, paragraph (a) merely restates the law and we are following the President's Initiative to limit regulations and are not restating new statutory requirements in regulations.

*Section 303.105 Procedures for Making Information Available to Consumer Reporting Agencies*

We are removing this section as portions of it are inconsistent with the revised section 466(a)(7) of the Act which requires obligors with any child support arrearage to be reported to consumer reporting agencies. Consistent with the President's Initiative to limit regulatory burden, we are not imposing mandates beyond those in statute or restating statutory requirements and, therefore, are removing the remaining portions.

*Part 304 Federal Financial Participation*

We are making several technical revisions to update and correct this part. We are removing the term “absent parent” wherever it appears and replacing it with “noncustodial parent” and removing the term “absent parents” wherever it appears and replacing it with “noncustodial parents” for consistency with preferred statutory terminology. In addition, we are removing the term “AFDC” wherever it appears and replacing it with “title IV–A”, except for 45 CFR 304.26. We are removing the term “non-AFDC” wherever it appears and replacing it with “non-IV–A”. These revisions are for consistency with PRWORA which repealed the AFDC program and substituted a new program under title IV–A.

*Section 304.12 Incentive Payments*

In § 304.12(a), we are removing the two citations of “§ 232.11 of this title” and replacing them with “section 408(a)(3) of the Act”.

*Section 304.20 Availability and Rate of Federal Financial Participation*

The authority for this section is section 455 of the Act. We are removing paragraph (b)(1)(viii)(C) for two reasons. First, the cross reference to 45 CFR 232.12 is now obsolete as a result of PRWORA. Secondly, new section 454(29)(A) of the Act requires that the IV–D agency make the determination and redetermination for cooperation of applicants and recipients of title IV–A. This determination was previously required to be made by the IV–A agency. Therefore, paragraph (b)(1)(viii)(D) is redesignated as paragraph (b)(1)(viii)(C). Similarly, we are removing paragraph (b)(1)(ix)(C) regarding the establishment of agreements with Medicaid agencies for the determination of whether individuals receiving Medicaid are cooperating adequately as PRWORA requires the IV–D agency instead of the Medicaid agency to make the determination of cooperation in title

XIX cases pursuant to section 454(29)(A) of the Act. This revision necessitates paragraph (b)(1)(ix)(D) to be redesignated as paragraph (b)(1)(ix)(C). The IV–D agency may continue to work with the IV–A and Medicaid agencies to determine cooperation and establish any necessary agreements pursuant to paragraph (b)(1)(iii).

Further, we are revising this newly designated paragraph by changing the citation, “§ 302.51(e)” to “§ 302.51(c)”. Finally, we are revising paragraph (b)(3)(iv) by removing “wage withholding” and replacing it with “income withholding” for consistency with PRWORA.

*Section 304.21 Federal Financial Participation in the Costs of Cooperative Arrangements with Courts and Law Enforcement Officials*

The authority for this section is section 454(7) of the Act. We are revising § 304.21(a) by removing the first word of the last sentence, “Then” and replacing it with “When” for accuracy.

*Section 304.26 Determination of Federal Share of Collections*

This section implements portions of section 457 of the Act. We are revising this section to include references to foster care maintenance payments under title IV–E of the Act. We are also revising this section to be consistent with the revised language of sections 457(c)(2) and (3) of the Act that specifies the use of the Federal Medical Assistance Percentage (FMAP) formula in calculating the Federal share of child support collections. Section 457(c)(2) specifies that the Federal share is the amount resulting from the application of the FMAP in effect for the year the amount is distributed, to the amount collected. The FMAP is currently in use for the foster care maintenance program, but not for the program under title IV–A of the Act. Section 457(c)(3) specifies the FMAP to be used under title IV–A of the Act. Section 457(c)(3)(A) authorized 75 percent with respect to Puerto Rico, the Virgin Islands, Guam, and America Samoa and is part of the FMAP definition. For all other jurisdictions the rate is the FMAP in effect on September 30, 1995. With the repeal of the AFDC program, the use of the AFDC FFP formula rate is no longer valid. States only can use the FMAP formula. Accordingly, we are deleting the two references to “AFDC” in paragraph (a) and are substituting “title IV–A”, and are deleting paragraphs “(a)(1)”, “(a)(1)(i)”, “(a)(1)(ii)”, “(a)(1)(ii)(A)”, “(a)(1)(ii)(B)”, “(a)(2)”, “(a)(2)(i)”, and “(a)(2)(ii)”. Paragraph (a) will contain

only references to the FMAP in computing the Federal share. We are adding a new paragraph (c) indicating that if a hold harmless payment is made pursuant to section 457(d) in the Act, the payment will be made from the Federal share of collections following payment of the incentive amount as described by 45 CFR 304.26(b).

**Section 304.29 Application of Other Regulations**

The authorities for this section are sections 1102 and 1116 of the Act. We are revising § 304.29 by removing “Regional Representative which refers to the Regional Representatives of the Office of Child Support Enforcement” and replacing it with “Regional Administrator which refers to the Regional Administrator of the Administration for Children and Families”. This revision is made to update the section.

**Section 304.40 Repayment of Federal Funds by Installments**

This regulation is authorized under the Secretary’s general rulemaking authority under section 1102 of the Act. We are revising § 304.40(a)(2) by removing “Representative” and replacing it with “Office”, and revising paragraph (b)(2) by removing “OCSE-OA-25” and replacing it with “required financial reports”, and removing “(as shown on the latest OCSE-OA-25)”. These revisions are made to update the section.

**PART 305—Audit and Penalty: Section 305.0 Scope, Section 305.1 Definitions, Section 305.10 Timing and Scope of Audit, Section 305.11 Audit Period, Section 305.12 State Comments, Section 305.13 State Cooperation in Annual Audit, Section 305.20 Effective Support Enforcement Program, Section 305.98 Performance Indicators and Audit Criteria, Section 305.99 Notice and Corrective Action Period, and Section 305.100 Penalty For Failure to Have an Effective Support Enforcement Program.**

We are removing and reserving part 305. We are removing this part because

it was based on former sections 403(h) and 452(a)(4) of the Act which were revised under PRWORA and the BBA to provide for audits of data and calculations transmitted by State agencies, review of State annual reports, and other audits as deemed appropriate by HHS. Separate regulations will be published to address the new audit and penalty provisions in sections 403(h) and 452(a)(4) of the Act.

**Waiver of Proposed Rulemaking**

These regulations are being published in final form with a comment period. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable or contrary to the public interest, it may dispense with the notice if it incorporates a brief statement in the final regulations of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking procedures with respect to these changes for the following reasons. First, we are making changes merely to remove inconsistencies with the revised statute. The regulations will be updated and are noncontroversial. Secondly, the changes to the Act were enacted on August 22, 1996. We would like to revise our rules as quickly as possible to be consistent with these changes. Therefore, we are eliminating a proposed rule for the sake of expediency.

For these reasons, OCSE believes that there is sufficient cause to dispense with proposed rulemaking. Nonetheless, we wish to have the advantage of the information and opinions we may receive through public comments. We will consider any comments received and revise the regulations if necessary. We will issue a final document confirming that this interim final rule is final and will add any revisions, as needed, from the comments.

**Paperwork Reduction Act**

Part 302 contains an information collection requirement as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)).

*Title:* State Plan for Child Support Collection and Establishment of Paternity Under Title IV–D of the Social Security Act.

*Summary:* The State plan preprint and amendments serve as a contract with OCSE in outlining the activities the States will perform as required by law in order for States to receive Federal funds to meet the costs of these activities. This interim final rule serves to eliminate regulations, in part or in whole, which were rendered obsolete by or inconsistent with, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), the Balanced Budget Act of 1997 (BBA) and the Adoption and Safe Families Act of 1997. All of the required new and revised State plan preprints were approved by OMB July 7, 1997 and February 18, 1998, both under OMB No. 0970–0017. Also new forms were approved by OMB Nos. 0970–0085 (Standard Interstate Forms), 0970–0152 (Lien and Subpoena Forms), and 0970–0154 (Wage Withholding Form). An additional information collection burden consists of updating the State plan by removing the State plan preprint page for Section 3.12, Payment of Support through the IV–D agency or Other Entity, due to removal of 45 CFR 302.57, Procedures for payment of support through the IV–D agency or other entity. The effect of removing section 302.57 reduces the information collection burden relating to State plan requirements by 38 annual hours, from 1,316 annual burden hours to 1,278 annual burden hours. The information collected on the State plan pages is necessary to enable OCSE to monitor compliance with the requirements in title IV–D of the Social Security Act and implementing regulations.

*Respondents:* States and Territories.

| Instrument                | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---------------------------|-----------------------|------------------------------------|-----------------------------------|--------------------|
| OCSE-100 (Section 302.57) | 54                    | 1                                  | 43 minutes                        | 38                 |

Estimated Revised Total Annual Burden Hours: 1,278.

The Administration for Children and Families will consider comments by the public on this proposed collections(s) of information in—

- Evaluating whether the proposed collection(s) is [are] necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;

- Evaluating the accuracy of the ACF’s estimate of the burden of the proposed collection(s) of information, including the validity of the methodology and assumptions used;

- 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., permitting electronic submission of responses.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Consideration will be given to comments received within sixty days of this notice.

#### Regulatory Flexibility Analysis

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

#### Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. No costs are associated with this rule as it merely ensures consistency between the statute and regulations.

#### 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 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the interim final rule.

We have determined that the interim final rule will not 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 governments.

#### Congressional Review

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

#### List of Subjects

##### 45 CFR Part 301

Child support, Grant programs/social programs.

##### 45 CFR Part 302

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

##### 45 CFR Parts 303 and 304

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

##### 45 CFR Part 305

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

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

Dated: January 15, 1999.

#### Olivia A. Golden,

*Assistant Secretary for Children and Families.*

For the reasons discussed above, we are amending title 45 chapter III of the Code of Federal Regulations as follows:

#### PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for part 301 continues to read as set forth below:

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

##### § 301.1 [Amended]

2. In § 301.1, the definitions of “Assigned support obligation” and “Assignment” are amended by removing “§ 232.11 of this chapter” and adding “section 408(a)(3) of the Act” in

its place, the definition for “Central registry” is amended by removing “URESA” and adding “UIFSA” in its place, and by removing the term “AFDC” and adding the term “title IV–A” in its place in the title and definition for “Non-AFDC Medicaid recipient.”

#### PART 302—STATE PLAN REQUIREMENTS

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

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

4. In part 302, the term “absent parent” is removed wherever it appears and the term “noncustodial parent” is added in its place, and the term “absent parents” is removed wherever it appears and the term “noncustodial parents” is added in its place.

5. In part 302, the term “AFDC” is removed wherever it appears and the term “title IV–A” is added in its place, and the term “non-AFDC” is removed wherever it appears and the term “non-IV–A” is added in its place.

##### § 302.12 [Amended]

6. In § 302.12, paragraph (a)(1) is amended by removing paragraph (a)(1)(i) and redesignating paragraph (a)(1)(ii) as (a)(1)(i) and paragraph (a)(1)(iii) as (a)(1)(ii).

##### § 302.31 [Amended]

7. In § 302.31:

a. Paragraph (a)(2) is amended by removing “and reciprocal arrangements adopted with other States when appropriate”, and “regarding intrastate and interstate establishment and enforcement of support obligations” is added in its place;

b. Paragraph (a)(3) is removed and reserved;

c. Paragraph (b) is amended by removing “from the IV–A, IV–E or Medicaid agency that there has been” and adding in its place “of”; and

d. Paragraph (c) is amended by removing “from the IV–A, IV–E or Medicaid agency” and “by the IV–A, IV–E or Medicaid agency, as appropriate”.

8. Section 302.32 is revised to read as follows:

##### § 302.32 Collection and disbursement of support payments by the IV–D Agency.

The State plan shall provide that effective October 1, 1998 (or October 1, 1999, for States which paid support through courts on August 22, 1996):

(a) In any case in which support payments are collected for a recipient of

aid under the State's title IV-A plan with respect to whom an assignment under section 408(a)(3) of the Act is effective, such payments shall be made to the State disbursement unit and shall not be paid directly to the family.

(b) Timeframes for disbursement of support payments by State disbursement unit (SDU) under section 454B of the Act.

(1) In interstate IV-D cases, amounts collected by the responding State on behalf of the initiating State must be forwarded to the initiating State within 2 business days of the initial point of receipt by the SDU in the responding State, in accordance with § 303.7(c)(7)(iv).

(2) Amounts collected by the IV-D agency on behalf of recipients of aid under the State's title IV-A or IV-E plan for whom an assignment under sections 408(a)(3) or 471(a)(17) of the Act is effective shall be disbursed by the SDU within the following timeframes:

(i) Except as specified under paragraph (b)(2)(iv) of this section, if the SDU sends payment to the family (other than payments sent to the family from the State share of assigned support collections), the SDU must send these payments within 2 business days of the end of the month in which the payment was received by the SDU. Any payment passed through to the family from the State share of assigned support collections must be sent to the family within 2 business days of the date of receipt by the SDU.

(ii) Except as specified under paragraph (b)(2)(iv) of this section, when the SDU sends collections to the family for the month after the month the family becomes ineligible for title IV-A, the SDU must send collections to the family within 2 business days of the date of initial receipt in the State.

(iii) Except as specified under paragraph (b)(2)(iv) of this section, when the SDU sends collections to the IV-E foster care agency under § 302.52(b)(2) and (4) of this part, the SDU must send collections to the IV-E agency within 15 business days of the end of the month in which the support was initially received in the State.

(iv) Collections as a result of Federal income tax refund offset paid to the family under section 457(a)(2)(iv) of the Act or distributed in title IV-E foster care cases under § 302.52(b)(4) of this part, must be sent to the IV-A family or IV-E agency, as appropriate, within 30 calendar days of the date of initial receipt by the IV-D agency, unless State law requires a post-offset appeal process and an appeal is filed timely, in which case the SDU must send any payment to the IV-A family or IV-E agency within

15 calendar days of the date the appeal is resolved.

(3)(i) Except as provided under paragraph (b)(3)(ii) of this section, amounts collected on behalf of individuals receiving services under § 302.33 of this part shall be disbursed by the SDU pursuant to section 457 of the Act, within 2 business days of initial receipt in the State.

(ii) Collections due the family under section 457(a)(2)(iv) of the Act as a result of Federal income tax refund offset must be sent to the family within 30 calendar days of the date of initial receipt in the IV-D agency, except:

(A) If State law requires a post-offset appeal process and an appeal is timely filed, in which case the SDU must send any payment to the family within 15 calendar days of the date the appeal is resolved; or

(B) As provided in § 303.72(h)(5) of this chapter.

#### § 302.34 [Amended]

9. Section 302.34 is amended by removing the word "and" and the period and adding in its place, commas and adding "Indian tribes or tribal organizations" at the end of the first sentence; and by removing the phrase, "including the immediate transfer of the information obtained under § 235.70 of this title to the court or law enforcement official" in the third sentence.

10. In § 302.35:

a. Paragraph (c)(1) is amended by removing the phrase "or medical support obligations if an agreement is in effect under § 306.2 of this chapter";

b. Paragraph (c)(2) is amended by adding the phrase, "or to serve as the initiating court in an action to seek an order" after "order";

c. Paragraph (c)(4) is amended by adding, ", visitation" after "kidnapping";

d. New paragraphs (c)(5) and (d) are added to read as follows:

#### § 302.35 State parent locator service.

\* \* \* \* \*

(c) \* \* \*

(5) A State agency that is administering a program operated under a State plan under subpart 1 of part B, or a State plan approved under subpart 2 of part B or under part E.

(d) The State PLS shall, subject to the privacy safeguards required under section 454(26) of the Act, disclose only the information described in sections 453 and 463 of the Act to the authorized persons specified in such sections for the purposes specified in such sections.

11. Section 302.50 is revised to read as follows:

#### § 302.50 Assignment of rights.

The State plan shall provide as follows:

(a) An assignment of support rights, as defined in § 301.1 of this chapter, constitutes an obligation owed to the State by the individual responsible for providing such support. Such obligation shall be established by:

(1) Order of a court of competent jurisdiction or of an administrative process; or

(2) Except for obligations assigned under 42 CFR 433.146, other legal process as established by State laws, such as a legally enforceable and binding agreement.

(b) The amount of the obligation described in paragraph (a) of this section shall be:

(1) The amount specified in the order of a court of competent jurisdiction or administrative process which covers the assigned support rights.

(2) If there is no court or administrative order, an amount determined in writing by the IV-D agency as part of the legal process referred to in paragraph (a)(2) of this section in accordance with the requirements of § 302.56; or

(c) The obligation described in paragraph (a) of this section shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(d) Any amounts which represent support payments collected from an individual responsible for providing support under the State plan shall reduce, dollar for dollar, the amount of his obligation under this section.

(e) No portion of any amounts collected which represent an assigned support obligation defined under § 301.1 of this chapter may be used to satisfy a medical support obligation unless the court or administrative order designates a specific dollar amount for medical purposes.

12. Section 302.51 is revised to read as follows:

#### § 302.51 Distribution of support collections.

The State plan shall provide as follows:

(a)(1) For purposes of distribution in a IV-D case, amounts collected, except as provided under paragraph (a)(3) of this section, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

(2) In title IV–A and title IV–E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, the IV–D agency may round off the converted amount to whole dollar amount for the purpose of distribution under this section and § 302.52 of this part.

(3) Amounts collected through Federal income tax refund offset must be distributed as arrearages in accordance with § 303.72(h) of this chapter, and section 457(a)(2)(iv) of the Act.

(4)(i) Effective October 1, 1998 (or October 1, 1999 if applicable) except with respect to those collections addressed under paragraph (a)(3) of this section and except as specified under paragraph (a)(4)(ii) of this section, with respect to amounts collected and distributed under title IV–D of the Act, the date of collection for distribution purposes in all IV–D cases is the date of receipt in the State disbursement unit established under section 454B of the Act.

(ii) If current support is withheld by an employer in the month when due, and received by the State in a month other than the month when due, the date of withholding may be deemed to be the date of collection.

(iii) When the date of collection pursuant to this subparagraph is deemed to be the date the wage or other income was withheld, and the employer fails to report the date of withholding, the IV–D agency must reconstruct that date by contacting the employer or comparing actual amounts collected with the pay schedule specified in the court or administrative order.

(b) If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under section 403(a)(8) of the Act for the current month and all past months.

(c)(1) The amounts collected by the IV–D agency which represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the State under 42 CFR 433.146 shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154.

(2) When a family ceases receiving assistance under the State's title XIX plan, the assignment of medical support rights under section 1912 of the Act terminates, except for the amount of any unpaid medical support obligation that

has accrued under such assignment. The IV–D agency shall attempt to collect any unpaid specific dollar amounts designated in the support order for medical purposes. Under this requirement, any medical support collection made by the IV–D agency under this paragraph shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154.

#### § 302.52 [Amended]

13. In § 302.52(b)(5), the citation “§ 232.11 of this title and section 471(a)(17) of the Act” are removed and “sections 408(a)(3) and 471(a)(17) of the Act” is added in its place.

#### § 302.54 [Amended]

14. In § 302.54(a)(1), the citation “§ 232.11 of this title” is removed and “section 408(a)(3) of the Act” is added in its place.

#### § 302.57 [Removed]

15. Section 302.57 is removed.

#### § 302.70 [Amended]

16. In § 302.70:

a. Paragraph (a) introductory text, is amended by adding “and part 303 of this chapter” after “Act”; removing “the following” after “implemented”; and adding commas after “for” and “improve”;

b. Paragraph (d)(1) is amended by removing “paragraph (a) of this section” and adding “section 466 of the Act” in its place; and

c. Paragraph (d)(2) is amended by removing “paragraph (a)(2) of this section” and adding “section 466(a)(2) of the Act” in its place.

#### § 302.75 [Amended]

17. In § 302.75(b)(4), the citation, “§ 232.11 of this title” is removed and “section 408(a)(3) of the Act” is added in its place.

#### § 302.80 [Amended]

18. In § 302.80(a), the second sentence is removed.

### PART 303—STANDARDS FOR PROGRAM OPERATIONS

19. The authority citation for part 303 continues to read as follows:

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

20. In part 303, the term “absent parent” is removed wherever it appears, except for § 303.15(c) (1), and the term “noncustodial parent” is added in its place, the term “absent parents” is removed wherever it appears and the term “noncustodial parents” is added in its place, and the term “absent parent’s”

is removed wherever it appears, except for § 303.70(c)(1) and (2), and the term “noncustodial parent’s” is added in its place.

21. In part 303, the term “AFDC” is removed wherever it appears and the term “title IV–A” is added in its place, and the term “non-AFDC” is removed wherever it appears and the term “non-IV–A” is added in its place.

22. In part 303, the term “IRS” is removed wherever it appears and the term “Secretary of the U. S. Treasury” is added in its place, except for § 303.72(i) where the term “Department of Treasury” is added in its place.

#### § 303.3 [Amended]

23. In § 303.3(b)(1) “and other sources” is added at the end of the paragraph.

24. In § 303.5:

a. Paragraph (d)(1) is revised to read as follows:

#### § 303.5 Establishment of paternity. [Amended]

\* \* \* \* \*

(d)(1) Upon request of any party in a contested paternity case in accordance with section 466(a)(5)(B) of the Act, and subject to the provisions of paragraph (b) of this section, the IV–D agency shall require all parties to submit to genetic tests unless, in the case of an individual receiving aid under the State's title IV–A, IV–E or XIX plan, or those recipients of the food stamp program, as defined under section 3(h) of the Food Stamp Act of 1977 who are required to cooperate with the child support program, there has been a determination of good cause for refusal to cooperate under section 454(29) of the Act.

\* \* \* \* \*

b. Paragraph (d)(2) is amended by removing the term, “legal”;

c. Paragraph (e)(1) is amended by adding the phrase “Except as provided in paragraph (e)(3) of this section,” at the beginning of the paragraph, and the capital “T” in the word “The” is removed and a lower case “t” is added in its place;

d. Paragraph (e)(3) is revised to read as follows:

\* \* \* \* \*

(e) \* \* \*

(3) If paternity is established and genetic tests were ordered by the IV–D agency, the IV–D agency must pay the costs of such tests, subject to recoupment (if the agency elects) from the alleged father who denied paternity. If a party contests the results of an original test, the IV–D agency shall obtain additional tests but shall require the contestant to pay for the costs of any such additional testing in advance.

**§ 303.7 [Amended]**

25. In § 303.7:

a. Paragraph (a)(1) is amended by ending the sentence with “incoming interstate IV–D cases” and removing all matter thereafter;

b. Paragraph (b)(2) is amended by removing “URESA petitions and”;

c. Paragraph (b)(3) is amended by removing “either the Interstate Child Support Enforcement Transmittal Form or the URESA Action Request Forms package as appropriate” and adding “Federally-approved interstate forms” in its place, and adding the term, “Federal” before the last word “forms”;

d. Paragraph (b)(6) is amended by removing the citation “§ 303.8(f)(1)” and adding § 303.8” in its place;

e. Paragraph (c)(4) is amended by removing “a URESA Action Request Form or other alternative State form”;

f. Paragraph (c)(7)(iii) is amended by removing “Uniform Reciprocal Enforcement of Support Act” and adding “Uniform Interstate Family Support Act” in its place, and by removing “through 303.105” and adding “through 303.102 and 303.104” in its place;

g. Paragraph (c)(7)(iv) is amended by removing “no later than 15 calendar days from the date of initial receipt in the responding State” and “or that the payments were made through State income tax refund offset”;

h. Paragraph (c)(7)(v) is amended by removing the citation “§ 303.8(f)(2)” and adding “§ 303.8” in its place; and

i. Paragraph (d)(3) is revised to read as follows:

\* \* \* \* \*

(d) \* \* \*

(3) If paternity is established in the responding State, the IV–D agency must attempt to obtain a judgment for the costs of genetic testing ordered by the IV–D agency from the alleged father who denied paternity. If the costs of initial or additional genetic testing are recovered, the responding State must reimburse the initiating State.

\* \* \* \* \*

26. Section 303.8 is revised to read as follows:

**§ 303.8 Review and adjustment of child support orders.**

(a) *Definition:* For purposes of this section, *Parent* includes any custodial parent or non-custodial parent (or for purposes of requesting a review, any other person or entity who may have standing to request an adjustment to the child support order).

(b) Pursuant to section 466(a)(10) of the Act, when providing services under this chapter, the State must:

(1) Have in effect and use a process for review and adjustment of child support orders being enforced under title IV–D of the Act, including a process for challenging a proposed adjustment or determination.

(2) Not less than once every three years, notify each parent subject to a child support order in the State of the right to request a review of the order, and the appropriate place and manner in which the request should be made.

(c) The State may establish a reasonable quantitative standard based upon either a fixed dollar amount or percentage, or both, as a basis for determining whether an inconsistency between the existent child support award amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order.

(d) The need to provide for the child’s health care needs in the order, through health insurance or other means, must be an adequate basis under State law to petition for adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary. In no event shall the eligibility for or receipt of Medicaid be considered to meet the need to provide for the child’s health care needs in the order.

(e) *Timeframes for review and adjustment.* Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a State must: conduct a review of the order and adjust the order or determine that the order should not be adjusted, in accordance with this section.

(f) *Interstate review and adjustment.*

(1) In interstate cases, the State with legal authority to adjust the order will conduct the review and adjust the order pursuant to this section.

(2) *Applicable laws and procedures.* The applicable laws and procedures for review and adjustment of child support orders, including the State guidelines for setting child support awards, established in accordance with § 302.56 of this chapter, are those of the State in which the review and adjustment, or determination that there be no adjustment, take place.

**§ 303.15 [Amended]**

27. In § 303.15: ‘

a. Paragraphs (a)(1) (i) and (ii) are amended by adding “or visitation” after “custody”;

b. Paragraph (a)(2) is amended by adding “or visitation” after the first mention of “Custody” and before “Determination”;

c. Paragraph (b) is amended by removing “If the State enters” and adding “A State shall enter” in its place, and by removing the comma after “regulations” and adding “so that” in its place;

d. Paragraph (b)(2) is amended by adding “or visitation” after “custody”;

e. Paragraph (c)(1) is amended by removing “an absent” and adding “a” in its place.

**§ 303.20 [Amended]**

28. In § 303.20 paragraph (b)(3) is amended by removing “Reciprocal Enforcement of Support Act” and adding “Uniform Interstate Family Support Act” in its place.

**§ 303.21 [Removed]**

29. Section 303.21 is removed.

**§ 303.30 [Amended]**

30. In § 303.30:

a. Paragraph (b) is removed; and

b. Paragraph (c) is redesignated as paragraph (b), and amended by removing “paragraphs” and adding “paragraph” in its place, and by removing “and (b)(1)”.

**§ 303.31 [Amended]**

31. In § 303.31, paragraph (c), introductory text, is amended by removing “are available” and adding “will be provided” in its place, and by removing the colon at the end of the paragraph and adding a period in its place; and by removing paragraphs (c)(1) and (c)(2).

**§ 303.70 [Amended]**

32. In § 303.70:

a. Paragraphs (c)(1) and (c)(2) are amended by removing the word, “absent”;

b. Paragraph (d)(1) is amended by removing “solely to locate an individual for the purpose of establishing paternity or securing support or in connection with a parental kidnapping or child custody case” and adding “to obtain information or to facilitate the discovery of any individual in accordance with section 453(a)(2) of the Act for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support obligations, or for determining who has or may have parental rights with respect to a child, or in accordance with section 453(a)(3) of the Act for enforcing a State law with respect to the unlawful taking or restraint of a child, or for making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act” in its place;

c. Paragraph (d)(2), is amended by removing “of § 303.21 of this chapter”

and adding "of sections 453(b), 453(l), 454(8), 454(17), 454(26), and 463(c) of the Act" in its place;

d. Paragraph (e)(1)(i) is amended by removing all the language after "the Act" and adding a semicolon after "Act";

e. Paragraph (e)(1)(ii) is amended by adding "or visitation" after "custody" and by removing the period and adding a semicolon in its place;

f. A new paragraph (e)(1)(iii) is added to read as follows:

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) Section 453(k) of the Act.

g. Paragraph (e)(2)(i) is amended by adding a comma and "453(k)(3) or" after "453(e)(2)", removing "and", and adding ", except that the IV-D agency shall charge an individual specified in section 453(c)(3) of the Act the fee required under section 453(e)(2) of the Act" after "the Act" in its place;

h. Paragraph (e)(3) is amended by adding ", 453(k)(3)" after "453(e)(2)"; and

i. Paragraph (e)(4)(i) is amended by adding ", and furnishing information under section 453(k)(3) of the Act," after "Act" and by removing the word "location" in the second sentence.

### § 303.71 [Amended]

33. In § 303.71:

a. Paragraph (b) is amended by removing "1954" and adding "1986" in its place.

b. Paragraphs (f) and (g) are amended by removing "Representative" wherever it appears and adding "Office" in its place; and

### § 303.72 [Amended]

34. In § 303.72:

a. Paragraphs (a)(1) and (2) are amended by removing the citation "§ 232.11 of this title" and adding "section 408(a)(3) of the Act" in its place;

b. Paragraph (h)(1) is amended by removing "under § 302.51(b)(4) and (5) and (e) of this chapter" and adding "in accordance with section 457 of the Act" in its place;

c. Paragraph (h)(3) is amended by removing "under § 232.11 of this title, 42 CFR 433.146, or section 471(a)(17) of the Act";

d. Paragraph (h)(4) is amended by removing "§ 302.51(b)(4) and (5) and (e) or § 302.52(b)(3) and (4) of this chapter" and adding "section 457 of the Act" in its place.

### § 303.80 [Removed]

35. Section 303.80 is removed.

### § 303.100 [Amended]

36. In § 303.100:

a. The heading is amended by removing "wage or";

b. Paragraph (a)(1) is amended by removing the term, "wages" and adding "income as defined in sections 466(b)(1) and (8) of the Act" in its place;

c. Paragraph (a)(9) is removed;

d. Paragraph (a)(10) is redesignated as paragraph (a)(9);

e. Paragraph (b)(1) is amended by removing the two mentions of "wages" and adding "income" in its place;

f. Paragraph (b)(2)(i) is amended by removing the term "wage" and adding the term "income" in its place.

g. The introductory text of paragraph (c) is amended by removing "wages" and adding "income" in its place;

h. Paragraph (c)(1), introductory text, is amended by removing "wages or" and adding "income of" in its place;

i. Paragraph (c)(2) is removed;

j. Paragraph (c)(3) is redesignated as paragraph (c)(2);

k. The introductory text of paragraph (d) and paragraph (d)(1) are revised to read as follows:

### § 303.100 Procedures for income withholding.

\* \* \* \* \*

(d) *Notice to the noncustodial parent in cases of initiated withholding.* The State must send a notice to the noncustodial parent regarding the initiated withholding. The notice must inform the noncustodial parent:

(1) That the withholding has commenced;

\* \* \* \* \*

l. Paragraphs (d)(1)(iv), (d)(1)(v) and (d)(2) are removed and paragraphs (d)(1)(i) to (iii) are redesignated as paragraphs (d)(2) to (4);

m. A new paragraph (d)(5) is added to read as follows:

### § 303.100 Procedures for income withholding.

\* \* \* \* \*

(d) \* \* \*

(5) Of the information provided to the employer, pursuant to paragraph (e) of this section.

\* \* \* \* \*

n. Paragraph (e) is removed and paragraph (f) is redesignated as paragraph (e);

o. Newly redesignated paragraph (e)(1) introductory text, is amended by adding, "using the standard Federal format" after the word "notice";

p. Newly redesignated paragraph (e)(1)(i) is amended by removing the citation "(f)(1)(iii)" and adding "(e)(1)(iii)" in its place;

q. Newly redesignated paragraph (e)(1)(ii) is amended by removing "10

working" and adding "7 business" in its place, by removing "wages" and adding "income" in its place; and by removing "State (or such other individual or entity as the State may direct)" and adding "SDU" in its place in both occurrences.

r. Newly redesignated paragraph (e)(1)(vi) is amended by removing both mentions of "wages" and adding the term "income" in its place;

s. Newly redesignated paragraphs (e)(1)(vii) and (viii) are amended by removing "wages" and adding the term with "income" in its place;

t. Newly redesignated paragraph (e)(1)(ix) is revised to read as follows:

### § 303.100 Procedures for income withholding.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(ix) That the employer must withhold from the noncustodial parent's income the amount specified in the notice and pay such amount to the State disbursement unit within 7 business days after the date the income would have been paid to the noncustodial parent.

u. Newly redesignated paragraph (e)(2) is amended by removing the citation "(f)(1)" and adding "(e)(1)" in its place, and removing "entered" and adding "received" in its place;

v. Newly redesignated paragraph (e)(3) is revised to read as follows:

### § 303.100 Procedures for income withholding.

\* \* \* \* \*

(e) \* \* \*

(3) In the case of initiated withholding, the State must send the notice to the employer required under paragraph (e)(1) of this section within 15 calendar days of the date specified in paragraph (c)(1) of this section if the employer's address is known on that date, or, within 15 calendar days of locating the employer's address.

w. Paragraph (g) is removed;

x. Paragraph (h) is redesignated as paragraph (f) and revised to read as follows:

### § 303.100 Procedures for income withholding.

\* \* \* \* \*

(f) *Interstate withholding.*

(1) The State law must require employers to comply with a withholding notice issued by any State.

(2) When an out-of-State IV-D agency requests direct withholding, the employer must be required to withhold funds as directed in the notice but to apply the income withholding laws of

the noncustodial parent's principal place of employment to determine:

(i) The employer's fee for processing the withholding notice;

(ii) The maximum amount that may be withheld from the noncustodial parent's income;

(iii) The time periods to implement the withholding notice and to remit the withheld income;

(iv) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(v) Any withholding term or conditions not specified in the withholding order.

(3) In other than direct withholding actions:

(i) A State may require registration for orders from other States for purposes of enforcement through withholding only if registration is for the sole purpose of obtaining jurisdiction for enforcement of the order; does not confer jurisdiction on the court or agency for any other purpose (such as modification of the underlying or original support order or resolution of custody or visitation disputes); and does not delay implementation of withholding beyond the timeframes established in paragraphs (e)(2) and (e)(3) of this section.

(ii) Within 20 calendar days of a determination that withholding is required in a particular case, and, if appropriate, receipt of any information necessary to carry out withholding, the initiating State must notify the IV-D agency of the State in which the noncustodial parent is employed to implement interstate withholding. The notice must contain all information necessary to carry out the withholding, including the amount requested to be withheld, a copy of the support order and a statement of arrearages, if appropriate. If necessary, the State where the support order is entered must provide the information necessary to carry out the withholding within 30 calendar days of receipt of a request for information by the initiating State.

(iii) The State in which the noncustodial parent is employed must implement withholding in accordance with this section upon receipt of the notice from the initiating State required in paragraph (f)(3)(ii) of this section.

(iv) The State in which the noncustodial parent is employed must notify the State in which the custodial parent is receiving services when the noncustodial parent is no longer employed in the State and provide the name and address of the noncustodial parent and new employer, if known.

\* \* \* \* \*

y. Paragraph (i) is redesignated as paragraph (g) and is amended by removing "between October 1, 1985, and January 1, 1994, or modified on or after January 1, 1994," and adding "whether or not being enforced under the State IV-D plan," in its place; and by removing "In order to ensure that withholding as a means of support is available if arrearages occur without the necessity of filing an application for IV-D services".

37. In § 303.101:

a. Paragraph (a) is revised to read as follows:

**§ 303.101 Expedited processes.**

(a) *Definition Expedited processes* means administrative and judicial procedures (including IV-D agency procedures) required under section 466(a)(2) and (c) of the Act;

\* \* \* \* \*

b. Paragraph (b)(1) is amended by removing "establish and enforce" and adding "establish, modify, and enforce" in its place;

c. Paragraphs (c)(4) and (5) are removed; and

d. Paragraph (c)(6) is redesignated as paragraph (c)(4) and is amended by adding "administrative or" before "judicial".

**§ 303.102 [Amended]**

38. In § 303.102:

a. Paragraph (a)(1) is amended by removing "§ 232.11 of this title or" and adding "section 408(a)(3) of the Act" in its place;

b. Paragraph (c), (d) and (e) are redesignated as paragraphs (d), (e) and (c);

c. Newly redesignated paragraph (d) is amended by removing paragraph (d)(2), removing the designation for paragraph (d)(1) and adding the text after "advance:" removing the colon after "advance", removing the citation "§ 302.51(e)" and adding "§ 302.51(c)" in its place, and removing "; and" at the end of the paragraph and adding a period in its place; and

f. Paragraph (g) is amended by removing paragraphs (g)(1)(i) through (iii), adding the designation "(i)" directly after "(g)(1)"; in paragraph (g)(1)(i) adding "in accordance with section 457 of the Act" to the end of the paragraph; redesignating paragraph (g)(1)(iv) as (g)(1)(ii); and removing the citation to "§ 302.51(e)" in (g)(1)(ii) and adding "§ 302.51(c)" in its place.

**§ 303.103 [Removed]**

39. Section 303.103 is removed.

**§ 303.105 [Removed]**

40. Section 303.105 is removed.

**PART 304—FEDERAL FINANCIAL PARTICIPATION**

41. The authority citation for part 304 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396(p), and 1396(k).

42. In part 304, the term "absent parent" is removed wherever it appears and the term "noncustodial parent" is added in its place, and the term "absent parents" is removed wherever it appears and the term "noncustodial parents" is added in its place.

43. In part 304, the term, "AFDC" is removed wherever it appears and the term "title IV-A" is added in its place, except for § 304.26. The term "non-AFDC" is removed wherever it appears and the term "non-IV-A" is added in its place.

**§ 304.12 [Amended]**

44. In § 304.12, paragraph (a) and the definition of "Non-IV-A collections" are amended by removing the citation of "§ 232.11 of this title" and adding "section 408(a)(3) of the Act" in its place.

**§ 304.20 [Amended]**

45. In § 304.20:

a. Paragraph (b)(1)(viii)(C) is removed;

b. Paragraph (b)(1)(viii)(D) is redesignated as paragraph (b)(1)(viii)(C);

c. Paragraph (b)(1)(ix)(C) is removed;

d. Paragraph (b)(1)(ix)(D) is redesignated as paragraph (b)(1)(ix)(C);

e. Newly redesignated paragraph (b)(1)(ix)(C) is amended by revising the citation, "§ 302.51(e)" to read "§ 302.51(c)"; and

f. Paragraph (b)(3)(iv) is amended by removing "wage withholding" and adding "income withholding" in its place.

**§ 304.21 [Amended]**

46. In § 304.21, paragraph (a), introductory text, is amended by removing the first word of the last sentence, "Then" and adding "When" in its place.

47. Section 304.26 is revised to read as follows:

**§ 304.26 Determination of Federal share of collections.**

(a) From the amounts of support collected by the State and retained as reimbursement for title IV-A payments and foster care maintenance payments under title IV-E, the State shall reimburse the Federal government to the extent of its participation in the financing of the title IV-A and title IV-E payment. In computing the Federal share of support collections, the State

shall use the Federal medical assistance percentage (FMAP) as defined in section 457(c)(3) of the Act in computing the Federal share of collections under title IV-A and the FMAP in effect for the fiscal year in which the amount is distributed for amounts under title IV-E.

(b) If an incentive payment is made to a jurisdiction under § 304.12 of this chapter for the enforcement and collection of support obligations, the payment shall be made from the Federal share of collections computed in paragraph (a) of this section.

(c) If a hold harmless payment is made to a jurisdiction pursuant to section 457(d) of the Act, the payment shall be made from the remaining Federal share of collections following the incentive payment made in paragraph (b) of this section.

#### § 304.29 [Amended]

48. Section 304.29 is amended by removing, "Regional Representative" which refers to the Regional Representatives of the Office of Child Support Enforcement and replacing with, "Regional Administrator" which refers to the Regional Administrator of the Administration for Children and Families.

#### § 304.40 [Amended]

49. In § 304.40, paragraph (a)(2) is amended by removing "Representative" and adding "Office" in its place, and paragraph (b)(2) is amended by removing "OCSE-OA-25" and adding "required financial reports" in its place, and by removing "(as shown on the latest OCSE-OA-25)".

#### PART 305—[REMOVED AND RESERVED]

50. Part 305 is removed and reserved.

[FR Doc. 99-3007 Filed 2-8-99; 8:45 am]

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 80

[FCC 98-296]

#### Waiver of GMDSS Rules for Small Passenger Vessels and Fishing Vessels

**AGENCY:** Federal Communications Commission.

**ACTION:** Partial waiver of rules.

**SUMMARY:** On November 20, 1998, the Commission issued an Order waiving certain of its Rules implementing the

Global Maritime Distress and Safety System (GMDSS) as applied to fishing vessels until it can conclude a rule making proceeding to determine what GMDSS equipment is appropriate for fishing vessels. In the same order, the Commission waived certain of its Rules implementing the GMDSS as applied to small passenger vessels until the United States Coast Guard has notified the Commission that Sea Areas A1 and A2 have been established.

**DATES:** Waiver is effective February 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Wilhelm, or Jim Shaffer, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 2025 M Street, NW, Washington, DC 20554 or by telephone at (202) 418-0680 or by e-mail to, respectively, mwilhelm@fcc.gov or jshaffer@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order* released November 20, 1998.

#### I. Introduction and Executive Summary

1. By this *Order* we grant temporary, conditional waivers pursuant to Part II of Title III of the Communications Act of certain Commission rules implementing the provisions of the Safety of Life at Sea (SOLAS) Convention for small passenger vessels and fishing vessels.<sup>1</sup> The waivers affect fishing vessels<sup>2</sup> and small passenger vessels that make short voyages in certain narrowly-defined waters. Absent the action taken herein, fishing vessels and small passenger vessels would be required to fully implement the Global Maritime Distress and Safety System (GMDSS) on February 1, 1999.<sup>3</sup> We are granting the waiver for small passenger vessels *inter alia* because the short-based stations necessary for GMDSS short-range and medium-range digital selective calling (DSC) communications are not yet fully implemented in the United States. Consequently, were small passenger vessels required to fully conform to the GMDSS rules, those vessels would have to install the equipment necessary for long-range communication. The long-range equipment would be costly and

unnecessary from a safety standpoint for small passenger vessels. In the case of fishing vessels, at the behest of representatives of the fishing industry, we are granting a temporary, conditional waiver from compliance with certain of the Commission's GMDSS rules pending completion of a rule making proceeding addressed to the issue of whether fishing vessels should be required to comply fully with the Commission's GMDSS rules. The waivers herein affect only rules that were to take effect on February 1, 1999. As a result, nothing herein should be construed as a waiver of GMDSS rules which already are in effect.

#### II. Background

2. *GMDSS Implementation.* In the *GMDSS R&O*,<sup>4</sup> the Commission established a schedule, consistent with the one adopted internationally, under which the GMDSS would be phased-in for United States vessels. The current GMDSS rules require that all United States compulsory vessels<sup>5</sup> must be equipped with a full GMDSS installation for alerting and communications purposes by February 1, 1999.<sup>6</sup> The Commission's GMDSS rules require all compulsory vessels to carry a complement of basic GMDSS equipment which includes a VHF installation with digital selective calling (DSC), a NAVTEX receiver, a float-free satellite EPIRB, one or more search and rescue radar transponders (SARTs), and two or more VHF portable radios. In addition, these vessels must carry certain other communications equipment depending on the "Sea Area" in which a vessel operates.<sup>7</sup> There are four possible Sea Areas (designated Sea Areas A1-A4).<sup>8</sup> Sea Areas A3 and

<sup>4</sup> See Amendment of Parts 13 and 80 of the Commission's Rules to Implement the Global Maritime Distress and Safety System to Improve the Safety of Life at Sea, PR Docket No. 90-480, Report and Order, 7 FCC Rcd 951 (1992) (GMDSS R&O), petition for reconsideration denied, Memorandum Opinion and Order, FCC 98-180 (released August 10, 1998), 63 FR 49870 (September 18, 1998).

<sup>5</sup> Compulsory vessels are cargo ships of 300 gross tons or over travelling in the open sea, and all passenger ships, irrespective of size, that carry more than 12 passengers when travelling in the open sea. See 47 CFR 80.1065(b).

<sup>6</sup> See 47 CFR 80.1065.

<sup>7</sup> See 47 CFR 80.1089-80.1093.

<sup>8</sup> The GMDSS Sea Areas are defined as follows: *Sea Area A1*—an area within the radiotelephone coverage of at least one VHF coast station in which continuous DSC alerting is available (this would normally extend approximately 20-30 miles from shore); *Sea Area A2*—an area, excluding Sea Area A1, within the radiotelephone coverage of at least one MF coast station in which continuous DSC alerting is available (this would normally extend up to 75-150 miles from shore); *Sea Area A3*—an area, excluding Sea Areas A1 and A2, within the coverage of an INMARSAT geostationary satellite in

<sup>1</sup> See Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1978: Articles, Annexes and Certificates, Incorporating all Amendments in Effect from 1 July 1997, International Maritime Organization, London, 1997 (*SOLAS Convention*).

<sup>2</sup> "Fishing vessels" for the purposes of this *Order* are commercial vessels that catch and/or process fish and other marine life. *C.f.* *SOLAS Convention*, Part A, Regulation 2(i).

<sup>3</sup> See 47 CFR Subpart W.