Subpart Z—Mississippi

■ 2. Subpart Z is amended by adding an undesignated center heading and § 62.6127 to read as follows:

Air Emissions From Commercial and Industrial Solid Waste Incineration (CISWI) Units—Section 111(d)/129 Plan

§ 62.6127 Identification of Sources.

The Plan applies to existing Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 301, 302, 303, 304, and 307

RIN 0970–AB81

Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation, Computerized Support Enforcement Systems

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

ACTION: Final rule.

SUMMARY: This final rule responds to comments on, and makes technical corrections to, interim final child support enforcement regulations published in the **Federal Register** on February 9, 1999.

The 1999 interim final rule eliminated regulations, in whole or in part, that were rendered obsolete by, or inconsistent with, welfare reform legislation and a series of related laws that followed.

DATES: These regulations are effective on June 11, 2003.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, Deputy Director, Policy Division, OCSE, (202) 401–5369, *ebrooks@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Statutory Authority

These regulations are published under the authority granted to the Secretary by section 1102 of the Social Security Act (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 he is responsible under the Act.

Interim Final Regulatory Provisions

Interim final regulations published on February 9, 1999 (64 FR 6237) amended Child Support Enforcement program regulations throughout 45 CFR chapter III for conformity with statutory changes enacted in concert with welfare reform. The 1999 regulatory document amended: §§ 301.1, 302.12, 302.31, 302.32, 302.34, 302.35, 302.50, 302.51, 302.52, 302.54, 302.70, 302.75, 302.80, 303.3, 303.5, 303.7, 303.8, 303.15, 303.20, 303.30, 303.31, 303.70, 303.71, 303.72, 303.100, 303.101, 303.102, 304.12, 304.20, 304.21, 304.26, 304.29, and 304.40 and made nomenclature edits throughout parts 301, 302, 303, and 304. In addition, the 1999 interim final rule removed §§ 302.57, 303.21, 303.80, 303.103, 303.105, and former part 305, which were wholly rendered obsolete by, or inconsistent with, statutory changes resulting from welfare reform and related follow-up legislation. These statutes are: Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Public Law 105–33, the Balanced Budget Act of 1997 (BBA); Public Law 105–89, the Adoption and Safe Families Act of 1997 (ASFA); and Public Law 105–200, the Child Support Performance and Incentive Act of 1998 (CSPIA).

Response to Comments and Changes to 1999 Interim Final Rule

We received comments from over 20 representatives of Federal, State and local agencies, national organizations, advocacy groups, and private citizens on the interim final rule published on February 9, 1999 in the **Federal Register** (64 FR 6237). We appreciate the care that commenters took in their reviews. No comments were received on the request for comments on the information collection activity published on July 16, 1999 in the **Federal Register** (64 FR 38444).

This final rule includes changes made throughout Child Support Enforcement regulations in response to comments we received in the 1999 document. It also includes additional technical corrections identified after publication of the 1999 interim final rule that are of a nature that we believe would not require additional comment, such as changes in punctuation or spelling.

General

1. *Comment:* We received one comment recommending that the rule be issued formatted with strikeouts and underlines indicating removals and additions from the current regulation.

Response: The **Federal Register**'s publication policy does not allow issuance of regulations with strikeouts and underlines. The annually-updated version of the Code of Federal Regulations (CFR) contains all final revisions to child support program regulations revised as of October 1 of each year. The Government Printing Office web site at *www.gpo.gov* includes the latest available version of the CFR.

2. *Comment:* We received a comment that we were inconsistent by removing some regulations but adding language in other regulations.

Response: The interim final rule was drafted to minimize restatement of statutory language in Federal regulations. Therefore, we only added language needed for conformity with statutory language. In some cases, the inconsistency between the regulation and PRWORA was so great that the regulation was removed. In response to comments received and to avoid confusion, we have incorporated some statutory requirements in the Federal regulations (*e.g., see* § 303.8, Review and adjustment of child support orders). In addition, because the rule was issued as an Interim Final Rule, instead of a Notice of Proposed Rulemaking, it was limited to those changes that were required by statute and were non-discretionary. Changes involving policy choices will be issued through separate rulemaking.

3. *Comment:* We received several comments indicating that we missed nomenclature changes needed in various sections of the regulations. For example, changes were needed to replace ''absent'' parent with ''noncustodial'' parent and to correct ''an'' noncustodial to ''a'' noncustodial parent.

Response: We have made these straightforward corrections to the regulations throughout parts 301 through 304 and 307 and will not repeat these comments and responses individually as we discuss each changed regulation.

4. *Comment:* We received comments on several sections of the regulations that were not included in the interim final rule.

Response: We are unable to address these comments in this final rule, but will retain them for consideration in any future revisions to those sections.

General Definitions—§ 301.1

1. *Comment:* One commenter said that the definitions for ''overdue support'' and ''past-due support'' create

confusion and legal problems for the program. ''Overdue support means a delinquency * * *'' and ''Past-due support means the amount of support * * * which has not been paid.'' Lack of clarity in these definitions and in use of the term ''delinquency'' in the regulations leaves interpretation of these terms to local courts. The commenter cites court rulings that: (1) Preclude use of Federal income tax refund offset when an individual is current in his court-ordered repayment plan; (2) past-due support is created by default in performance rather than by the existence of outstanding arrears; and (3) arrearages resulting from the retroactive application of the support order do not constitute past-due support subject to the Federal income tax refund intercept.

Response: These regulatory definitions restate the definitions used in the Act and were not changed by any recent amendments to the Act. ''Overdue support'' is a term defined in section 466(e) of the Act and is applicable to section 466 remedies. It was added when that section on mandatory State enforcement laws was first included in title IV–D by the 1984 amendments to the Act. The term ''past-due support'' is defined in section 464(c) of the Act and used in sections 454(6) and 454(18) and throughout section 464 to refer to delinquencies qualifying for Federal income tax refund offset. Because these are statutory definitions with particular meanings and applications, we have not altered them. According to Black's Law Dictionary, the term ''delinquent'' means due and unpaid at the time appointed by law. In the case of child support, a judgment for unpaid support or an arrearage amount would be a delinquency. Delinquency is used in these regulations as a general term to distinguish current support from other support.

2. *Comment:* One commenter suggested that, under definitions, the term ''non-title IV–A Medicaid recipient'' be amended to ''non-IV–A Medicaid recipient''.

Response: We agree and have made this revision. The term ''Non-title IV–A Medicaid Recipient'' is revised by removing ''Non-title IV–A'' and replacing it with ''Non-IV–A''.

Single and Separate Organizational Unit—§ 302.12

1. *Comment:* One commenter noted that paragraph (a)(1)(i) deletes reference to § 205.100 although there has been no amendment to that section. The commenter also indicated that the word ''other'' should be removed from paragraph (a)(1)(ii) for clarity.

Response: Section 205.100 is obsolete with respect to title IV–A as reauthorized under welfare reform. It is still permissible for the IV–D agency to be located within any agency designated to administer title IV–A, but there is no longer a requirement for a single State agency in the Temporary Assistance for Needy Families (TANF) program. Therefore, the word ''other'' in newly-designated paragraph (a)(1)(ii) is appropriate.

Establishing Paternity and Securing Support—§ 302.31

1. *Comment:* One commenter noted that the preamble to the interim final rule said that we were removing § 302.31(a)(4), but it was not removed. This reference appeared in the discussion of § 303.80.

Response: Reference to removal of § 302.31(a)(4) was incorrect. The content of § 302.31(a)(3) was removed and paragraph (a)(3) was reserved by the interim final rule. Because we have no plans to use the reserved paragraph (a)(3), we are deleting it in this final rule and have made a technical correction redesignating paragraph (a)(4) as (a)(3).

Collection and Disbursement of Support Payments by the IV–D Agency—§ 302.32

1. *Comment:* Two commenters indicated that disbursement timeframes in paragraphs (b)(1), (2) and (3) should start from the date of receipt by the State disbursement unit (SDU), pursuant to section 454B(c) of the Act.

Response: We agree with these comments and have revised the paragraphs, as needed, to make them consistent with the statute. We will revise paragraph (b)(1) by substituting ''date'' for ''initial point''. Paragraph (b)(1) already has the language ''receipt by the SDU''. We will revise paragraphs (b)(2)(ii), (b)(2)(iii) and (b)(3)(i) by changing references to receipt by the State to reference receipt by the SDU.

2. *Comment:* One commenter questioned if the language in § 302.32(b)(2)(i) ''(other than payments sent to the family from the State share of assigned collections)'' is in reference to States that pass through part of or all of the collection in TANF cases. Another commenter indicated that, regarding paragraph (b)(2)(i), collections in TANF cases cannot be disbursed to the family within 2 business days of receipt by the SDU or of the end of the month of receipt. The County Welfare Department must first determine total assistance paid to the family for the month. The commenter indicated that it is impossible to determine if a pass-through or other support payment is available to the family until the total assistance paid to the family during the month is known. Once the total assistance paid is provided to the IV–D agency after the end of the month, the IV–D agency conducts the welfare payment distribution process to determine if the family is entitled to a pass-through or other support payment. The commenter requests that the regulations be amended so that States be allowed to make these payments within 2 business days of the determination of the amount of support payable to the family after the end of the month.

Response: The language quoted by the first commenter does refer to payments that States pass through to families. Section 454B of the Act, entitled Collection and Disbursement of Support Payments, requires the SDU to ''distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source or periodic income, if sufficient information identifying the payee is provided.'' Addressing the issue raised by the second commenter goes beyond a technical change to the regulations and therefore cannot be dealt with in this document. We will consider these comments in future proposed rulemaking on this section.

3. *Comment:* One commenter asked that, since the SDU does not receive and disburse Federal income tax refund intercepts, could we include reference in paragraph (b)(2)(iv) to other entities (*e.g.,* IV–D agencies) that may receive and disburse them?

Response: The commenter is correct that Federal income tax refund offset collections are not necessarily sent to the SDU; they are sent to an account designated by the State IV–D agency for receipt of these monies. However, payments made to the family from these funds must be disbursed by the SDU, therefore we have not made this change to the regulation.

4. *Comment:* The commenter also asked whether we plan to include in the regulations information from OCSE–AT–98–24 on the definition of ''assistance paid to the family''.

Response: Since this definition is addressed in existing agency issuances, we do not believe it is necessary to capture it in regulation. Please note that OCSE–AT–99–10 revised the definition of assistance for child support purposes in OCSE–AT–98–24, for consistency with the final TANF regulations.

State Parent Locator Service—§ 302.35

1. *Comment:* One commenter requested that the preamble clarify that reference to the removal of medical support obligations from § 302.35(c)(1), which addresses appropriate requests to

the State parent locator service for use of the Federal Parent Locator Service, is merely a technical change because the language is obsolete and that the change has no substantive effect on the use of the SPLS or FPLS to collect medical support.

Response: We agree. The deletion of ''or medical support obligations if an agreement is in effect under § 306.2 of this chapter'' in § 302.35(c)(1) has no substantive effect on the use of the SPLS or FPLS to collect medical support under the IV–D program. The language was deleted because former Part 306 governing optional cooperative agreements between IV–D and Medicaid agencies is no longer in effect.

2. *Comment:* One commenter requested that in § 302.35(c)(4) the phrase ''parental kidnapping or child custody or visitation'' cases be used because it is consistent with other sections of the statute and regulations.

Response: We agree and have changed the terminology to reflect the order of wording elsewhere in regulations. We are amending paragraph (c)(4) by removing '', visitation'' and adding, ''or visitation'' after ''custody'' to conform to changes to section 463(a)(2) of the Act defining persons authorized to access the FPLS for custody or visitation purposes.

3. *Comment:* One commenter suggested that States need more guidance on the role of the SPLS under PRWORA, including the appropriate use of State databases to respond to requests, how to address family violence concerns, and ''locate-only'' requests in non-IV–D support cases. The commenter indicated that there has been an increase in the number of ''locate-only'' requests submitted to the SPLS and States have concerns about appropriately verifying and responding to these requests. The commenter suggested that the Secretary provide further guidance to ensure that the vast amount of data now available through the SPLS and FPLS is properly safeguarded.

Response: We agree that these issues are very important and we have already issued guidance. In DCL–00–36, dated March 15, 2000, OCSE published a summary list of current statutory citations, regulatory citations, and OCSE policy documents covering authorized requests for FPLS information and information from statewide child support enforcement systems. Key documents include: AT–99–09, dated June 16, 1999, on safeguarding of FPLS information; AT–98–27, dated September 17, 1998 and DCL–98–122, dated November 25, 1998, on the family violence indicator; AT–98–26, dated August 25, 1998, forwarding final regulations implementing statewide automated systems requirements; PIQ–98–05, dated August 12, 1998, on requests for FPLS information for making or enforcing a child custody or visitation determination; and PIQ–98–02, dated May 18, 1998 on court access to FPLS information. Other important OCSE documents are: The Federal Case Registry Interface Guidance Document, Section 6.7 Request for Locate; and the Automated Systems for Child Support Enforcement: A Guide for States, outlining system certification requirements.

To gather additional information on States' needs in this area, OCSE convened a work group to review current policy on the locate function and safeguarding of information handled by State IV–D agencies. The group met for 7 months in 2001 and provided very useful guidance to OCSE regarding States' concerns. We are currently developing proposed regulations on the SPLS and safeguarding of State information in order to address these issues. We are also developing guidance to States on use of the FPLS in non-IV–D child support cases.

In addition to the above, in reviewing § 302.35, we identified an error in wording in paragraph (c)(2), which refers to ''any agency'' of a court that may request FPLS information. We are making a technical correction to this paragraph by replacing ''agency'' with ''agent'' to reflect the statutory language from which this provision is derived.

Provision of Service in Interstate IV–D Cases—§ 302.36

1. *Comment:* One commenter noted that § 303.7(b)(3) references ''Federally-approved interstate forms'' and suggested that a provision should be added to § 302.36 to require use of Federally approved interstate forms per section 454(9)(E) of the Act.

Response: We do not generally include statutory references in the regulations except where necessary for understanding the requirements. Since § 302.36 requires the State to provide interstate services in accordance with the requirements of § 303.7, and § 303.7 requires use of the Federally-approved interstate forms, we do not believe that an additional reference to the forms requirement is needed in regulation.

Assignment of Rights—§ 302.50

1. *Comment:* Several commenters suggested we change the title ''Assignment of rights'' for clarity. One suggested ''Obligations with assigned rights'' and the other suggested ''Assignment of rights to support obligations''.

Response: We agree that ''Assignment of rights'' is confusing and are revising the title of this section to ''Assignment of rights to support'' because an individual assigns his or her rights to support, not to the support obligation itself. This language is consistent with language used in the regulation section.

In addition, in reviewing this section, we identified misplaced punctuation. To correct this, we are amending paragraph (b)(2) by replacing ''; or'' at the end of the paragraph with a period.

Distribution of Support Collections—§ 302.51

1. *Comment:* A State commenter raised concerns about revisions to procedures for distribution of State tax intercept collections. The State has a high State income tax and realizes significant collections from State tax intercept. Federal and State tax intercept, while having different thresholds for collection, have previously been distributed to satisfy arrearages. OCSE–AT–97–17 indicated that States can decide distribution order where section 457 of the Act is silent.

Response: Section 457 of the Act only provides one exception to applying collections first to satisfy the current support obligation. Section 457(a)(2)(B)(iv) of the Act requires that Federal income tax refund offset collections must be applied first to satisfy arrearages. Therefore, there is no discretion in Federal law to allow State income tax refund offset collections to be distributed like Federal income tax refund offsets. To clarify, however, OCSE–AT–97–17 states that States may satisfy different categories of assigned arrearages in any order because section 457 is silent in this regard. It does not allow States to choose whether to apply a collection to arrearages rather than current support.

In reviewing this section, we identified an incorrect citation to section 457 of the Act. To correct it, we are amending § 302.51(a)(3) by inserting ''B'' in the citation so that it reads ''section 457(a)(2)(B)(iv)''.

2. *Comment:* One commenter suggested that we amend the regulation to be consistent with OCSE–AT–97–17, Q & A 41, to allow States to hold future payments until the due date or immediately pay them to the family in former assistance cases.

Response: Section 302.51(b), which was formerly § 302.51(c), addresses the distribution or allocation of collections to satisfy future support in current assistance cases and prohibits a State from applying or distributing those

collections to satisfy future support unless all assigned current and past-due support is paid. Q & A 41 of OCSE–AT–97–17 is not consistent with disbursement timeframes in section 454B of the Act and will be revised. Any collection in a former or never assistance case that is owed to the family must be sent to the family within 2 business days of receipt in the SDU. This would include future payments owed to the family. The 2-day time frame was required by PRWORA, which also required IV–D agencies to establish SDUs. Since the February 9, 1999 publication of the interim final regulation, implementation of the SDUs has allowed States to comply with the 2-day requirement without difficulty.

3. *Comment:* One commenter indicated that the requirement under paragraph (a)(4)(iii) to contact the employer when the employer fails to report the date of withholding is burdensome and jeopardizes disbursement within 2 days of receipt of the collection. The commenter indicated that the State should use the date of the employer's check or it should be left at State option to contact the employer.

Response: Pursuant to section 454B(c) of the Act, the date of collection for amounts collected and distributed is the date of receipt by the SDU. However, States have the option of deeming the date of withholding to be the date of collection when the current support is withheld by an employer in the month when due and received by the SDU in a month other than the month when due. Therefore, States are not required to use the date of withholding as the date of collection for distribution purposes. If a IV–D agency opts to use the date of withholding and an employer fails to supply that date, § 302.51(a)(4)(iii) allows the State to reconstruct the date either by contacting the employer or comparing the actual amounts collected with the pay schedule in the order. Thus, the State may reconstruct the date of withholding without contacting the employer.

4. *Comment:* Two commenters indicated that the preamble language describing changes to paragraph (a)(4) which defines the date of collection for distribution purposes is not consistent with the change made in the regulation itself.

Response: We agree that there is a discrepancy between the preamble and the regulation in paragraphs (a)(4)(i) and (ii). The preamble omitted the effective date of the new definition of date of collection. The regulatory language is correct: ''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.''

5. *Comment:* One commenter indicated that former paragraph (b)(5) that read ''if the amount collected is in excess of the amounts required to be distributed under paragraph (b)(1) through (4) of this section, such excess shall be paid to the family'' should be retained. The commenter suggested that due to revisions to paragraphs (b)(1) and (b)(3), this paragraph needs rewording to retain its original intent.

Response: Section 302.51(b)(5) was deleted because it referred to paragraphs (b)(1) through (4) which were removed because of changes to the distribution rules pursuant to PRWORA. We deleted provisions inconsistent with the new section 457 of the Act and made a conscious decision not to repeat the statutory requirements in the regulations. However, the basic principle of ensuring that the State never retains more assigned support collections than the total amount of assistance paid to the custodial parent is still in effect. This provision is found in section 457(a)(1)(B) of the Act (see also two Action Transmittals on distribution, OCSE–AT–97–17 and OCSE–AT–98–24).

Notice of Collection of Assigned Support—§ 302.54

1. *Comment:* One commenter pointed out some inconsistencies in the interim final rule: paragraph (a)(1) refers to ''conditions in paragraph (c)'', but former paragraph (c) was deleted; paragraph (b)(1)(ii) refers to ''information required under paragraph (b)(2)'', but that information is now in paragraph (a); and paragraph (b)(2) refers to paragraphs (b)(1) and (b)(2), which are now paragraphs (a)(1) and (2).

Response: We agree with this commenter. A final rule which eliminated certain regulatory requirements was issued on December 20, 1996 in the **Federal Register** (61 FR 67235). That rule removed paragraph (a) and redesignated paragraphs (b) and (c) as (a) and (b). At that time, we neglected to make corresponding changes in later references to these redesignated paragraphs.

Therefore, we are now making the following technical corrections: in paragraph (a)(1), we are revising ''paragraph (c)'' to read ''paragraph (b)''; in paragraph (b)(1)(ii), we are revising ''paragraph (b)(2)'' to read ''paragraph (a)''; and in paragraph (b)(2), we are revising ''(b)(1)'' to read ''(a)(1)'' and ''(b)(2)'' to read ''(a)(2)''.

§ 302.65 Withholding of Unemployment Compensation.

In reviewing the regulations for corrections missed in the interim final rule, we found a typographical error in § 302.65. To correct this, we are making a technical change to correct the spelling of ''criteria'' in paragraph (c)(7).

Required State Laws—§ 302.70

1. *Comment:* Two commenters pointed out that since §§ 303.103 and 303.105 are eliminated, references to them in paragraphs (a)(4) and (7) should be eliminated.

Response: We agree and are deleting these references. In addition to the changes raised by commenters, we are making a similar technical correction to paragraph (c) by replacing ''§§ 303.100 through 303.105 of this chapter'' with ''§§ 303.100 through 303.102 and § 303.104 of this chapter''.

2. *Comment:* Two commenters noted that paragraph (a)(5)(ii) refers to obsolete ''§§ 232.40 through 232.49 of this title'' and should be changed to refer to section 454(29) of the Act.

Response: We have deleted the regulatory references in that clause and added the reference to section 454(29) of the Act.

3. *Comment:* One commenter recommended that we remove paragraphs (a)(1) through (a)(11) as they restate the provisions of the Act but retain introductory language in paragraph (a).

Response: Paragraphs (a)(1) through (11) not only restate provisions in section 466 of the Act, they also cross-reference related requirements in Part 303 of the regulations. We are looking at the best way to present these requirements and will address any needed changes during future revisions to this section.

4. *Comment:* One commenter noted that we should replace ''wages'' with ''income'' in paragraph (a)(8).

Response: We have made this technical revision for consistency with section 466(a)(1) and (b) of the Act.

Procedures for the Imposition of Late Payment Fees on Noncustodial Parents Who Owe Overdue Support—§ 302.75

1. *Comment:* A commenter noted that paragraph (b)(6) refers to § 305.50, which no longer exists.

Response: The reference to § 305.50 in the interim final regulation was a typographical error. In paragraph (b)(6),

we are correcting the citation by changing ''§ 305.50'' to ''§ 304.50''.

Mandatory Computerized Support Enforcement System—§ 302.85

1. *Comment:* A commenter suggested editing paragraph (b)(2), governing the conditions for waiver of certain automated systems requirements, because it refers to 45 CFR part 305 which was removed and reserved by the interim final rule.

Response: Since publication of the interim final rule, a new part 305 was added to the regulations. Section 305.63 of this part contains requirements for determining substantial compliance with title IV–D of the Act as a result of an audit conducted under § 305.60. Thus, we are not changing the reference to part 305 in this section.

Location of Noncustodial Parents—§ 303.3

1. *Comment:* With the expanded Federal Parent Locator Service (FPLS), States submit cases in their State Case Registries to the Federal Case Registry (FCR). When a new case is submitted to the FCR, it is matched proactively with other data in the FPLS and States receive locate information automatically. Now that this proactive matching occurs, the commenter asked if there is still a need for States to submit cases quarterly to the FPLS for locate? Also, is it still necessary to access all appropriate location sources, including the FPLS, within 75 calendar days of determining that location is necessary and to make repeated locate attempts, including transmitting cases to the FPLS, when new information becomes available on a case?

Response: Proactive matching between the FCR and the National Directory of New Hires (NDNH) occurs each time new information is added to an FCR or NDNH record on an individual. The proactive match information is sent electronically to State IV–D agencies daily when a match occurs to link a IV–D case with newly provided information. This is a major enhancement to program locate processes and leads to location of individuals sought in many child support cases. Further location attempts may remain necessary in cases where people are self-employed, employed but not reported, unemployed but not receiving unemployment compensation, or employed outside the United States by entities that do not report to the FPLS. In addition, location efforts are needed to find assets, debts, and other information that enables an agency to proceed with a case even though proactive match information is provided on new hires, quarterly wages and unemployment compensation. OCSE has issued PIQ–01–02, dated February 28, 2001, to address these changes. The PIQ indicates States are not required to submit cases to the FPLS for searches of other locate sources, but OCSE encourages this if the State has reason to believe that an FPLS query may be helpful. States are not required to submit cases to the FPLS quarterly, nor are they required to make repeated locate attempts to the FPLS, when new information becomes available, since constant updating of FCR and NDNH databases and ongoing proactive matching are in place.

Establishment of Paternity—§ 303.5

1. *Comment:* A commenter noted that this section is amended to include administrative orders for genetic testing. As amended, the language eliminates reference to certain paternity actions taken in court. The commenter asked if we intend to drop the requirement for the child support agency to obtain an order for repayment of costs for genetic tests if the tests were ordered as part of a court process.

Response: In § 303.5(d)(2) we deleted ''legal'' to indicate that a contested paternity case is any action in which the issue of paternity may be raised under State law and one party denies paternity. The action may occur through an administrative or judicial process. The amendment deleting ''legal'' did not eliminate court actions.

2. *Comment:* Two commenters asked whether the phrase in paragraph (c) which reads ''and use through competitive procurement laboratories'' is correct.

Response: This phrase is accurate. States must follow competitive procurement practices, consistent with requirements at 45 CFR part 74, and use accredited laboratories that perform legally and medically acceptable genetic tests at reasonable cost, consistent with requirements at section 466(a)(5)(F) of the Act.

3. *Comment:* One commenter noted that the use of the phrase ''alleged father who has denied paternity'' in paragraph (e)(3) is inconsistent with section 466(a)(5)(B)(ii)(I) of the Act which requires recoupment from the alleged father if paternity is established, whether or not he denies paternity.

Response: Section 466(a)(5)(B)(ii)(I) of the Act provides for recoupment at State option only in contested cases where the agency has to order genetic tests and paternity is established. The commenter raises issues that go beyond the scope of this technical rulemaking. We will consider this comment in future revisions to this section through proposed rulemaking.

Provision of Services in Interstate IV–D Cases—§ 303.7

1. *Comment:* Several commenters noted that the preamble to the interim final rule (64 FR 6241) indicates paragraph (b)(1) is amended to require States to use their long-arm statute to establish paternity, but there is no corresponding requirement in the regulation itself.

Response: We have corrected this error by revising paragraph (b)(1) to read: ''Use its long-arm statute to establish paternity, when appropriate.'' As indicated in the preamble to the interim final rule, all States have long-arm paternity establishment authority under UIFSA.

2. *Comment:* One commenter suggested changing ''wage withholding to ''income withholding'' in paragraph (b)(2).

Response: We agree and have made this change for consistency with section 466(a)(1) and (b) of the Act which refer to income withholding.

3. *Comment:* One commenter noted that the preamble indicated that regulatory references in paragraphs (c)(7)(ii) and (iii) were placed in the correct numerical order, but there was no corresponding change in the regulation itself.

Response: We have made these changes, as intended in the interim final rule. In paragraph (c)(7)(ii) we are correcting ''§§ 303.4 and 303.101 of this part and § 303.31 of this chapter'' to read ''§§ 303.4, 303.31 and 303.101 of this part''. Similarly, in paragraph (c)(7)(iii) we are correcting ''§§ 303.6 and 303.100 through 303.102 and 303.104 of this part and § 303.31 of this chapter'' to read ''§§ 303.6, 303.31, 303.100 through 303.102, and 303.104 of this part''.

4. *Comment:* Several commenters suggested that § 303.7(c)(7)(iv) be revised to require the IV–D agency to forward payments to the initiating State within 2 business days of the date of receipt in the State Disbursement Unit of the responding State.

Response: We agree that this suggestion is consistent with section 454B of the Act, which requires SDUs to disburse certain amounts within 2 business days of receipt, but it is not required by statute and therefore not included in this rulemaking. The 2-day time frame applies only to collections from employers and collections of other periodic income. Collections that do not result from periodic income, such as tax refund offsets, lottery winning intercept, or levies of assets, are not required to be

distributed within 2 days, as there may be appeals of these types of collections. We will consider changes to time frames applicable to interstate cases in the next revision to § 303.7 under a Notice of Proposed Rulemaking.

Review and Adjustment of Child Support Orders—§ 303.8

1. *Comment:* There were two comments concerning definitions for ''review'' and ''adjustment'' that were in the former § 303.8. One commenter suggested that we retain the former definitions of ''review'' and ''adjustment'', but rename them as ''guidelines review'' and ''guidelines adjustment''. The commenter made this suggestion because most States will continue with guideline reviews.

The second commenter believed that the language for this section might be construed to mandate administrative reviews. The commenter suggested that we amend the regulation by including a process for challenging a proposed adjustment or determination, apart from the review that takes place in the judicial setting. The commenter believes that if their State complies with the new provisions, there would be no proposed order or adjustment. In the commenter's State, a litigant files a motion with the court, the court rules on the motion; and either party can appeal the order.

Response: We agree with these comments. We have reinstated the terms ''review'' and ''adjustment'' from the former § 303.8(a)(1) and (3) as applicable to guidelines reviews only.

Reinstating the definition of ''review'' also clarifies that reviews are not mandated to be conducted only by administrative process. The definition for ''review'' includes ''proceeding before a court, quasi-judicial process, or administrative body''.

2. *Comment:* One commenter was concerned that the 15-day timeframe to determine whether to conduct a review was eliminated.

Response: The 15-day timeframe to determine whether or not to conduct a review was removed because it conflicts with the requirement that States review, at least once every 3 years, any case upon receipt of a request for review.

3. *Comment:* We received a few comments about notices. Two commenters questioned whether the requirement to provide the notice of the right to request a review is met by placing such notice in the order. Another commenter asked, in a case with multiple orders, which State sends the notice of the right to request a review and the notice of the results of the review. A fourth commenter asked when to send these notices and how to implement this requirement since each case has a different date of application, different date of review, and States vary in frequency permitted between reviews.

Response: Section 466(a)(10)(C) of the Act requires the State to provide notice to each parent subject to the order not less than once every 3 years informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The paragraph also states that the notice may be included in the order. Including the notice in the order merely takes care of the first year requirement; the triennial requirement must still be fulfilled.

With respect to cases with multiple orders, the State that is working the case should send the notice of the right to request a review, or if it issues an order, may include the notice in the order. Notice of the right to request a review must be sent every 3 years thereafter if the State continues to work the case. Any State that conducts a review must send the notice of the results of the review. A review conducted in a case with multiple orders would include a determination of the controlling order and reconciliation of all arrearages under the orders in accordance with the Uniform Interstate Family Support Act (UIFSA). Once a controlling order determination is made, UIFSA governs who has jurisdiction to adjust or modify the controlling order.

Since section 466(a)(10)(C) was effective October 1, 1996, States should have notice procedures in place. Each State has authority to meet this requirement in a manner that is most efficient for its system and resources. Notices can be sent all at one time or on a staggered basis according to the State's own procedures.

4. *Comment:* There were two comments regarding the use of thresholds and change of circumstances. One commenter noted that an Office of Inspector General report indicated that 40 States maintained the requirement to meet thresholds showing a substantial change in circumstances before a review is conducted or an adjustment is made, which they use regardless of the frequency of reviews. The commenter asked whether thresholds for the 3-year reviews upon request could be less prohibitive than the thresholds for reviews that are conducted more frequently that require a substantial change of circumstances. Another commenter thought that even the 3-year reviews should require a substantial change in circumstances since it is required by the more frequent reviews.

Response: States may not require proof or a showing of a change in circumstances in a 3-year review upon request. Under section 466(a)(10)(A)(iii) of the Act, and upon request, 3-year reviews, and adjustment, if appropriate, are automatic, without any proof of a change of circumstances. If a party desires a review sooner than once every 3 years, the party must show a substantial change of circumstances for an adjustment of the order, consistent with section 466(a)(10)(B) of the Act.

In reviewing § 303.8 and the comments received, we determined that the changes made by the interim final rule were not fully reflective of the statutory requirements in section 466(a)(10) of the Act and that this was leading to confusion about what States must do to meet the requirements. Therefore, in addition to reinstating the definitions for ''review'' and ''adjustment'' from the original regulation in response to comments, we have decided to replace the paragraph (b) language published in the interim final rule with the language in the statute at section 466(a)(10) of the Act. We are revising paragraph (c) to clarify that States may use a quantitative standard only in cases involving the use of automated methods in accordance with section 466(a)(10)(A)(i)(III) of the Act. That section alone refers to orders being ''eligible for adjustment,'' recognizing there might be some standard set to determine eligibility for adjustment. The other two methods of review (guidelines and cost-of-living) do not contain this language. Sections 303.8(a) and (d) through (f) remain as published in the interim final rule. A summary of the changes to this section follows.

We are revising paragraph (b)(1) by restating the requirements of section 466(a)(10)(A)(I)(i) of the Act that the State must have procedures under which reviews are performed every 3 years upon request of either parent or, in the case of an assignment under part A, upon the request of the State agency, taking into account the best interests of the child. For clarity, and consistency with section 466(a)(10) of the Act, paragraph (b)(1)(i) is added to the regulation to explain guideline reviews; paragraph (b)(1)(ii) is added to explain cost of living adjustment (COLA) reviews; and paragraph (b)(1)(iii) is added to explain the automated reviews. These three subparagraphs repeat the statutory requirements of section 466(a)(10)(A)(i)(I)–(III).

Current paragraph (b)(2) of the regulation is redesignated as paragraph (b)(6) and revised to be consistent with the statute, as discussed below.

We are adding a new paragraph (b)(2) which restates section 466(a)(10)(A)(ii)

of the Act, to specify that either party may contest an adjustment within 30 days after the date of the notice of the adjustment in the case of a COLA or automated review by making a request for a guideline review, and adjustment, if appropriate.

We are reinstating former definitions for ''adjustment'' and ''review'' in a new paragraph (b)(3) for use in guideline reviews only, in response to comments.

We are restating section 466(a)(10)(A)(iii) of the Act in a new paragraph (b)(4), which specifies that adjustments under guideline reviews do not require proof or showing of a change in circumstances.

We are adding new paragraph (b)(5) to restate section 466(a)(10)(B) of the Act regarding making a request for a review outside the 3-year cycle. If the requesting party demonstrates a substantial change in circumstances, the State must adjust the order in accordance with its guidelines.

We are redesignating former paragraph (b)(2) as new paragraph (b)(6) and revising it to restate section 466(a)(10)(C) of the Act regarding notice not less than once every 3 years informing parents of their right to request a review. We have retained the provision in the current regulation that the notice must specify the place and manner in which the request should be made.

Paragraph (c) is amended by adding a paragraph title and the words ''using automated methods under paragraph (b)(1)(iii)'' to indicate that the reasonable quantitative standard for determining adequate grounds for petitioning for adjustment of the order applies only when the review is done using automated methods, as required under section 466(a)(10)(A)(i)(III) of the Act.

Paragraphs (d) through (f) are unchanged with the exception of the technical changes of adding a title to paragraph (d), changing the words ''to petition for'' to ''initiate an'' in paragraph (d) and substituting ''must'' for ''will'' in paragraph (f).

Agreements To Use the Federal Parent Locator Service (FPLS) in Parental Kidnapping and Child Custody Cases—§ 303.15

1. *Comment:* One commenter thought that paragraph (a)(1) which defines authorized persons should be revised consistent with changes made by the Adoption and Safe Families Act of 1997 (ASFA).

Response: ASFA amended section 453 of the Act by adding title IV–B and title IV–E agencies to the list of authorized persons to whom FPLS information may be disclosed for the purpose of establishing parentage. Section 302.35(c) already includes these authorized persons, in accordance with ASFA amendments to section 453 of the Act. ASFA did not amend the list of authorized persons in section 463 of the Act, which governs the regulations at § 303.15.

We amended this section, but failed to amend the title. We are revising the section title to reflect the addition of ''visitation'' determinations as an authorized purpose of the agreements. We are also making technical changes in paragraph (a)(1)(i) by replacing the period at the end with a semicolon and in paragraph (a)(1)(ii) by replacing ''visistation'' with ''visitation'' and by adding ''or'' after the semi-colon.

Minimum Organizational and Staffing Requirements—§ 303.20

1. *Comment:* One commenter noted that paragraph (e)(3) refers to parts 220, 222 and 226 of 45 CFR chapter II, which no longer exist.

Response: We agree with the commenter and have removed the reference to the obsolete regulations.

2. *Comment:* One commenter noted that paragraph (g) remains although it refers to part 305, which was removed.

Response: Requirements governing audits to determine substantial compliance with title IV–D requirements under section 452(a)(4) of the Act were placed back in part 305 by final regulations governing incentives and penalties published December 27, 2000 (*see* OCSE–AT–01–01). Therefore, the reference to part 305 is accurate.

Safeguarding Information—§ 303.21

1. *Comment:* Commenters expressed varied opinions regarding removing, retaining or revising this regulation. One commenter recommended that we retain this regulation as the following will be lost: (1) Paragraphs (a)(1) and (3) limit the sharing of information; (2) paragraph (a)(4) clarifies that information may be shared with officials charged with investigating physical, mental, or sexual abuse; and (3) paragraph (b) prohibits disclosure of case specific identifying information to legislative bodies. The new language of section 454(26) of the Act is not as precise and does not clarify what would be unauthorized. Moreover, the commenter noted that § 307.13 deals only with information in the States' computerized databases. The commenter believes it is important to retain privacy rights of IV–D participants.

Another commenter agreed that the regulation was inconsistent with PRWORA and should be deleted or substantially revised. The commenter encourages the Secretary to issue an updated regulation to replace this regulation as soon as possible. States' access to information has been vastly expanded under PRWORA and States need guidance on use of data and disclosure of information, including dealing with the family violence indicator.

A third commenter indicated that eliminating paragraph (b) while OCSE works on its new regulation might result in broader disclosure to legislative bodies during this time of intensive study of TANF and child support enforcement programs.

Response: We are maintaining our decision to delete this regulation because it was not responsive to the post-welfare reform environment. It protected information only on applicants and recipients of IV–D services. It did not protect information that IV–D agencies have on noncustodial parents and children, nor did it protect information that IV–D agencies now have on persons who may not be involved in a IV–D case, such as new hires, wage earners and individuals receiving unemployment compensation. Section 454(26) of the Act requires States to have safeguards in effect to protect all confidential information handled by the State agency. It further prohibits release of information under certain circumstances such as when there is a protective order in place. The regulation allowed broader disclosure of some information that is no longer permitted under the Act. Release of personal information to legislative bodies is not permitted under section 454(26) of the Act, which requires States to protect confidential information in their possession.

A work group of State and Federal members met in 2001 to discuss the types of issues that need to be addressed in publication of a proposed replacement regulation, which is now under development. We recognize the importance of protecting the privacy of data handled by IV–D agencies. Despite the deletion of § 303.21, certain safeguarding requirements remain in effect that cover States' automated systems. For example, final rules issued August 3, 1998 (63 FR 44795) on Statewide automated systems address safeguarding of information contained in the States' child support databases.

Securing and Enforcing Medical Support Obligations—§ 303.31

1. *Comment:* Several commenters asked whether the IV–D agency is required to enforce an order which requires the noncustodial parent to

provide health insurance in instances where the custodial parent already provides such coverage and does not want the noncustodial parent's coverage. One of the commenters suggested allowing a waiver of the requirement to enforce the noncustodial parent's coverage. The commenter suggested that the waiver could include petitioning the court or administrative authority to include the custodial parent's coverage in the order, and pursuing coverage from the noncustodial parent only if the custodial parent does not have coverage other than Medicaid.

Response: If a support order requires a noncustodial parent to provide health insurance coverage, the only way for a IV–D agency to avoid enforcing that order is a change to the order. There is no authority under sections 466(a)(19) or 452(f) of the Act to waive the requirement to enforce noncustodial parents' health insurance coverage. Section 452(f) requires the Secretary of HHS to issue regulations requiring IV–D agencies to include medical support as part of any child support order and to enforce medical support whenever health care coverage is available to the noncustodial parent at a reasonable cost. Section 466(a)(19) of the Act requires the use of the National Medical Support Notice (NMSN) to enforce an order that contains a requirement for health care coverage. Unless the order allows for alternative coverage, a IV–D agency must send the NMSN to the noncustodial parent's employer, if known, as required in section 466(a)(19) of the Act and § 303.32, published December 27, 2000 and effective March 27, 2001 (*see* OCSE–AT–01–02).

2. *Comment:* Two commenters indicated that regulations should assure that all orders include health insurance, consistent with section 452(f) of the Act. Another commenter recommended that we revise paragraphs (b)(1), (2), and (4) to delete any references to ''petition'', just as CSPIA deleted the reference to ''petition'' in section 452(f) of the Act.

Response: We agree that CSPIA required the Secretary, in section 452(f), to issue regulations requiring IV–D agencies to include medical support as part of any child support order. Separate regulations will be issued that offer the public an opportunity for comment.

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

1. *Comment:* One commenter suggested we revise paragraph (d)(1) by replacing ''to obtain information or to facilitate the discovery of any individual'' with ''to obtain information on, or to facilitate the discovery of, the location of any individual''. The commenter noted that paragraph (d)(1) does not track section 453(a)(3) of the Act which states that the FPLS may be used for the purpose of enforcing any *Federal* or State law with respect to the unlawful taking or restraint of a child. The commenter expressed concern if the change to paragraph (e)(1)(i), which governs fees for use of the FPLS, means that IV–D agencies will be charged fees for cases other than just non-IV–A, locate only, and parental kidnapping/child custody cases. The commenter indicated that IV–D agencies should not have to pay fees for use of the FPLS in IV–A cases. Finally, the commenter proposed that the paragraph (e)(1)(iii) cite should be to section 453(k)(3) of the Act, not to section 453(k) of the Act.

Response: We did not make the revision described in the first comment. While the regulation language is not exact, we believe it generally covers the requirement. We agree with the commenter's second comment and have added ''Federal or'' before ''State'' for consistency with the statute. Regarding the commenter's third concern about being charged additional fees for use of the FPLS, PRWORA changed the requirements on FPLS fees and now States must pay for all information received from the FPLS pursuant to section 453(k)(3) of the Act. (See DCL–00–73, dated June 28, 2000, which explains OCSE's charges to States for using the FPLS.) We agree with the commenter's final point and have revised paragraph (e)(1)(iii) by citing section 453(k)(3) of the Act.

Requests for Collection of Past-Due Support by Federal Tax Refund Offset—§ 303.72

1. *Comment:* One commenter noted three instances of ''Secretary of the Treasury'' that should be replaced by ''Secretary of the U. S. Treasury''.

Response: We agree with the comment and made this change throughout the section. In addition, we are making a technical change by revising ''an title IV–A'' to ''a title IV–A'' in paragraph (a)(3)(iv). Finally, paragraph (h)(3) is amended to delete the language ''fSecretary of the U.S. Treasuryt'' which was included in the paragraph in error.

Procedures for Income Withholding—§ 303.100

1. *Comment:* Several commenters noted that some references to ''wages'' have not been replaced by ''income''.

Response: We will make these changes in paragraphs (e)(1)(i) and (g).

2. *Comment:* One commenter noted that the preamble does not explain that paragraphs (h)(5)(i) through (iii), (6) and (7) have been deleted or why.

Response: The interim final rule explained that former paragraph (h) was redesignated as paragraph (f) and revised 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. Former paragraphs (h)(5)(i)–(iii) were deleted because PRWORA revised section 466(b)(4) of the Act to remove the requirements for an advance notice in cases of initiated income withholding. We did not intend to delete former paragraphs (h)(6) and (7), which govern due process and which State law governs in interstate withholding situations. Since these paragraphs were inadvertently omitted in the interim final rule, they are reinstated in this regulation and redesignated as paragraphs (f)(4) and (5).

3. *Comment:* One commenter noted that throughout this section the term ''wages'' is replaced with the term ''income'', but the term ''employer'' was not similarly expanded upon. The continued use of the term ''employer'' seems to limit the impact of the requirements provided in this section to income derived only from employers.

Response: Use of the term ''employer'' is consistent with its use in section 466(b) of the Act.

4. *Comment:* One commenter asked whether the 14-day implementation time frame has been eliminated in paragraph (e)(1)(ix). If it has been eliminated, can State laws provide a time frame for employers to implement income withholding?

Response: The 14-day time frame was tied to the advance notice to the noncustodial parent that was eliminated by PRWORA. Section 466(b)(6)(A)(i) of the Act and § 303.100(e)(1)(ix) state that employers must pay the withheld amount to the SDU within 7 business days after the date the amount would have been paid or credited to the employee.

5. *Comment:* One commenter noted that Basic Housing Allowances/separate rations are not taxable and should not be included in income withholding; only basic pay should be included.

Response: Our regulations at § 302.56 say that a State shall have procedures for setting guidelines and that the guidelines must take into consideration all earnings and income of the noncustodial parent. Basic housing allowances and rations are not excluded from the definition of income subject to

withholding under section 466(b)(8) of the Act.

6. *Comment:* Two commenters pointed out a conflict between § 303.100(e)(2) and (3) that require income withholding notices to employers to be issued within 15 calendar days while Federal law at section 454A(g)(1)(A)(i) of the Act requires notices to be sent to employers within 2 business days. This commenter asked whether there are actually 2 different requirements.

Response: Sections 453A(g)(1) of the Act requires the State to transmit an income withholding notice to an employer within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires. Section 454A(g)(1)(A)(i) of the Act and implementing regulations at § 307.11(c)(1)(i) require the statewide automated system to transmit income withholding orders and notices to employers and other debtors within 2 business days after receipt of notice of income and the income source subject to withholding from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State. Under these provisions, the 2-day time frame for sending a withholding order or notice applies only to situations in which the State Directory of New Hires or the statewide automated system receives notice of the new hire or income source subject to withholding. We have revised paragraphs (e)(2) and (3) to include reference to the 2-day timeframe for sending the withholding notice as described above and retained the 15-day time frame in the current regulation for other situations where notification is not received by the State Directory of New Hires or the automated system.

7. *Comment:* One commenter noted that the reference to ''paragraph (f)(1) of this section'' in paragraph (e)(4) is in error. The correct reference should be to ''paragraph (e)(1)''.

Response: We agree with the commenter and in response to this technical error have made the correction to paragraph (e)(4) by replacing the citation ''paragraph (f)(1) of this section'' with ''paragraph (e)(1) of this section''.

Expedited Processes—§ 303.101

1. *Comment:* A commenter recommended that paragraph (b)(2) be revised to reference review and adjustment timeframes at § 303.8(e).

Response: As currently written, § 303.101 provides for expedited processes for establishing and enforcing support orders. The commenter suggests a modification to this section to add expedited review and adjustment of orders. We consider this to be a substantive change that is not appropriate for this technical rulemaking. We will consider this comment in any future revision to this section.

We are making a technical correction in paragraph (a) of this section by inserting a period after ''Definition''.

Collection of Overdue Support by State Income Tax Refund Offset—§ 303.102

1. *Comment:* One commenter noted in § 303.102(a)(1) the word ''or'' needs to be inserted following ''section 408(a)(3) of the Act''.

Response: We agree with this comment. In § 303.102(a)(1), we are making a technical correction by inserting the word ''or'' following ''section 408(a)(3) of the Act''. In addition, we are making an editorial change to the language of paragraph (g)(1) because, as it currently reads, subparagraph (ii) is a sentence fragment with no subject.

Procedures for the Imposition of Liens against Real and Personal Property—§ 303.103

1. *Comment:* One commenter suggested that Federal guidance regarding implementing lien requirements is necessary.

Response: To clarify the issue of direct imposition of liens across State lines, we issued OCSE–PIQ–99–06 on August 16, 1999. We believe further guidance in this area is more appropriate through development of technical assistance publications and examples of model practices used by States. Current information on State lien and levy laws may be found on the OCSE Web site at *''www.acf.dhhs.gov/programs/cse''.* Click on ''Online Interstate Roster and Referral Guide (IRG)'', then click on a particular State, and then click on ''View State FIDM Information'' for a matrix of lien information specific to each State.

Availability and Rate of Federal Financial Participation—§ 304.20

1. *Comment:* One commenter suggested that paragraph (b)(1)(iii)(C) be revised to include ''Indian Tribes or Tribal Organizations'' as added in § 302.34. Section 304.20(b)(1)(iii)(C) cross-references § 302.34.

Response: We agree with the commenter. We have revised § 304.20(b)(1)(iii)(C) to read: ''Cooperation with courts, law enforcement officials, and Indian Tribes or Tribal organizations pursuant to § 302.34 of this chapter.''

2. *Comment:* One commenter indicated that paragraphs (b)(1)(viii)(C) and (ix)(C) were removed because the IV–A agency no longer determines cooperation. The commenter suggests that these paragraphs be reinstated and revised, as there is still an exchange of information between IV–D and IV–A about cooperation determinations made by the IV–D agency. Section 304.20(b)(1)(ix) prior paragraph (D) was removed for the same reasons and it should also be reinstated and revised.

Response: In § 304.20, paragraphs (b)(1)(viii)(C) and (b)(1)(ix)(C) were removed because of the transfer of responsibility for determining cooperation from the IV–A agency and the Medicaid agency to the IV–D agency. Therefore, agreements are no longer necessary. Any activity associated with the IV–D agency's determination of cooperation under section 454(29) of the Act is an allowable cost under the IV–D program.

Determination of Federal Share of Collections—§ 304.26

1. *Comment:* One commenter indicated that regulations for the determination of the Federal share of collections are confusing. The commenter recommends deleting ''to the extent of its participation in the financing of the title IV–A and title IV–E payments'' in paragraph (a) and indicating that the Federal share be determined pursuant to section 457(c)(2) of the Act.

Response: We agree and revised paragraph (a) by deleting the confusing language and adding that, in computing the Federal share of support collections for assistance made under titles IV–A and IV–E, the State must use the Federal medical assistance percentage (FMAP) in effect for the fiscal year in which the amount is distributed, as defined in section 457(c)(3) of the Act.

2. *Comment:* One commenter notes that the 4th, 5th and 6th sentences of the preamble description are inaccurate and should be replaced with: ''Section 457(c)(3)(A) defines the FMAP rate to be 75 percent in the case of Puerto Rico, the Virgin Islands, Guam and American Samoa. Section 457(c)(3)(B) specifies that the FMAP rates as defined at section 1905(b) of the Act be used for any other State.'' The commenter also suggests that we revise paragraph (a) by removing ''to the extent of its participation in the financing of the title IV–A and title IV–E payment'' and add ''the Federal share of the support collections'' in its place and revise the next sentence to read: ''In computing the Federal share of support collections for assistance made under titles IV–A

and IV–E, the State shall use the Federal medical assistance percentage (FMAP) in effect for the fiscal year in which the amount is distributed as defined in sections 457(c)(3) and 1905(b) of the Act.''

Response: We agree with the commenter and have included these changes with minor editorial modifications. We are revising paragraph (a) of 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 of collections is the portion of the amount collected resulting from the application of the FMAP in effect for the fiscal year in which the amount is distributed. Section 457(c)(3)(A) defines the FMAP rate to be 75 percent for Puerto Rico, the Virgin Islands, Guam, and America Samoa. Section 457(c)(3)(B) specifies that the FMAP rates for any other State are as defined in section 1905(b) of the Act, as in effect on September 30, 1995.

Repayment of Federal Funds by Installments—§ 304.40

1. *Comment:* One commenter suggests that in the last sentence of paragraph (b)(3), we delete ''Quarterly Statement of Expenditures (SRA–OA–41) reports'' and replace it with ''Quarterly Report of Expenditures and Estimates''.

Response: We agree with the commenter and are updating the reference to the form since the name of the form has changed. We are amending paragraph (b)(3) of this section by removing ''Quarterly Statement of Expenditures (SRA–OA–41) reports'' and replacing it with ''Quarterly Report of Expenditures and Estimates''.

Definitions—307.1

In paragraph (c) we are replacing ''non-AFDC'' with ''non-IV–A'' to eliminate the obsolete reference to the old AFDC program.

Functional Requirements for Computerized Support Enforcement Systems in Operation by October 1, 1997—§ 307.10

We have made technical corrections in paragraphs (b)(10) and (b)(14)(ii) and (iii) to correct two typographical errors and change ''AFDC'' to ''IV–A''.

Paperwork Reduction Act

Information collection requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)) were fulfilled for this final rule. All required State plan preprints were approved by OMB on March 5, 2003 under OMB No. 0970–0017. Also new forms were approved as OMB Nos. 0970–0085 on December 5, 2000 (Standard Interstate Forms), 0970–0152 on March 27, 2001 (Lien and Subpoena Forms), and 0970–0154 on March 7, 2001 (Income Withholding Form). Technical corrections were made to the Lien Form, which was reissued in May 2002, but no new information collection was required by the change. An additional information collection burden consisted 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. This was required because 45 CFR 302.57, Procedures for payment of support through the IV–D agency or other entity, was removed by the interim final rule. OMB approved this information collection burden on September 13, 1999 under OMB No. 0970–0017. Otherwise, this rule does not require information collection activities, and, therefore, no additional approvals are necessary under the Paperwork Reduction Act.

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 final rule.

We have determined that the 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 final rule is not a major rule as defined in 5 U.S.C. chapter 8.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulations may affect family well being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well being as defined in the legislation. This regulation merely aligns existing Federal regulations with Federal legislation and, like the Federal legislation, will positively impact families needing support.

Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have Federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, or on the distributions of power and responsibilities among the various levels of government''. This rule does not have Federalism implications for State or local governments as defined in the Executive Order.

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 record keeping requirements.

45 CFR Parts 303 and 304

Child support, Grant programs/social programs, Reporting and record keeping requirements.

45 CFR Part 307

Child support, Computer technology, Grant programs/social programs, Reporting and record keeping requirements.

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

Dated: October 28, 2002.

Wade F. Horn,

Assistant Secretary for Children and Families.

Approved: January 30, 2003.

Tommy G. Thompson,

Secretary.

■ For the reasons discussed above, we are adopting the interim final rule published at 64 FR 6237, February 9, 1999, amending 45 CFR parts 301, 302, 303, 304, and 307 as a final rule with the following changes:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

■ 1. The authority citation for part 301 continues to read as follows:

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

§ 301.1 [Amended]

■ 2. § 301.1 is amended as follows:

(a) In the definition ''Non-title IV–A Medicaid recipient'', the words ''Non-title IV–A'' in the heading are revised to read ''Non-IV–A'';

(b) The definition for ''Overdue support'' is amended by removing ''absent parent's'' and adding ''noncustodial parent's'' in its place; and

(c) The definition for ''State PLS'' is amended by removing ''absent'' before ''parents''.

PART 302—STATE PLAN REQUIREMENTS

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

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

§ 302.31 [Amended]

■ 4. In § 302.31, reserved paragraph (a)(3) is removed and paragraph (a)(4) is redesignated as paragraph (a)(3).

§ 302.32 [Amended]

■ 5. In § 302.32:

■ a. Paragraph (b)(1) is amended by revising ''initial point'' to read ''date'';

■ b. Paragraph (b)(2)(ii) is amended by revising ''initial receipt in the State'' to read ''receipt by the SDU'';

■ c. Paragraph (b)(2)(iii) is amended by revising ''initially received in the State'' to read ''received by the SDU''; and

■ d. Paragraph (b)(3)(i) is amended by revising ''initial receipt in the State'' to read ''receipt by the SDU''.

§ 302.35 [Amended]

■ 6. In § 302.35:

■ a. Paragraph (c)(2) is amended by revising ''an noncustodial parent'' to read ''a noncustodial parent and by revising ''agency'' to read ''agent''; and

■ b. Paragraph (c)(4) is amended by removing '', visitation'' and adding ''or visitation'' after ''custody''.

§ 302.50 Assignment of rights to support.

■ 7. In § 302.50:

■ a. The heading is revised;

■ b. Paragraph (b)(2) is amended by removing ''; or'' at the end of the paragraph and adding a ''.''.

§ 302.51 [Amended]

■ 8. In § 302.51, paragraph (a)(3) is amended by revising ''section 457(a)(2)(iv) of the Act'' to read ''section 457(a)(2)(B)(iv) of the Act''.

§ 302.54 [Amended]

■ 9. In § 302.54:

■ a. In paragraph (a)(1), the citation ''paragraph (c)'' is removed and ''paragraph (b)'' is added in its place;

■ b. In paragraph (b)(1)(ii), ''paragraph (b)(2)'' is removed and ''paragraph (a)'' is added in its place; and

■ c. In paragraph (b)(2), ''(b)(1)'' is removed and ''(a)(1)'' is added in its place and ''(b)(2)'' is removed and ''(a)(2)'' is added in its place.

§ 302.65 [Amended]

■ 10. In § 302.65, paragraph (c)(7) is amended by removing ''critieria'' and adding ''criteria'' in its place.

§ 302.70 [Amended]

■ 11. In § 302.70:

■ a. Paragraph (a)(4) is amended by removing ''§ 303.103 of this chapter'';

■ b. Paragraph (a)(5)(ii) is amended by removing ''under §§ 232.40 through 232.49 of this title'' or 42 CFR 433.147'' and adding ''under section 454(29) of the Act'';

■ c. Paragraph (a)(6) is amended by removing ''an noncustodial parent'' and adding ''a noncustodial parent'';

■ d. Paragraph (a)(7) is amended by removing ''an noncustodial parent'' and adding ''a noncustodial parent'' in its place, and by removing '', in accordance with § 303.105 of this chapter'';

■ e. Paragraph (a)(8) is amended by removing ''wages'' and adding ''income'' in its place;

■ f. Paragraph (c) is amended by removing ''§§ 303.100 through 303.105 of this chapter'' and adding ''§§ 303.100 through 303.102 and § 303.104 of this chapter'' in its place.

§ 302.75 [Amended]

■ 12. In § 302.75, paragraph (b)(6) is amended by removing ''§ 305.50'' and adding ''§ 304.50'' in its place.

PART 303—STANDARDS FOR PROGRAM OPERATIONS

■ 13. 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).

§ 303.7 [Amended]

■ 14. In § 303.7:

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

* * * * *

(b) * * *

■ (1) Use its long arm statute to establish paternity, when appropriate.;

* * * * *

■ b. Paragraph (b)(2) is amended by revising ''wage'' to read ''income'';

■ c. Paragraph (c)(7)(ii) is amended by removing ''§§ 303.4 and 303.101 of this part and § 303.31 of this chapter'' and adding ''§§ 303.4, 303.31 and 303.101 of this part'' in its place;

■ d. Paragraph (c)(7)(iii) is amended by removing ''§§ 303.6 and 303.100 through 303.102 and 303.104 of this part and § 303.31 of this chapter'' and adding ''§§ 303.6, 303.31, 303.100 through 303.102, and 303.104 of this part'' in its place;

■ 15. 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 noncustodial 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) Required procedures. Pursuant to section 466(a)(10) of the Act, when providing services under this chapter:

(1) The State must have procedures under which, every 3 years (or such shorter cycle as the State may determine), upon the request of either parent, or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent, the State shall with respect to a support order being enforced under this part, taking into account the best interests of the child involved:

(i) Review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) of the Act if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines;

(ii) Apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or

(iii) Use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

(2) If the State elects to conduct the review under paragraph (b)(1)(ii) or (iii) of this section, the State must have procedures which permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a) of the Act.

(3) If the State conducts a guideline review under paragraph (b)(1)(i) of this section:

(i) *Review* means an objective evaluation, conducted through a proceeding before a court, quasi-judicial process, or administrative body or agency, of information necessary for application of the State's guidelines for support to determine:

(A) The appropriate support award amount; and

(B) The need to provide for the child's health care needs in the order through health insurance coverage or other means.

(ii) *Adjustment* applies only to the child support provisions of the order, and means:

(A) An upward or downward change in the amount of child support based upon an application of State guidelines for setting and adjusting child support awards; and/or

(B) Provision for the child's health care needs, through health insurance coverage or other means.

(4) The State must have procedures which provide that any adjustment under paragraph (b)(1)(i) of this section shall be made without a requirement for proof or showing of a change in circumstances.

(5) The State must have procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under paragraph (b)(1) of this section, the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 467(a) of the Act.

(6) The State must provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order consistent with this section. The notice must specify the place and manner in which the request should be made. The initial notice may be included in the order.

(c) Standard for adequate grounds. 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 using automated methods under paragraph (b)(1)(iii) of this section is adequate grounds for petitioning for adjustment of the order.

(d) Health care needs must be adequate basis. 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 initiate an 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 must conduct the review and adjust the order pursuant to this section.

(2) 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, takes place.

§ 303.15 [Amended]

■ 16. In § 303.15:

■ a. The section heading is amended by adding ''or visitation'' after ''custody''.

■ b. Paragraph (a)(1)(i) is amended by removing the period at the end and adding a semicolon.

■ c. Paragraph (a)(1)(ii) is amended by removing ''visistation'' and adding ''visitation'', and by adding ''or'' after '';''.

§ 303.20 [Amended]

■ 17. In § 303.20:

■ a. Paragraphs (c)(3), (4) and (5) are amended by removing ''an noncustodial parent'' and adding ''a noncustodial parent'' in its place; and

■ b. Paragraph (e)(3) is amended by removing ''pursuant to parts 220, 222 and 226 of this title or carried out''.

§ 303.31 [Amended]

■ 18. In § 303.31, paragraph (a)(2) is amended by removing ''an noncustodial parent'' and adding ''a noncustodial parent'' in its place.

§ 303.70 [Amended]

■ 19. In § 303.70:

■ a. Paragraph (d)(1) is amended by adding ''Federal or'' after ''in accordance with section 453(a)(3) of the Act for enforcing a''; and

■ b. Paragraph (e)(1)(iii) is amended by removing ''453(k)'' and adding ''453(k)(3)'' in its place.

§ 303.72 [Amended]

■ 20. In § 303.72:

■ a. Paragraph (a)(3)(iv) is amended by removing ''an title IV–A'' and adding ''a title IV–A'' in its place;

■ b. Paragraphs (a)(6), (c)(2), (c)(4), (h)(5) and (h)(6)(i) are amended by removing ''Secretary of the Treasury'' and adding ''Secretary of the U.S. Treasury'' in its place;

■ c. Paragraph (e)(1) and (f)(1) are amended by revising ''an noncustodial parent'' to read ''a noncustodial parent''; and

■ d. Paragraph (h)(3) is amended by removing ''fSecretary of the U.S. Treasuryt''.

§ 303.73 [Amended]

■ 21. In § 303.73, ''an noncustodial parent'' is revised to read ''a noncustodial parent'' and ''IV7–D'' is revised to read ''IV–D''.

■ 22. In § 303.100:

■ a. Paragraphs (b)(1) and (e)(1)(v) are amended by revising ''an noncustodial parent'' to read ''a noncustodial parent'';

■ b. Paragraph (b)(1)(i) is amended by revising ''absent'' to read ''noncustodial'' each time it appears;

■ c. Paragraphs (e)(1)(i) and (g) are amended by removing ''wages'' and adding ''income'' in its place;

■ d. Paragraph (e)(2) is amended by removing ''wage'';
■ e. Paragraphs (e)(2) and (e)(3) are amended by removing each occurrence of ''15 calendar days'' and adding ''2 business days of the date the State's computerized support enforcement system receives notice of income and income source from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, or the date information regarding a newly hired employee is entered into the State Directory of New Hires, or if information is not received by the State's computerized support enforcement system or its State Directory of New Hires, within 15 calendar days'' in its place;
■ f. Paragraph (e)(4) is amended by removing ''paragraph (f)(1) of this section'' and adding ''paragraph (e)(1) of this section'' in its place; and
■ g. Adding new paragraphs (f)(4) and (5) to read as follows:

§ 303.100 Procedures for income withholding.

* * * * *

(f) * * *

(4) The withholding must be carried out in full compliance with all procedural due process requirements of the State in which the noncustodial parent is employed.

(5) Except with respect to when withholding must be implemented which is controlled by the State where the support order was entered, the law and procedures of the State in which the noncustodial parent is employed shall apply.

* * * * *

§ 303.101 [Amended]

■ 23. Section 303.101(a) is amended by adding a period after ''Definition''.

§ 303.102 [Amended]

■ 24. In § 303.102:
■ a. Paragraph (a)(1) is amended by adding ''or'' following ''section 408(a)(3) of the Act'';
■ b. Paragraph (c)(1) is amended by revising ''an noncustodial parent'' to read ''a noncustodial parent''; and
■ c. Paragraphs (g)(1), introductory text, and (g)(1)(i) are revised to read as follows:

§ 303.102 Collection of overdue support by State income tax refund offset.

* * * * *

(g) Distribution of collections. (1) The State must distribute collections received as a result of State income tax refund offset:

(i) In accordance with section 457 of the Act and §§ 302.51 and 302.52 of this chapter; and

* * * * *

PART 304—FEDERAL FINANCIAL PARTICIPATION

■ 25. 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), 1396b(p), and 1396(k).

§ 304.20 [Amended]

■ 26. In § 304.20:
■ a. Paragraph (b)(1)(iii)(C) is amended by adding '', and Indian Tribes or Tribal organizations'' after ''officials''; and
■ b. Paragraph (b)(5)(iv) is amended by revising ''an noncustodial parent'' to read ''a noncustodial parent''.

■ 27. Section 304.26(a) 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 the Federal share of the support collections. In computing the Federal share of support collections for assistance payments made under titles IV–A and IV–E, the State shall use the Federal medical assistance percentage in effect for the fiscal year in which the amount is distributed. The Federal medical assistance percentage is:

(1) 75 percent for Puerto Rico, the Virgin Islands, Guam, and American Samoa; and

(2) As defined in section 1905(b) of the Act as in effect on September 30, 1995, for any other State.

* * * * *

§ 304.40 [Amended]

■ 28. In § 304.40, paragraph (b)(3) is amended by removing the phrase, ''Quarterly Statement of Expenditures (SRA–OA–41) reports'' from the last sentence and adding ''Quarterly Report of Expenditures and Estimates'' in its place.

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

■ 29. The authority citation for part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666 through 669A, and 1302.

§ 307.1 [Amended]

■ 30. Section 307.1 is amended in paragraph (c) by revising ''non-AFDC'' to read ''non-IV–A''.

§ 307.10 [Amended]

■ 31. In § 307.10:
■ a. In paragraph (b)(10), ''AFDC'' is revised to read ''IV–A'';
■ b. In paragraph (b)(14)(ii), ''ant'' is revised to read ''and''; and
■ c. In paragraph (b)(14)(iii), ''VI–D'' is revised to read ''IV–D''.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 021223329–3112–02; I.D. 121302A]

RIN 0648–AQ26

Fisheries of the Northeastern United States; 2003 Specifications for the Atlantic Bluefish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues 2003 specifications for the Atlantic bluefish fishery, including total allowable harvest levels (TAL), state-by-state commercial quotas, and a recreational harvest limit and possession limit for Atlantic bluefish off the east coast of the United States. The intent of the specifications is to conserve and manage the bluefish resource and provide for sustainable fisheries.

DATES: Effective June 11, 2003, through December 31, 2003.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), and Essential Fish Habitat Assessment (EFHA) are available from: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA/EFHA are accessible via the Internet at *http://www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at § 648.160. The FMP requires that the Council recommend, on an annual basis, TAL,