

paragraph (b) and by revising paragraph (b)(2) to read as follows:

§ 1006.4 Procedures for investigational inquiries.

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(b) Investigational inquiries are non-public investigatory proceedings. Attendance of non-witnesses is within the discretion of the OIG, except that—

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(2) Representatives of the OIG are entitled to attend and ask questions.

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Dated: August 21, 1997.

June Gibbs Brown,
Inspector General.

Approved: December 4, 1997.

Donna E. Shalala,
Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 304 and 307

RIN 0970-AB70

Computerized Support Enforcement Systems

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

ACTION: Notice of Proposed Rulemaking.

SUMMARY: These proposed regulations would implement provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), related to child support enforcement program automation. Under PRWORA, States must have in effect a statewide automated data processing and information retrieval system which by October 1, 1997, meets all the requirements of title IV-D of the Social Security Act enacted on or before the date of enactment of the Family Support Act of 1988, and by October 1, 2000, meets all the title IV-D requirements enacted under PRWORA. The law further provides that the October 1, 2000, deadline for systems enhancements will be delayed if HHS does not issue final regulations by August 22, 1998.

DATES: Consideration will be given to written comments received by May 11, 1998. We have reduced the standard 60-day comment period specified in E.O. 12866 to 45 days in recognition of the statutory deadline of August 22, 1998 for issuing final rules and the necessity

of providing States with the required guidance as soon as practicable to facilitate their development or enhancement of systems.

ADDRESSES: Address comments to: Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington D.C. 20447. Attention: Norman L. Thompson, Associate Deputy Director for Automation and Special Projects, Office of Child Support Enforcement.

Comments will be available for public inspection Monday through Friday, 8 a.m. to 4:30 p.m. on the fourth floor of the Department's offices at the address mentioned above.

FOR FURTHER INFORMATION CONTACT: Betsy Matheson at (202) 401-7386.

SUPPLEMENTARY INFORMATION:

Statutory Authority

These proposed regulations are published under the authority of several provisions of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Sections 454(16), 454(24), 454A and 455(a)(3)(A) of the Act (42 U.S.C. 654(16), (24), 654A, and 655(a)(3)(A)), contain new requirements for automated data processing and information retrieval systems to carry out the State's IV-D State plan. Other sections, such as section 453 of the Act (42 U.S.C. 653) specify data that the system must furnish or impose safeguarding and disclosure requirements that the system must meet.

These proposed regulations are also published under the general authority of section 1102 (42 U.S.C. 1302) of the Act which requires the Secretary to publish regulations that may be necessary for the efficient administration of the provisions for which she is responsible under the Act.

Background

Full and complete automation is pivotal to improving the performance of the nation's child support program. With a current national caseload of 20 million, caseworkers are dependent on enhanced technology and increased automation to keep up with the massive volume of information and transactions critical to future success in providing support to children.

While most States have sought some level of child support program automation since the inception of the program, it wasn't until enactment of the Family Support Act of 1988 (Pub. L. 100-485), that program automation became a title IV-D State plan requirement. The Family Support Act

required that States have in operation by October 1, 1995, a certified statewide system. (This date was subsequently extended to October 1, 1997, under Pub. L. 104-35).

These systems are to be statewide, operational, comprehensive, integrated, efficient, and effective. They are required to provide for case initiation; interface with other systems to obtain information to locate parents; aid in paternity establishment efforts by tracking, monitoring, and reporting on State efforts; monitor compliance with support orders and initiate enforcement action; update and maintain case records; process payments and distribute support; meet reporting requirements and address security and privacy issues.

Under PRWORA, States must build on this comprehensive automated foundation to implement the programmatic enhancements the law included for strengthening child support enforcement, including new enforcement tools and a shift in child support distribution requirements to a family-first policy. By October 1, 2000, States must have in place an automated statewide system that meets all the requirements and performs all the functions specified in PRWORA. This requirement recognizes that case processing changes and Federal and State legislative enhancements to State IV-D programs have little impact without proper automated support. The October 1, 2000 date is a completion date for the entire system, however certain requirements and functions must be met prior to that date. We have included those statutory effective dates in the regulations.

Accordingly, this rule proposes to set forth in regulations the framework for automation that State systems must have in place by the October 1, 2000, deadline. Our approach in developing these proposed rules was to adhere as closely as possible to the statute. We believe this approach is essential to ensuring that the proposed rules are well received, allowing the final regulation to be issued by the statutory deadline of August 22, 1998. The State deadline for completing these systems enhancements is delayed by one day for each day, if any, that we miss the statutory deadline for regulating. We believe this would be an unconscionable position—PRWORA compliant systems are intended to have a substantial impact on States' ability to protect the support rights of children, and it is essential that these changes are made without delay.

In addition, we believe the statute provides a proper and straight-forward

functional framework to support ACF's certification standards. These standards are outlined in a document entitled, "Automated Systems for Child Support Enforcement: A Guide for States (the Guide)." Concurrent with publishing these rules and in partnership with State child support agencies, we are updating the Guide to reflect the changes made by PRWORA. In particular, we are focusing on ways to measure system standards that support program outcomes most effectively.

The draft Guide will be disseminated to States and other interested parties for comment through an Action Transmittal (AT). After reviewing the comments received, we will issue an AT with final systems functional requirements.

We have, however, proposed several changes in these regulations to strengthen the process for approving and monitoring State activity under Advanced Planning Documents (APDs) by codifying and building on several existing practices and authorities relevant to systems oversight in regulation. We believe this is necessary to ensure that child support systems meet the critical needs of the program as envisioned under the Family Support Act of 1988 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

As is current practice, once ACF determines, through a certification review, that a Computerized Support Enforcement System (CSES) meets these standards throughout the State, the CSES is certified by ACF. Certification may be granted in two stages. The first stage, level 1 certification, is granted when a State system meets all functional requirements in 45 CFR 307.10, as specified in the Guide, and is installed and operational in a pilot or multiple pilot location and; level 2 certification is granted when statewide installation of the functionally comprehensive system is complete and the system is operational.

PRWORA Automation Enhancements

As indicated above, the Family Support Act laid the foundation for comprehensive automated systems. The PRWORA requirements build on this base to ensure these systems support the new tools and other programmatic enhancements the law included to strengthen child support enforcement.

PRWORA added a new section 454A to the Act to house all functional requirements that State systems must meet, both from the Family Support Act and from PRWORA. Those emanating from PRWORA include:

- Functional requirements specified by the Secretary related to management of the program (454A(b))
- Calculation of performance indicators (454A(c))
- Information integrity and security requirements (454A(d))
- Development of a State case registry (454A(e))
- Expanded information comparisons and other disclosures of information (454A(f)), including to the Federal case registry of child support orders and the Federal Parent Locator Service (FPLS) and with other agencies in the State, agencies of other States and interstate information networks, as necessary and appropriate.
- Collection and distribution of support payments (454A(g)), including facilitating the State's centralized collection and disbursement unit and modifications to meet the revised distribution requirements.
- Expedited Administrative Procedures (454A(h))

Each of these is discussed in greater detail in the section of this preamble entitled, Proposed Regulatory Changes.

To assist States in meeting these mandates for enhancement to their statewide automated systems, Congress provided an additional amount of Federal funding available at the 80 percent rate for the planning, design, development, installation or enhancement of statewide, automated systems. Section 344(b)(2) of PRWORA places a cap on the Federal share of funding available at 80 percent enhanced Federal Financial participation. This 80 percent funding is available to meet the automation requirements of the Family Support Act as well as the new automation requirements of PRWORA. PRWORA also revised section 455(a)(3) of the Act to restore 90 percent Federal funding for completing Family Support Act systems on a limited basis.

Proposed Regulatory Changes

State Plan Requirements (Part 302)

To implement the statutory changes, we first propose to revise the regulations at 45 CFR 302.85, "Mandatory computerized support enforcement systems." Current 45 CFR 302.85(a) provides that if the State did not have in effect by October 13, 1988 a computerized support enforcement system that meets the requirements of § 307.10, the State must submit an Advanced Planning Document (APD) for such a system to the Secretary by October 1, 1991, and have an operational system in effect by October 1, 1995.

Section 454(24) of the Act, as amended by PRWORA, provides that the State must have in effect a computerized support enforcement system which by October 1, 1997 meets all IV-D requirements in effect as of the date of enactment (October 13, 1988) of the Family Support Act of 1988, including all IV-D requirements in PRWORA. In addition, the State must have a CSES which by October 1, 2000 meets all IV-D requirements in effect as of the date of enactment (August 22, 1996) of PRWORA, including all IV-D requirements in that Act.

Thus, the proposed § 302.85(a) of the regulations would reiterate the current statutory requirements for mandatory automated systems for support enforcement. Proposed § 302.85(a)(1) would include the requirement under existing paragraph (a) that the system be developed in accordance with §§ 307.5 and 307.10 of the regulations and the OCSE guidelines entitled "Automated Systems for Child Support Enforcement: A Guide for States." In addition, the proposed § 302.85(a)(2) would require that, by October 1, 2000, a system meeting PRWORA requirements be developed in accordance with §§ 307.5 and 307.11 of the regulations and the OCSE guidelines referenced above.

Change in Federal Financial Participation (Part 304)

To make part 304 regulations consistent with the statute, we propose to amend 45 CFR 304.20, "Availability and rate of Federal financial participation," at paragraph (c) to provide that FFP at the 90 percent rate for the planning, design, development, installation and enhancement of computerized support enforcement systems that meet the requirement of § 307.30(a) is only available until September 30, 1997. (See the discussion below regarding revised § 307.30(a).)

Computerized Support Enforcement Systems (Part 307)

We propose to amend 45 CFR part 307, Computerized support enforcement systems, throughout to conform part 307 to the changes required by sections 454, 454A, and 455(a) of the Act, as amended by PRWORA and the proposed revisions to 45 CFR 302.85, which were discussed earlier.

We propose to revise the title of § 307.10 to read "Functional requirements for computerized support enforcement systems in operation by October 1, 1997", and add titles for two new sections, "§ 307.11 Functional requirements for computerized support enforcement systems in operation by October 1, 2000" and "§ 307.13 Security

and Confidentiality of computerized support enforcement systems in operation by October 1, 2000", to reflect these changes.

We propose to revise § 307.0, "Scope of this part", to reflect the new requirements of sections 454, 454A, 455(a) of the Act, as amended, and section 344(a)(3) of PRWORA regarding statewide automated CSEs. This would be accomplished by referencing the new statutory language in the introductory section and by adding a new paragraph (c) which would refer to the security and confidentiality requirements for CSEs. Accordingly, current paragraphs (c) through (h) would be redesignated as paragraphs (d) through (i).

In § 307.1, "Definitions", we propose to add the definition of "Business day" as defined in the new section 454A(g)(2) of the Act. Accordingly, current paragraphs (b) through (j) would be redesignated as paragraphs (c) through (k). In addition, we propose in the redesignated paragraphs (d) and (g) to replace the citation "§ 307.10" with the citations "§§ 307.10, or 307.11" to reflect the regulatory changes proposed below.

Mandatory Computerized Support Enforcement Systems

We propose to amend 45 CFR 307.5, Mandatory computerized support enforcement systems, as follows:

Currently, paragraphs (a) and (b) are outdated and reflect deadlines mandated by the Family Support Act on APD submittal requirements and timeframes. To reflect the amended section 454(24) of the Act, we propose to eliminate paragraphs (a) and (b) in their entirety, to replace paragraph (a) and to renumber paragraphs (c) through (h) as (b) through (g).

We propose adding a paragraph (a)(1) to provide that each State must have in effect by October 1, 1997, an operational computerized support enforcement system which meets the requirements in 45 CFR 302.85(a)(1) related to the Family Support Act of 1988 requirements and to provide that OCSE will review the systems to certify that these requirements are met. Under paragraph (a)(2), we propose to require each State to have in effect, by October 1, 2000, an operational computerized support enforcement system which meets the requirements in 45 CFR 302.85(a)(2) related to PRWORA requirements and to provide that OCSE will review the systems to certify that these requirements are met.

In addition, under paragraph (d), the reference to "§ 307.10" would be replaced by "§§ 307.10 or 307.11."

Functional Requirements for Computerized Support Enforcement Systems

To reflect the statutory changes, the title of § 307.10 "Functional requirements for computerized support enforcement systems." would be revised to read "Functional requirements for computerized support enforcement systems in operation by October 1, 1997." to better reflect the content of the regulation. In the introductory language, the citation "§ 302.85(a)" would be replaced by the citation "§ 302.85(a)(1)" to reflect proposed changes made earlier in the regulations. The citation "AFDC" would be replaced by the citation "TANF" (Temporary Assistance for Needy Families) in paragraph (b)(10). Paragraph (b)(14) would be deleted because the requirement for electronic data exchange with the title IV-F program (Job Opportunities and Basic Skills Training Program) is no longer operative since under PRWORA States had to eliminate their IV-F programs by July 1, 1997. Current paragraphs (b)(15) and (16) would be redesignated as paragraphs (b)(14) and (15).

We propose to add a new regulation at 45 CFR 307.11, "Functional requirements for computerized support enforcement systems in operation by October 1, 2000," which reiterates the new statutory requirements in sections 454(16) and 454A of the Act, as discussed below.

The introductory language of proposed § 307.11 would specify that each State's computerized support enforcement system established and operated under the title IV-D State plan at § 302.85(a)(2) must meet the requirements in this regulation. As proposed in paragraph (a), the CSES in operation by October 1, 2000 must be planned, designed, developed, installed or enhanced and operated in accordance with an initial and annually updated APD approved under § 307.15 of the regulations. If the State elects to enhance its existing CSES to meet PRWORA requirements, it has the option of submitting either a separate APD or combining the Family Support Act and PRWORA requirements in one APD update. If the State elects to develop a new CSES, a separate implementation APD must be submitted.

We propose in paragraph (b) that the CSES control, account for, and monitor all the factors in the support collection and paternity determination process under the State plan which, at a minimum, include the factors in the regulation. Under the proposed paragraph (b)(1), the system must

control, account for, and monitor the activities in § 307.10(b) of the regulations which a CSES in operation by October 1, 1997, must meet, except those activities in paragraphs (b)(3), (8), and (11) of § 307.10. These reporting, financial accountability, and security activities are replaced by similar or expanded provisions discussed later in this preamble that reflect statutory changes from PRWORA.

We propose in paragraph (b)(2) to describe the tasks that the computerized support enforcement system must have the capacity to perform with the frequency and in the manner required under or by the regulations that implement title IV-D of the Act. Paragraph (b)(2)(i) requires the CSES to perform the functions discussed below and any other functions the Secretary of HHS may specify related to the management of the State IV-D program. We are not proposing to add additional management-related functional requirements other than those currently specified or provided in the statute.

Under the proposed paragraph (b)(2)(i)(A), the system must control and account for the use of Federal, State, and local funds in carrying out the State's IV-D program either directly or through an interface with State financial management and expenditure information systems. Some States currently meet this requirement by maintaining and accessing IV-D cost data on a State financial management and expenditure system. Since the statute does not specifically address meeting this requirement through an interface with a State financial management and expenditure information system, we propose to continue to allow the States to meet the financial accountability requirements through an interface.

Paragraph (b)(2)(i)(B) would require the system to maintain the data necessary to meet Federal reporting requirements for the IV-D program on a timely basis as prescribed by the Office of Child Support Enforcement. This proposal is similar to the functional requirements at § 307.10(b)(3) that a system must meet by October 1, 1997.

Paragraph (b)(2)(ii)(A), as proposed, requires the CSES to enable the Secretary of HHS to determine State incentive payments and penalty adjustments required by sections 452(g) and 458 of the Act through the use of automated processes to: (1) Maintain the necessary data for paternity establishment and child support enforcement activities in the State, and (2) calculate the paternity establishment percentage for the State for each fiscal year. Under this requirement, the

system must maintain the necessary data and calculate for each fiscal year the State's paternity establishment percentage under section 452(g) of the Act. The system must also maintain the data necessary to determine State incentive payments under section 458 of the Act. In addition, under paragraph (b)(1), the State will continue to be required to compute and distribute incentive payments to political subdivisions in accordance with § 307.10(b)(6) of the regulations.

Proposed paragraph (b)(2)(ii)(B) would require the system to enable the Secretary to determine State incentive payments and penalty adjustments required by sections 452(g) and 458 of the Act by having in place system controls to ensure: (1) The completeness, and reliability of, and ready access to, the data on State performance for paternity establishment and child support enforcement activities in the State, and (2) the accuracy of the paternity establishment percentage for the State for each fiscal year. Under this provision, the system controls apply to data related to the calculation of the State's paternity establishment percentage, and the calculation of incentive payments. Data regarding the paternity establishment percentage and incentive payments is reported to the Federal government in accordance with instructions issued by OCSE.

Proposed paragraph (b)(2)(iii) requires the system to have controls (e.g., passwords, or blocking of fields) to ensure strict adherence to the systems security policies described in § 307.13(a) of the regulations. Under the proposed § 307.13(a) discussed later in this preamble, the State IV-D agency must have written policies concerning access to data by IV-D agency personnel, and sharing of data with other persons.

Under the proposed paragraph (b)(3), the system must control, account for, and monitor the activities described in PRWORA not otherwise addressed in this part. As indicated previously, we plan to address the detailed systems functional requirements related to title IV-D program requirements modified or added by PRWORA in the Guide which we are in the process of revising and reissuing to the States.

Proposed paragraph (c) would require that the system, to the extent feasible, assist and facilitate the collection and disbursement of support payments through the State disbursement unit, operated under section 454B of the Act. Under paragraph (c)(1), the system must transmit orders and notices to employers and other debtors for the withholding of income: (1) Within 2

business days after the receipt of notice of income, and the income source subject to withholding from the court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, and (2) using uniform formats prescribed by the Secretary. On January 27, 1998, OCSE issued a model wage withholding form (Approval 0970-0154) for use in implementing wage withholding (OCSE Action Transmittal 98-03).

The proposed paragraph (c)(2) would require the system to monitor accounts, on an ongoing basis, to identify promptly failures to make support payments in a timely manner. Paragraph (c)(3), as proposed, requires the system to automatically use enforcement procedures, including enforcement procedures under section 466(c) of the Act, if support payments are not made in a timely manner. These procedures include Federal and State income tax refund offset, intercepting unemployment compensation insurance benefits, intercepting or seizing other benefits through State or local governments, intercepting or seizing judgments, settlements, or lottery winnings, attaching and seizing assets of the obligor held in financial institutions, attaching public and private retirement funds, and imposing liens in accordance with section 466(a)(4) of the Act.

Proposed paragraph (d) requires that, to the maximum extent feasible, the system must be used to implement the expedited administrative procedures required by section 466(c) of the Act. These procedures include: ordering genetic testing for the purpose of establishing paternity under section 466(a)(5) of the Act; issuing a subpoena of financial or other information to establish, modify, or enforce a support order; requesting information from an employer regarding employment, compensation, and benefits of an employee or contractor; accessing records maintained in automated data bases such as records maintained by other State and local government agencies described in section 466(c)(1)(D) of the Act and certain records maintained by private entities regarding custodial and non-custodial parents described in section 466(c)(1)(D) of the Act; increasing the amount of monthly support payments to include an amount for support arrears; and changing the payee to the appropriate government entity when support has been assigned to the State, or required to be paid through the State disbursement unit.

The proposed paragraph (e) requires the State to establish a State case registry (SCR) which must be a

component of the computerized child support enforcement system. This registry is essentially a directory of electronic case records or files. Proposed paragraph (e)(1) contains definitions which relate to terms used in this section.

Proposed paragraph (e)(2) describes the records which the registry must contain. Under the proposed paragraph (e)(2)(i), the registry must contain a record of every case receiving child support enforcement services under an approved State plan. Under the proposed paragraph (e)(2)(ii), the registry must contain a record of every support order established or modified in the State on or after October 1, 1998. Under the proposed paragraph (e)(3) each record must include standardized data elements for each participant. These data elements include the name(s), social security number(s), date of birth, case identification number(s), data elements required under paragraph (f)(1) of this section for the operation of the Federal case registry (FCR) and any other data elements required by the Secretary and set forth in instructions issued by the Office.

Under the proposed paragraph (e)(4), each record must include payment data for every case receiving services under the IV-D State plan that has a support order in effect. Under this proposed provision, the payment data must include the following information: (1) Monthly (or other frequency) support owed under the order, (2) other amounts due or overdue under the order including arrearages, interest or late payment penalties and fees, (3) any amount described in paragraph (e)(4)(i) and (ii) of this section that has been collected, (4) the distribution of such collected amounts, (5) the birth date and, beginning no later than October 1, 1999, the name and social security number of any child for whom the order requires the provision of support, and (6) the amount of any lien imposed under the order in accordance with section 466(a)(4) of the Act.

Under paragraph (e)(5), the State using the CSES must establish and update, maintain, and regularly monitor case records in the State case registry for cases receiving services under the State plan. We have not defined "regularly." We invite public comment as to whether timeframes or other standards should be set for the monitoring and updating of records and if so what timeframes and standards would be applied. To ensure that information on an established IV-D case is up to date, the State must regularly update the record to make changes to the status of a case, the status of and information about the

participants of a case, and the other data contained in the case record.

Under the proposal, this would include the following: (1) Information on administrative actions and administrative and judicial proceedings and orders related to paternity and support, (2) information obtained from comparison with Federal, State or local sources of information, (3) information on support collections and distributions, and (4) any other relevant information.

Under the proposed paragraph (e)(6), the State is authorized to meet the requirement in paragraph (e)(2)(ii) of this section which would require the State case registry to have a record of every support order established or modified in the State on or after October 1, 1998, by linking local case registries of support orders through an automated information network. However, linked local case registries established in the State's computerized support enforcement system must meet all other requirements in paragraph (e) of this section.

Under proposed paragraph (f), the State must use the computerized support enforcement system to extract information, at such times, and in such standardized format or formats, as required by the Secretary, for the purposes of sharing and comparing information and receiving information from other data bases and information comparison services to obtain or provide information necessary to enable the State, other States, the Office of Child Support Enforcement or other Federal agencies to carry out the requirements of the Child Support Enforcement program. The use and disclosure of certain data is subject to the requirements of section 6103 of the Internal Revenue Code and the system must meet the security and safeguarding requirements for such data specified by the Internal Revenue Service. (See IRS Publication 1075 entitled "The Information Security Guidelines for Federal, State and Local Agencies.") The system must also comply with safeguarding and disclosure requirements specified in the Act. Timeframes not specified in Federal law regarding the transmission of information will be developed in consultation with the States and appropriate Federal and State workgroup(s). We invite public comment on whether these matters should be addressed in the regulation and if so, what timeframes should be imposed. The comparisons and sharing of information include the activities specified below.

Under proposed paragraph (f)(1), effective October 1, 1998, the State must furnish information to the Federal case registry, including updates as necessary and notices of expiration of support orders, except that States have until October 1, 1999, to furnish child data. We invite public comment as to whether timeframes for the submission of data on new cases or orders and for the submission of updated information should be specified and if so, what are appropriate standards.

Section 453(h)(2) and (3) of the Act require the inclusion of child data in the FCR and provides the Secretary of Treasury with access to FCR data for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on the support or residence of children, such as the Earned Income Tax Program. Under the proposal, the State must provide to the FCR the following data elements on participants: (1) State Federal Information Processing Standard (FIPS) and optionally, county code; (2) State case identification number; (3) State member identification number; (4) case type (IV-D, non-IV-D); (5) social security number and any necessary alternative social security numbers; (6) name, including first, middle, last name and any necessary alternative names; (7) sex (optional); (8) date of birth; (9) participant (custodial party, non-custodial parent, putative father, child); (10) family violence indicator (domestic violence or child abuse); (11) indication of an order; (12) locate request type (optional); (13) locate source (optional), and (14) any other information as the Secretary may require as set forth in instructions issued by the Office.

These data elements were developed in consultation with a workgroup comprising individuals from the State and the Federal level. The primary reason that only these data elements were selected for inclusion in the FCR is that they are static in nature, thereby requiring less update and maintenance. The intent of the FCR is to serve as a "pointer" system to quickly notify States of other States that have an interest and/or information on a participant. State automated child support systems will have more detailed data elements on participants. Upon receiving information from the FCR regarding participants in another State or States, States will be expected to use the Child Support Enforcement Network (CSENet) to ascertain any additional information on a participant that the State may need.

The information we are proposing to require under this paragraph

implements section 453(h) requirements for establishment and maintenance of an automated Federal Case Registry of Support Orders.

With respect to domestic violence information identified in item 10 above and addressed under paragraph (f)(1)(x) of this proposal, section 453(b)(2) of the Act states that no information in the Federal Parent Locator Service shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Unless otherwise specified in section 453(b)(2), OCSE will not disclose any information on a participant in a IV-D case or non-IV-D support order to any person if the State has included a "family violence" indicator on such participant.

Under proposed paragraph (f)(2), the CSES must request and exchange information with the Federal parent locator service for the purposes specified in section 453 of the Act. As stipulated in statute, the Secretary will not disclose information received under section 453 of the Act when to do so would contravene the national policy or security interests of the United States or the confidentiality of census data or as indicated above if the Secretary has received notice of reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent.

Under proposed paragraph (f)(3), the CSES must exchange information with State agencies, both within and outside of the State, administering programs under title IV-A and title XIX of the Act, as necessary to perform State agency responsibilities under the Child Support Enforcement program.

Under the proposed paragraph (f)(4), the CSES must exchange information with other agencies of the State, and agencies of other States, and interstate information networks, as necessary and appropriate, to assist the State and other States in carrying out the Child Support Enforcement program.

Security and Confidentiality for Computerized Support Enforcement Systems

With the mandates of the Family Support Act of 1988, and most recently of PRWORA, State public assistance agencies have been given additional tools to locate individuals involved in child support cases and visitation and custody orders and their assets. These tools are used in conjunction with or operate through the State's automated

data processing (ADP) system. With the use of these Automated Data Processing (ADP) systems, and the data they maintain and manipulate, come inevitable concerns about the security and privacy of the sensitive and confidential personal, demographic, and financial information resident in these systems. In order to protect this information, our regulations require that States must have policies and procedures in place to ensure the integrity and validity of their automated data processing systems.

Under current rules, States must conduct reviews of automated systems to ensure their security and assess vulnerability, and maintain reports of those reviews for HHS to examine should circumstances warrant. Further, Federal OCSE certification requirements for automated child support systems likewise have specific requirements and objectives relative to physical and operational security, and of the privacy of the data those systems maintain. In addition, numerous Federal and State agencies that share data with States' child support agencies also impose varying degrees of regulatory restriction on the availability, privacy, security and use of the data exchanged. A primary example is the restrictions imposed by the U.S. Department of Treasury's Internal Revenue Service on the income tax refund and 1099 program information provided to States' child support agencies.

Language in PRWORA further strengthens these security requirements, clearly addressing the concerns all Americans have for the privacy of personal information while recognizing the need for effective program administration.

We are proposing to reiterate statutory requirements in section 454A(d) of the Act addressing security and privacy issues by adding new regulations at 45 CFR 307.13, "Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997."

Proposed paragraph (a) would require the State IV-D agency to have safeguards on the integrity, accuracy, completeness of, access to, and use of data in the CSES, including written policies concerning access to data by IV-D agency personnel and sharing of data with other persons. Under proposed paragraph (a)(1), these policies must address access to and use of data to the extent necessary to carry out the IV-D program. This includes the access to and use of data by any individual involved in the IV-D program, including personnel providing IV-D services under a cooperative or

purchase-of-service agreement or other arrangement.

Under the proposed paragraph (a)(2), these policies must specify the data that may be used for particular IV-D program purposes, and the personnel permitted access to such data. This provision applies to all personnel who have access to data on the CSES.

Under the proposed paragraph (a)(3) these policies must specify the non-IV-D purposes for which and the non-IV-D persons to whom data may be disclosed.

Paragraph (b), as proposed, would require the State IV-D agency to monitor routine access and use of the computerized support enforcement system through methods such as audit trails and feedback mechanisms to guard against and identify unauthorized access or use. States have flexibility in meeting this requirement, so long as the IV-D agency monitors routine access and use of the system.

Proposed paragraph (c) would require the State IV-D agency to have procedures to ensure that all personnel, including State and local staff and contractors, who may have access to or be required to use confidential program data in the CSES are: (1) Informed of applicable requirements and penalties, including those in section 6103 of the Internal Revenue Service Code, and (2) adequately trained in security procedures. Under this requirement, State procedures must address Federal and State safeguarding requirements, including the safeguarding of information regulations at 45 CFR 303.21 and 303.70(d)(2), and the security and safeguarding requirements for data obtained from the Internal Revenue Service. (See IRS publication 1075, entitled "Tax Information Security Guidelines for Federal, State and Local Agencies." This publication was sent to the IV-D agency in each State by OCSE.)

Finally, paragraph (d) would require the IV-D agency to have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure or use of confidential information. The intent of Congress in PRWORA is clear with regard to systems and data security: we must ensure that adequate safeguards are in place to protect the privacy of those we serve. In drafting these regulations, we have attempted to err on the side of comprehensiveness when addressing the needs of security in our automated data processing systems, but to do so without injecting a greater Federal presence in the operation of States' child support enforcement systems. To that end, we are seeking comments from

all sectors of the child support program, not just those concerned with the operation of States' automated data processing systems. Further, we are seeking comment in all areas of computer systems security and data privacy relative to these proposed regulations, be it the safety and security of data center operations and equipment, personnel security, data availability and access within the program, and the control of data gathered from and shared with outside agencies. We are also interested in whether these proposed regulations should be more prescriptive in all or part, relative to security and privacy, or whether there are other venues to ensure and/or strengthen data and systems security, such as through formal written guidance manuals, enhanced system certification requirements, action transmittals, training, or a more visible Federal presence and oversight in this area.

Approval of Advance Planning Documents

The regulations at 45 CFR 307.15 speak to certain APD requirements specific to CSE automated system development and we are proposing in these rules to make conforming amendments to address the changes made by PRWORA and as indicated previously, to codify certain existing requirements and authorities related to APD and APDU oversight. Specifically we are proposing to revise 45 CFR 307.15, "Approval of advance planning documents for computerized support enforcement systems," to reflect new functional requirements the State must meet by October 1, 2000.

Currently, paragraph (b)(2) requires that the APD specify how the objectives of the system will be carried out throughout the State, including a projection of how the proposed single State system will meet the functional requirements and encompass all political subdivisions of the State by October 1, 1997.

Federal law now requires each State to have in operation by October 1, 1997, a statewide CSES that meets specified functional requirements, and a statewide system that also meets additional functional requirements by October 1, 2000. Therefore, the proposed paragraph (b)(2) would require that the APD specify how the objectives of a CSES that meets the functional requirements in § 307.10 of the regulations, or the functional requirements in § 307.11 of the regulations, will be carried out throughout the State including a projection of how the proposed system

will meet the functional requirements and encompass all political subdivisions of the State by October 1, 1997, or also meet the additional functional requirements and encompass all political subdivisions of the State by October 1, 2000.

Under this proposal, the State may submit a separate APD for each group of functional requirements. The State may also update its current APD for the development and implementation of a system to meet the October 1, 1997, requirements in order to address the functional requirements that must be met by October 1, 2000. We also propose to replace the citation "§ 307.10" with the citations "§§ 307.10, or 307.11" where it appears in paragraphs (a), (b), and (c).

A number of States experienced difficulty in developing systems that complied with Family Support Act requirements and, as a consequence, failed to meet the October 1, 1997, deadline for having such systems in place. As a result, OCSE has reviewed the Federal and State experience over the past several years and based on that review, we are putting into place administratively a number of improvements in the Federal and State oversight process. In addition, we are proposing several changes to these regulations that will strengthen the oversight and management of CSE systems development projects.

Continuing a trend begun last year, we will be more aggressively monitoring State CSE development efforts. We intend to conduct on-site technical assistance visits and reviews in all States this year, as we did last year. States whose system development efforts are lagging will receive multiple visits. We are in the process of procuring the services of one or more contractors to augment our ability to monitor States progress and provide project assistance.

In addition, we will be more closely reviewing State APD and APDU submissions. One area of focus will be on the resources available to: (1) Monitor the progress of systems development efforts, (2) assess deliverables, and (3) take corrective action if the project goes astray. Using our current regulatory authority, we will not approve a State's APD unless we are convinced that adequate resources and a well conceived project management approach are available for these purposes, as well as for the systems design and implementation processes.

Most States already retain Quality Assurance assistance, using either contractors or State staff. We will not approve a State's APD unless it

evidences adequate quality assurance services. These services may be procured from the private sector, or may be provided by State staff, e.g., a State's information technology office, State auditor, State data center, etc. States with a history of troubled systems development efforts will have to rigorously demonstrate that such resources are available to the project and are integrated into the project's management. We will require that all reports prepared by a State's quality assurance provider be submitted directly to OCSE at the same time they are submitted to the State's project management.

Further, we intend to more systematically determine and monitor key milestones in States' CSE systems development efforts, and to more closely tie project funding to those milestones. Systems should be implemented in phased, successive modules as narrow in scope and brief in duration as practicable, each of which serves a specific part of the overall child support mission and delivers a measurable benefit independent of future modules. To that end, we are proposing to add language to § 307.15(b)(9) to clarify that the APD must contain an estimated schedule of life-cycle milestones and project deliverables (modules) related to the description of estimated expenditures by category. We would also include in the proposed regulation a list of milestones which must be addressed as provided in the "DHHS State Systems Guide" (September 1996). These life cycle milestones should include, where applicable, developing the general and/or detailed system designs, preparing solicitations and awarding contracts for contractor support services, hardware and software, developing a conversion plan, test management plan, installation plan, facilities management plan, training plan, user's manuals, and security and contingency plans; converting and testing data, developing, modifying or converting software, testing software, training staff, installing, testing and accepting systems. Specifically, we are proposing that the APD must include milestones relative to the size, complexity and cost of the project and at a minimum address: Requirements analysis, program design, procurement and project management.

We will treat seriously States' failure to meet critical milestones and deliverables or to report promptly and fully on their progress toward meeting those milestones. We will approach these problems in several ways. States shall reduce risk by using, when

possible, fully-tested pilots, simulations or prototypes that accurately model the full-scale system; establish clear measures and accountability for project progress, and secure substantial worker involvement and buy-in throughout the project.

With respect to funding, we will generally provide funding under an approved APD only for the most immediate milestones and funding related to achievement of later milestones will be contingent upon the successful completion of antecedent milestones. For States with proven track records in CSE systems development, we will continue our practice of providing funding approval on an annual basis. Since current regulations provide sufficient authority to limit funding in this way, we are not proposing any additional regulatory changes but rather reaffirming in this preamble management practices which we will follow under existing authority.

In addition, we are proposing to revise § 307.15(b)(10) to expand the requirements for an implementation plan and backup procedures. This proposed language would require certain States to obtain independent validation and verification services (IV&V). These States would include those: (1) That do not have in place a statewide automated child support enforcement system that meets the requirements of the FSA of 1988; (2) States which fail to meet a critical milestone, as identified in their APDs; (3) States which fail to timely and completely submit APD updates; (4) States whose APD indicates the need for a total system redesign; (5) States developing systems under waivers pursuant to section 452(d)(3) of the Social Security Act or, (6) States whose system development efforts we determine are at risk of failure, significant delay, or significant cost overrun.

With respect to this last item, we would point out that Year 2000 systems compliance is critical to State child support enforcement program automation efforts. Accordingly, the requirement above would apply to States which are not Year 2000 compliant and which do not have an existing assessment and monitoring mechanism in place. We would consider any such state at serious risk of systems failure.

OCSE will carefully review States' system development efforts, using States' APD and APDU submissions, other documentation, on-site reviews and monitoring, etc., relating to States' efforts to meet PRWORA requirements. Based on this review, OCSE may

determine that a State must obtain Independent Validation and Verification (IV&V) services and will so require as a condition of its approval of the State's APD and associated funding or contract-related documents. OCSE is in the process of hiring an Independent Validation and Verification (IV&V) contractor to assist in making this determination.

Independent validation and verification efforts must be conducted by an entity that is independent from the State. We would only provide very limited exceptions to this requirement based on a State's request. For example, we would consider an exception in a situation where a State has an existing IV&V provider in place which is independent of the child support agency (or other entity responsible for systems development), which meets all criteria set forth in these rule and where the State's systems development efforts are on track as a result.

The independent validation and verification provider must:

- Develop a project workplan. The plan must be provided directly to OCSE at the same time it is given to the State.
- Review and make recommendations on both the management of the project, both State and vendor, and the technical aspects of the project. The results of this analysis must be provided directly to OCSE at the same time it is given to the State.
- Consult with all stakeholders and assess the user involvement and buy-in regarding system functionality and the system's ability to meet program needs.
- Conduct an analysis of past project performance (schedule, budget) sufficient to identify and make recommendations for improvement.
- Provide a risk management assessment and capacity planning services.
- Develop performance metrics which allow tracking of project completion against milestones set by the State.

The RFP and contract for selecting the IV&V provider must be submitted to OCSE for prior approval and must include the experience and skills of the key personnel proposed for the IV&V analysis. In addition, the contract must specify by name the key personnel who actually will work on the project.

ACF recognizes that many States already have obtained IV&V services. OCSE will review those arrangements to determine if they meet the criteria specified above.

The requirement that a State obtain an IV&V provider if it significantly misses one or more milestones in their APD is intended to assist the State in obtaining an independent assessment of their

system development project. The IV&V provider will make an independent assessment and recommendations for addressing the systemic problems that resulted in the missed milestones before the situation reaches the point where suspension of the State's APD and associated Federal funding approval is necessary. Any reports prepared by an IV&V provider must be submitted to OCSE at the same time they are submitted to the State's project manager.

In addition, if a State fails to meet milestones in its APD, OCSE may fully or partially suspend the APD and associated funding. OCSE currently has authority under 45 CFR 307.40 to suspend a State's APD if "the system ceases to comply substantially with the criteria, requirements, and other provision of the APD * * *" This action may include suspension of future systems efforts under the APD until satisfactory corrective action is taken. In such cases, funding for current efforts, i.e., those not affected by the suspension, would continue to be available, although OCSE would closely monitor such expenditures. In more serious cases, suspension would involve cessation of all Federal funds for the project until such time as the State completed corrective action.

We invite comments on this approach as well as suggestions for alternative actions for addressing missed milestones.

Related to this discussion, the Department has recently been discussing with our partners, including State staff, representatives of the corporate community, and other Federal agencies, the need to re-examine the processes associated with development of State systems. Many issues and concerns have been raised in these discussions, including the contracting process and risk sharing among the partners.

There is broad consensus among the partners that a re-examination of the processes associated with development of State systems is necessary. DHHS is committed to moving forward with this process with the goal of implementing changes that will facilitate and improve State system development efforts. We would expect that this process would build upon a recent effort, termed the "Information Technology Partnership," which resulted in changes in policies regarding system transfers, depreciation and expensing, and increases in the thresholds for prior Federal approval of certain APDs and contracts.

Review and Certification of Mandatory Automated Systems

We are proposing to revise 45 CFR 307.25, "Review and certification of computerized support enforcement systems," by replacing the citation "\$ 307.10" with the citations "\$§ 307.10, or 307.11" in the introductory language to reflect other changes made in this document.

FFP Availability

We are proposing to revise § 307.30, "Federal financial participation at the 90 percent rate for computerized support enforcement systems", to reflect changes made to section 455(a)(3) of the Act by section 344(b)(1) of PRWORA regarding the limited extension of 90 percent Federal financial participation.

Currently, paragraph (a) of the regulation provides that, until September 30, 1995, Federal financial participation was available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in §§ 307.5 and 307.10, if specific conditions are met. Federal law extends the availability of FFP at the 90 percent rate until September 30, 1997, for such activities included in an approved APD or APDU submitted on or before September 30, 1995.

Therefore, proposed paragraph (a) would specify that financial participation is available at the 90 percent rate for expenditures made during Federal fiscal years 1996 and 1997 for the planning, design, development, installation or enhancement of a CSES as described in §§ 307.5 and 307.10, but limited to the amount in an APD or APDU submitted on or before September 30, 1995, and approved by OCSE.

Currently, paragraph (b) provides that Federal funding at the 90 percent rate is available in expenditures for the rental or purchase of hardware and proprietary operating/vendor software during the planning, design, development, installation, enhancement or operation of a CSES described in §§ 307.5 and 307.10.

To reflect the statutory changes discussed earlier, paragraph (b)(1), as proposed, would provide Federal funding at the 90 percent rate until September 30, 1997, on a limited basis in accordance with paragraph (a) of this section for such expenditures.

Similarly, under proposed paragraph (b)(2), FFP is available at the 90 percent rate until September 30, 1997, for expenditures for the rental or purchase

of proprietary operating/vendor software necessary for the operation of hardware during the planning, design, development, installation or enhancement of a computerized support enforcement system in accordance with the limitations in paragraph (a) of this section, and the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." FFP at the 90 percent rate remains unavailable for proprietary applications software developed specifically for a CSES. (See OCSE-AT-96-10 dated December 23, 1996 regarding the procedures for requesting and claiming 90 percent Federal funding.)

ACF has issued proposed regulations at 63 FR 10173, on March 2, 1998, to implement the provisions in section 455(a)(3)(B) of the Act, regarding the availability and allocation of Federal funding at the 80 percent rate for Statewide systems.

With respect to regular funding, we are proposing to amend 45 CFR 307.35, "Federal financial participation at the applicable matching rate for computerized support enforcement systems", by replacing the citation "§ 307.10" with the citations "§§ 307.10, or 307.11" in paragraph (a) to reflect other changes made in this document.

Suspension of APD Approval

Similar to the above, we are proposing to amend 45 CFR 307.40, "Suspension of approval of advance planning document for computerized support enforcement systems", to make a conforming change to replace the citation "§ 307.10" with the citations "§§ 307.10, or 307.11" in paragraph (a) to reflect other changes made in this document.

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. The proposed changes in this rule, including IV-D State plan amendments, new functional requirements for CSESs, and limited extension of 90 percent Federal funding, reiterate the language in the statute, and do not add any non-statutory requirements.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities because the primary impact of these regulations is on State governments.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. Interested parties may comment to OMB on these recordkeeping requirements as described below. This NPRM contains information collection requirements in §§ 302.85(a)(1) and (2), 307.11 (e) and (f), 307.13(a) and (c), and 307.15(b)(2) which the Department has submitted to OMB for its review.

More specifically, §§ 302.85(a)(1) and (2) include IV-D State plan

amendments; §§ 307.11(e) and (f) include procedures for establishing a State Case Registry (SCR) and for providing information to the Federal Case Registry (FCR), § 307.13(a) includes written policies concerning access to data by IV-D agency personnel and sharing of data with other persons to carry out IV-D program activities, § 307.13(c) includes procedures that all personnel with access to or use of confidential data in the CSES be informed of applicable requirements and penalties, and receive training in security procedures, and § 307.15 describes several requirements for an advance planning document for a Statewide computerized support enforcement system.

The respondents to the information collection requirements in this rule are the State child support enforcement agencies of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The respondents also include the courts that handle family, juvenile, and/or domestic relations cases within the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The Department requires this collection of information: (1) To determine compliance with the requirements for a Statewide computerized support enforcement system; (2) to determine State compliance with statutory requirements regarding informing IV-D personnel of integrity and security requirements for data maintained in the CSES; and (3) for States to make funding requests through advance planning documents, and APD updates.

These information collection requirements will impose the estimated total annual burden on the States described in the table below.

Information collection	Number of respondents	Responses per respondent	Average burden per response	Total annual burden
302.85(a) (1) and (2)	27	1	.5	13.5
307.11(f)(1)	54	114.17	6,165
307.11(f)(1)	54	1	46.27	2,499
307.11(f)(1)	54	162,963	.083	730,400
307.11(f)(1)	54	52	1.41	3,959
307.11(e)(2)(ii)	54	25,200	.046	62,597
307.11(e)(1)(ii)	3,045	447	.029	39,472
307.13 (a) and (c)	27	1	16.7	451
307.15 (APD)	9.33	1	240	2,239
307.15 (APDU)	62.33	1	60	3,740
Total	851,535.5

The Administration for Children and Families will consider comments by the public on the proposed information collection in:

- Evaluating whether the proposed collections are necessary for the proper performance of the functions of ACF,

including whether the information will have practical utility;

- Evaluating the accuracy of ACF's estimate of the burden of the proposed

collection 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 have to respond, including the use of appropriate automated, electronic, mechanical, or other technology to permit electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

List of Subjects

45 CFR Part 302

Child support, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 304

Child support, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 307

Child support, Grant programs—social programs, Computer technology, Reporting and recordkeeping requirements.

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

Dated: March 6, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: March 17, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR parts 302, 304 and 307 are proposed to be amended as set forth below.

PART 302—STATE PLAN REQUIREMENTS

1. 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) and 1396(k).

§ 302.85 [Amended]

2. Section 302.85 is amended by revising paragraph (a) to read as follows:

(a) *General.* The State plan shall provide that the State will have in effect a computerized support enforcement system:

(1) By October 1, 1997, which meets all the requirements of title IV–D of the Act which were enacted on or before the date of enactment of the Family Support Act of 1988 in accordance with § 307.5 and § 307.10 of this chapter and the OCSE guideline entitled “Automated Systems for Child Support Enforcement: A Guide for States.” This guide is available from the Child Support Information Systems Division, Office of State Systems, ACF, 370 L’Enfant Promenade, SW., Washington, DC 20447; and

(2) By October 1, 2000, which meets all the requirements of title IV–D of the Act enacted on or before the date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in accordance with § 307.5 and § 307.11 of this chapter and the OCSE guideline referenced in paragraph (a)(1) of this section.

PART 304—FEDERAL FINANCIAL PARTICIPATION

1. 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]

2. In § 304.20, reference to “Until September 30, 1995” in paragraph (c) is revised to read “Until September 30, 1997”.

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

1. The authority citation for part 307 is revised to read as follows:

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

§ 307.0 [Amended]

2. Section 307.0 is amended by revising the introductory text; redesignating paragraphs (c) through (h) as paragraphs (d) through (i); and adding a new paragraph (c) to read as follows:

This part implements sections 452(d) and (e), 454(16) and (24) and 454A, and 455(a)(1)(A) and (B), and (a)(3)(A) of the Act which prescribe:

(c) Security and confidentiality requirements for computerized support enforcement systems;

§ 307.1 [Amended]

3. Section 307.1 is amended by redesignating paragraphs (b) through (j) as paragraphs (c) through (k); replacing the citation “§ 307.10” with the citations “§§ 307.10, or 307.11” in the newly designated paragraphs (d) and (g); and adding a new paragraph (b) to read as follows:

(b) Business day means a day on which State offices are open for business.

§ 307.5 [Amended]

4. Section 307.5 is amended by removing paragraphs (a) and (b); redesignating paragraphs (c) through (h) as paragraphs (b) through (g); replacing the citation “§ 307.10” with the citations “§§ 307.10, or 307.11” in the newly redesignated paragraph (d); and adding a new paragraph (a) to read as follows:

(a) Basic requirement.

(1) By October 1, 1997, each State must have in effect an operational computerized support enforcement system, which meets Federal requirements under § 302.85(a)(1). OCSE will review each system to certify that these requirements are met; and

(2) By October 1, 2000, each State must have in effect an operational computerized support enforcement system, which meets Federal requirements under § 302.85(a)(2). OCSE will review each system to certify that these requirements are met.

5. Section 307.10 is amended in the introductory text by replacing the citation “§ 302.85(a)” with the citation “§ 302.85(a)(1)”; replacing “AFDC” with “TANF” in paragraph (b)(10); removing paragraph (b)(14); redesignating paragraphs (b)(15) and (16) as paragraphs (b)(14) and (15); and revising the section heading to read as follows:

§ 307.10 Functional requirements for computerized support enforcement systems in operation by October 1, 1997.

6. Section 307.11 is added to read as follows:

§ 307.11 Functional requirements for computerized support enforcement systems in operation by October 1, 2000.

At a minimum, each State's computerized support enforcement system established and operated under the title IV-D State plan at § 302.85(a)(2) must:

(a) Be planned, designed, developed, installed or enhanced, and operated in accordance with an initial and annually updated APD approved under § 307.15 of this part;

(b) Control, account for, and monitor all the factors in the support collection and paternity determination processes under the State plan. At a minimum, this includes the following:

(1) The activities described in § 307.10, except paragraphs (b)(3), (8) and (11); and

(2) The capability to perform the following tasks with the frequency and in the manner required under, or by this chapter:

(i) Program Requirements. Performing such functions as the Secretary may specify related to management of the State IV-D program under this chapter including:

(A) Controlling and accounting for the use of Federal, State and local funds in carrying out the program either directly or through an interface with State financial management and expenditure information; and

(B) Maintaining the data necessary to meet Federal reporting requirements under this chapter in a timely basis as prescribed by the Office;

(ii) Allocation of Performance Indicators. Enabling the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458 of the Act by:

(A) Using automated processes to:

(1) Maintain the requisite data on State performance for paternity establishment and child support enforcement activities in the State; and

(2) Calculate the paternity establishment percentage for the State for each fiscal year;

(B) Having in place system controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (b)(2)(i)(A)(1) of this section, and the accuracy of the calculation described in paragraph (b)(2)(i)(A)(2) of this section; and

(iii) System Controls: Having systems controls (e. g., passwords or blocking of fields) to ensure strict adherence to the policies described in § 307.13(a); and

(3) Activities described in Title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 not otherwise addressed in this part.

(c) Collection and Disbursement of Support Payments. To the maximum

extent feasible, assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B of the Act through the performance of functions which, at a minimum, include the following:

(1) Transmission of orders and notices to employers and other debtors for the withholding of income:

(i) 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; and

(ii) Using uniform formats prescribed by the Secretary;

(2) Ongoing monitoring to promptly identify failures to make timely payment of support; and

(3) Automatic use of enforcement procedures, including procedures under section 466(c) of the Act if payments are not timely;

(d) Expedited Administrative Procedures. To the maximum extent feasible, be used to implement the expedited administrative procedures required by section 466(c) of the Act.

(e) State Case Registry. Have a State case registry that meets the requirements of this paragraph.

(1) Definitions. When used in this paragraph and paragraph (f) of this section, the following definitions shall apply.

(i) *Participant* means an individual who owes or is owed support or with respect to or on behalf of whom a support obligation is sought to be established or other individual connected to an order of support or a child support case being enforced.

(ii) *Participant type* means the custodial party, non-custodial parent, putative father, or child, associated with a case or support order contained in the Federal case registry.

(iii) *locate request type* refers to the purpose of the request for locate services to the Federal case registry. For example, paternity establishment, parental kidnapping or custody and visitation.

(iv) *locate source type* refers to the external sources a locate submitter desires the Federal case registry to match against.

(2) The State case registry shall contain a record of:

(i) Every case receiving child support enforcement services under an approved State plan; and

(ii) Every support order established or modified in the State on or after October 1, 1998.

(3) Standardized data elements shall be included for each participant. These data elements shall include:

(i) Names;

(ii) Social security numbers;

(iii) Dates of birth;

(iv) Case identification numbers;

(v) Other uniform identification numbers;

(vi) Data elements required under paragraph (f)(1) of this section necessary for the operation of the Federal case registry; and

(vii) Any other information that the Secretary may require as set forth in instructions issued by the Office.

(4) The record shall include information for every case in the State case registry receiving services under an approved State plan that has a support order in effect. The information must include:

(i) The amount of monthly (or other frequency) support owed under the order;

(ii) Other amounts due or overdue under the order including arrearages, interest or late payment penalties and fees;

(iii) Any amounts described in paragraph (e)(4)(i) and (ii) of this section that have been collected;

(iv) The distribution of such collected amounts;

(v) The birth date and, beginning no later than October 1, 1999, the name and social security number of any child for whom the order requires the provision of support; and

(vi) The amount of any lien imposed in accordance with section 466(a)(4) of the Act to enforce the order.

(5) Establish and update, maintain, and regularly monitor case records in the State case registry for cases receiving services under the State plan. To ensure information on an established IV-D case is up to date, the State should regularly update the system to make changes to the status of a case, the participants of a case, and the data contained in the case record. This includes the following:

(i) Information on administrative actions and administrative and judicial proceedings and orders related to paternity and support;

(ii) Information obtained from comparison with Federal, State or local sources of information;

(iii) Information on support collections and distributions; and

(iv) Any other relevant information.

(6) States may link local case registries of support orders through an automated information network in meeting paragraph (e)(2)(ii) of this section provided that all other requirements of this paragraph are met.

(f) Information Comparison and other Disclosure of Information. Extract

information, at such times and in such standardized format or formats, as may be required by the Secretary, for purposes of sharing and comparing with, and receiving information from, other data bases and information comparison services, to obtain or provide information necessary to enable the State, other States, the Office or other Federal agencies to carry out this chapter. As applicable, these comparisons and disclosures must comply with the requirements of section 6103 of the Internal Revenue Code of 1986 and the requirements of section 453 of the Act. The comparisons and sharing of information include:

(1) Effective October 1, 1998, (or for the child data, not later than October 1, 1999) the State furnishing the following information to the Federal case registry, including updates as necessary and notices of expiration of support orders, on participants in cases receiving services under the State plan, and in non-IV-D support orders established or modified on or after October 1, 1998:

- (i) State Federal Information Processing Standard (FIPS) code and optionally, county code;
- (ii) State case identification number;
- (iii) State member identification number;
- (iv) Case type (IV-D, non-IV-D);
- (v) Social security number and any necessary alternative social security numbers;
- (vi) Name, including first, middle, last name and any necessary alternative names;
- (vii) Sex (optional);
- (viii) Date of birth;
- (ix) Participant type (custodial party, non-custodial parent, putative father, child);
- (x) Family violence indicator (domestic violence or child abuse);
- (xi) Indication of an order;
- (xii) Locate request type (optional);
- (xiii) Locate source (optional); and
- (xiv) Any other information the

Secretary may require as set forth in instructions issued by the Office.

(2) Requesting or exchanging information with the Federal parent locator service for the purposes specified in section 453 of the Act;

(3) Exchanging information with State agencies, both within and outside of the State, administering programs under titles IV-A and XIX of the Act, as necessary to perform State agency responsibilities under this chapter and under such programs; and

(4) Exchanging information with other agencies of the State, and agencies of other States, and interstate information networks, as necessary and appropriate, to assist the State and other States in carrying out the purposes of this chapter.

7. Section 307.13 is added to read as follows:

§ 307.13 Security and Confidentiality for computerized support enforcement systems in operation after October 1, 1997.

The State IV-D agency shall:

(a) *Information Integrity and Security.* Have safeguards on the integrity, accuracy, completeness of, access to, and use of data in the computerized support enforcement system. These safeguards shall include written policies concerning access to data by IV-D agency personnel, and the sharing of data with other persons to:

(1) Permit access to and use of data to the extent necessary to carry out the State IV-D program under this chapter; and

(2) Specify the data which may be used for particular IV-D program purposes, and the personnel permitted access to such data;

(3) Limit access and disclosure to non-IV-D personnel or for Non-IV-D program purposes as authorized by Federal law.

(b) *Monitoring of access.* Monitor routine access to and use of the computerized support enforcement system through methods such as audit trails and feedback mechanisms to guard against, and promptly identify unauthorized access or use;

(c) *Training and Information.* Have procedures to ensure that all personnel, including State and local staff and contractors, who may have access to or be required to use confidential program data in the computerized support enforcement system are:

(1) Informed of applicable requirements and penalties, including those in section 6103 of the Internal Revenue Service Code and section 453 of the Act; and

(2) Adequately trained in security procedures; and

(d) *Penalties.* Have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure or use of confidential information.

§ 307.15 [Amended]

8. Section 307.15 is amended by replacing the citation “§ 307.10” with the citations “§§ 307.10, or 307.11” in paragraphs (a), (b), and (c); and revising paragraph (b)(2), (b)(9) and (b)(10) to read as follows:

* * * * *

(b) * * *

(2) The APD must specify how the objectives of the computerized support enforcement system in §§ 307.10, or 307.11 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of §§ 307.10, or

307.11 and how the single State system will encompass all political subdivisions in the State by October 1, 1997, or October 1, 2000 respectively.

* * * * *

(9) The APD must contain a proposed budget and schedule of life-cycle milestones relative to the size, complexity and cost of the project which at a minimum address requirements analysis, program design, procurement and project management; and, a description of estimated expenditures by category and amount for:

(i) Items that are eligible for funding at the enhanced matching rate, and

(ii) items related to developing and operating the system that are eligible for Federal funding at the applicable matching rate;

(10) The APD must contain an implementation plan and backup procedures to handle possible failures in system planning, design, development, installation or enhancement.

(i) These backup procedures must include provision for independent validation and verification (IV&V) analysis of a State's system development effort in the case of States:

(A) that do not have in place a statewide automated child support enforcement system that meets the requirements of the FSA of 1988;

(B) States which fail to meet a critical milestone, as identified in their APDs;

(C) States which fail to timely and completely submit APD updates;

(D) States whose APD indicates the need for a total system redesign;

(E) States developing systems under waivers pursuant to section 452(d)(3) of the Social Security Act; or,

(F) States whose system development efforts we determine are at risk of failure, significant delay, or significant cost overrun.

(ii) Independent validation and verification efforts must be conducted by an entity that is independent from the state (unless the State receives an exception from OCSE) and the entity selected must:

(A) Develop a project workplan. The plan must be provided directly to OCSE at the same time it is given to the State.

(B) Review and make recommendations on both the management of the project, both State and vendor, and the technical aspects of the project. The IV&V provider must provide the results of its analysis directly to OCSE at the same time it reports to the State.

(C) Consult with all stakeholders and assess the user involvement and buy-in regarding system functionality and the system's ability to meet program needs.

(D) Conduct an analysis of past project performance sufficient to identify and make recommendations for improvement.

(E) Provide a risk management assessment and capacity planning services.

(F) Develop performance metrics which allow tracking project completion against milestones set by the State.

(iii) The RFP and contract for selecting the IV&V provider (or similar documents if IV&V services are provided by other State agencies) must include the experience and skills of the key personnel proposed for the IV&V analysis and specify by name the key personnel who actually will work on the project and must be submitted to OCSE for prior approval.

* * * * *

§ 307.25 [Amended]

9. Section 307.25 is amended by replacing the citation “§ 307.10” with the citations “§§ 307.10, or 307.11” in the introductory text.

10. Section 307.30 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

* * * * *

(a) *Conditions that must be met for FFP.* During Federal fiscal years 1996, and 1997, Federal financial participation is available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in §§ 307.5 and 307.10 of this chapter limited to the amount in an advance planning document, or APDU submitted on or before September 30, 1995, and approved by OCSE if:

* * * * *

(b) *Federal financial participation in the costs of hardware and proprietary software.* (1) Until September 30, 1997, FFP at the 90 percent rate is available in expenditures for the rental or purchase of hardware for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in § 307.10 in accordance with the limitation in paragraph (a) of this section.

(2) Until September 30, 1997, FFP at the 90 percent rate is available for expenditures for the rental or purchase of proprietary operating/vendor software necessary for the operation of hardware during the planning, design,

development, installation or enhancement of a computerized support enforcement system in accordance with the limitation in paragraph (a) of this section, and the OCSE guideline entitled “Automated Systems for Child Support Enforcement: A Guide for States.” FFP at the 90 percent rate is not available for proprietary application software developed specifically for a computerized support enforcement system. (See § 307.35 of this part regarding reimbursement at the applicable matching rate.)

* * * * *

§ 307.35 [Amended]

11. Section 307.35 is amended by replacing the citation “§ 307.10” with the citations “§§ 307.10, or 307.11” in paragraph (a).

§ 307.40 [Amended]

12. Section 307.40 is amended by replacing the citation “§ 307.10” with the citations “§§ 307.10, or 307.11” in paragraph (a).

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AE38

Endangered and Threatened Wildlife and Plants; Notice of Public Hearings and Reopening of Comment Period on Proposed Rule to List the Flatwoods Salamander as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973 (Act), as amended, gives notice that two public hearings will be held on its proposal to list the flatwoods salamander (*Ambystoma cingulatum*) as a threatened species. The Service also announces the reopening of the comment period for this action. The public hearings and the reopening of the comment period will allow additional comments on this proposal to be submitted from all interested parties.

DATES: The first public hearing will be held from 7 to 10 p.m. on April 14, 1998, in Savannah, Georgia. The second public hearing will be held on the evening of April 15, 1998, from 7 to 10

p.m. in Tallahassee, Florida. The comment period on the proposal, which originally closed on February 17, 1998, is now reopened until June 1, 1998. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: The April 14 public hearing will be held in the Auditorium at the Savannah Technical Institute, 5717 White Bluff Road, Savannah, Georgia. The April 15 public hearing will be at the Hermitage Centre, Hermitage Room, 1801 Hermitage Boulevard, Tallahassee, Florida. Written comments and materials concerning the proposal may be submitted at the hearing or sent directly to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Cary Norquist at the above address (601/965-4900, ext. 28; facsimile 601/965-4340).

SUPPLEMENTARY INFORMATION:

Background

The flatwoods salamander occurs in isolated populations in open, moist, longleaf/slash pine flatwoods across the lower southeastern Coastal Plain in Florida, Georgia, and South Carolina. Habitat loss and degradation from agriculture, urbanization, and certain silvicultural practices are the primary threats to the species. On December 16, 1997, the Service published a rule proposing threatened status for the flatwoods salamander in the **Federal Register** (62 FR 65787-65794). Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. Public hearing requests were received within the allotted time period from Rayonier (Southeast Forest Resources) and the Florida Forestry Association in Florida; Georgia-Pacific and Gilman Paper Company in Georgia; and the American Forest & Paper Association in Washington, DC.

The Service has scheduled these hearings for 7 to 10 p.m. on April 14, 1998, in Savannah, Georgia, and 7 to 10 p.m. on April 15, 1998, in Tallahassee, Florida. Anyone expecting to make an oral presentation at these hearings is encouraged to provide a written copy of their statement to the hearing officer prior to the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration.