time preliminary audit findings will be discussed and the IV–D agency may present any additional matter it believes should be considered in the audit findings.

(c) After the exit conference, Federal auditors will prepare and send to the IV–D agency a copy of their interim report on the results of the audit. Within 45 days from the date the report was sent by certified mail, the IV–D agency may submit written comments on any part of the report which the IV–D agency believes is in error. The auditors will note such comments and incorporate any response into the final audit report.

§ 305.65 State cooperation in the audit.

(a) Each State shall make available to the Federal auditors such records or other supporting documentation (electronic and manual) as the audit staff may request, including records to support the data as submitted on the Federal statistical and financial reports that will be used to calculate the State's performance. The State shall also make available personnel associated with the State's IV–D program to provide information that the audit staff may find necessary in order to conduct or complete the audit.

(b) States must provide evidence to OCSE that their data are complete and reliable as defined in § 305.2 of this part.

(c) Failure to comply with the requirements of this section with respect to audits conducted to determine compliance with IV–D requirements under § 305.60 of this part, may necessitate a finding that the State has failed to comply with the particular criteria being audited.

§ 305.66 Notice, corrective action year, and imposition of penalty.

(a) If a State is found by the Secretary to be subject to a penalty as described in § 305.61 of this part, the Office will notify the State in writing of such finding.

(b) The notice will:

(1) Explain the deficiency or deficiencies which result in the State being subject to a penalty, indicate the amount of the potential penalty, and give reasons for the Secretary's finding; and

(2) Specify that the penalty will be assessed in accordance with the provisions of 45 CFR 262.1(b) through (e) and 262.7 if the State fails to correct the deficiency or deficiencies cited in the notice during the subsequent fiscal year (corrective action year).

(c) The penalty under § 305.61 will be assessed if the Secretary determines that the State has not corrected the deficiency or deficiencies cited in the notice by the end of the corrective action year. This determination will be made as of the first full three-month period beginning after the end of the corrective action year.

(d) Only one corrective action period is provided to a State with respect to a given deficiency where consecutive findings of noncompliance are made with respect to that deficiency. In the case of a State against which the penalty is assessed and which failed to correct the deficiency or deficiencies cited in the notice by the end of the corrective action year, the penalty will be effective for any quarter after the end of the corrective action year and ends for the first full quarter throughout which the State IV–D program is determined to have corrected the deficiency or deficiencies cited in the notice.

(e) A consecutive finding occurs only when the State does not meet the same criterion or criteria cited in the notice in paragraph (a) of this section.

[FR Doc. 99–25900 Filed 10–7–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 308

RIN 0970–AB96

State Self-Assessment Review and Report

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

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would implement a provision of the Social Security Act added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which requires each State to annually assess the performance of its own child support enforcement program and to provide a report of the findings to the Secretary of the Department of Health and Human Services (DHHS).

DATES: Consideration will be given to written comments received by December 7, 1999.

ADDRESSES: Send comments to: Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington D.C. 20447. Attention: Division of Policy and Planning, Office of Child Support Enforcement. Comments will be available for public inspection Monday through Friday, 8:00 a.m. to 4:30 p.m. on the fourth floor of the Department's offices at the address mentioned above.

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

FOR FURTHER INFORMATION CONTACT: Jan Rothstein, Division of Policy & Planning, OCSE, telephone number: (202) 401–5073, fax: (202) 401–3444, e-mail: jrothstein@acf.dhhs.gov.

SUPPLEMENTARY INFORMATION:

State Self-Assessment Review and Report

Statutory Authority

These proposed regulations are published under the authority of the Social Security Act (the Act), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193). Section 454(15)(A) of the Act (42 U.S.C. 654(15)(A)) contains a requirement for each State to annually assess the performance of the State's child support enforcement program under title IV–D of the Act in accordance with standards specified by the Secretary, and to provide a report of the findings to the Secretary.

These proposed regulations are also published under the general authority of section 1102 of the Act (42 U.S.C. 1302) authorizing the Secretary to publish regulations necessary for the efficient administration of the title IV–D program.

Background

Prior to PRWORA, Federal law specified that States that had been audited and found not to be in substantial compliance with Federal requirements were subject to a financial penalty of between 1 and 5 percent of the State's funding under the title IV–A program. These audits were performed every 3 years. The penalty could be held in abeyance for up to one year to allow States the opportunity to implement corrective actions to remedy the program deficiency. At the end of the corrective action period, a follow-up audit was conducted. If the follow-up audit showed that the deficiency had been corrected, the penalty was rescinded. Section 342(b) of PRWORA revised section 452(a)(4) of the Act, and

Federal audit requirements were changed to focus on data reliability and to assess performance outcomes instead of determining compliance with process steps.

At the same time, section 342(a) of PRWORA amended the Act by adding a new section 454(15)(A) of the Act to require each State to conduct an annual review of its Child Support Enforcement (IV–D) program to determine if Federal requirements are being met and to provide an annual report to the Secretary of DHHS on the findings. The changes to sections 452 and 454(a)(15) mean that the Federal government's audit responsibilities now focus primarily on results and fiscal accountability while States are to focus on the responsibilities for child support service delivery in accordance with Federal mandates. The annual self-assessment's purpose is to give a State the opportunity to assess whether it is meeting Federal requirements for providing child support services and providing the best services possible to those in need of them. It is to be used as a management tool, to help a State evaluate its program and assess its performance. These self reviews are not tied to fiscal sanctions. Financial penalties, like incentive rewards, will be based on program results.

Section 454(15)(A) of the Act also requires the Secretary to establish standards and procedures for the State to use in conducting the annual review. These proposed rules convey the Secretary's standards and procedures for the States' self-assessment reviews.

The requirements in this proposed rule would be effective prospectively from the effective date of the final rule. The review period for the first self-assessment would end no later than 12 months after the effective date of the final regulations. Subsequent annual review periods would end every 12 months thereafter. The first self-assessment report would be due no later than six months after the end of the review period and each 12-month review period thereafter. If a State fails to submit a self-assessment report, the DHHS Office of Child Support Enforcement (OCSE) would work with that State to try to resolve any issues that might be preventing the State from submitting a self-assessment report. However, if a State fails to make a good faith effort to resolve any barriers and submit a self-assessment report, we would begin taking the steps necessary to disapprove the State plan pursuant to sections 452(a)(3) and 455(a) of the Act and sections 301.10 and 301.13 of this chapter.

In the development of this Notice of Proposed Rulemaking, OCSE used as its starting point the objectives outlined in the OCSE strategic plan, which was endorsed by the States on February 28, 1995. The strategic plan is available at www.acf.dhhs.gov/programs/cse/new/spwith.htm. The three goals in the strategic plan and their corresponding objectives are as follows:

- All children have parentage established—to increase establishment of paternities, particularly those established within one year of birth;
- All children in IV–D cases have financial and medical support orders—to increase the percentage of IV–D cases with orders for financial support, and to increase the percentage of cases with orders for medical support; and
- All children in IV–D cases receive financial and medical support from both parents—to increase the collection rate, to increase the percentage of cases where health insurance coverage is obtained after being ordered, to increase the percentage of cases with appropriate and up-to-date support orders, and to make the process more efficient and responsive.

This approach is useful because it guarantees that all States have the same goals and objectives for their self-assessment reviews and that those goals and objectives are all focused on improving the lot of America's children.

OCSE also believes that the self-assessment process should not duplicate Federal audits that will be conducted by the OCSE Division of Audit (i.e., data reliability reviews, limited cost reviews and administrative cost audits) and should focus on agreed-upon goals. Similarly, the self-assessment reviews should not duplicate other types of program reviews such as automated systems certification reviews.

Following the enactment of PRWORA and to ensure broad input, OCSE consulted with a wide variety of program stakeholders to get recommendations on how to proceed. These recommendations addressed: the criteria to be covered in annual reports to the Secretary; the methodology for reviewing the criteria; and an approach for reporting the results of these reviews. OCSE considered these recommendations in developing these proposed rules.

OCSE received suggestions on self-assessment reviews at national and regional meetings, including the American Public Human Services Association, formerly known as the American Public Welfare Association (APWA) and the National Child Support Enforcement Association (NCSEA). In addition, several child support advocacy groups informally provided comments. Comments were also solicited from State IV–D directors and incorporated as deemed appropriate.

In addition, OCSE contracted with BDM, Inc., a consulting group, to survey existing self-assessment efforts in selected States and make recommendations for developing and implementing self-assessment reviews. OCSE also took these recommendations into consideration in the development of these proposed rules.

On March 31, 1998, OCSE issued Action Transmittal–98–12 to provide the States preliminary guidance on the self-assessment review process pending publication of this proposed rule. This action transmittal: provides a practical methodology for implementing the self-assessment process, covers required and optional program compliance criteria, presents the Federal role in the process as required by the statute, and suggests a reporting format. OCSE has appointed Amy Guzierjka to an Intergovernmental Personnel Act (IPA) assignment from the State of Massachusetts, to serve as the audit liaison to assist States in complying with the self-assessment requirements. Ms. Guzierjka has extensive experience in this area at the State level.

These proposed rules would promulgate the Secretary's requirements for State self-assessment reviews and annual reports. We invite public comment concerning the proposed standards and procedures required of States in conducting the reviews and reporting to the Secretary.

Overview of the Self-Assessment Review

The self-assessment review process proposed in this rule would consist of an annual State-conducted self-assessment of its IV–D program, and annual reporting of the results to the Commissioner, OCSE and Regional Offices as designees of the Secretary. Staff in the Regional Offices will review the self-assessment reports and work with the States if corrective action is necessary.

OCSE proposes that the State self-assessment review consist of three categories: Required Program Compliance Criteria, Program Direction, and Program Service Enhancements. The first category would be mandatory for inclusion in a State's annual self-assessment review and report. The second and third categories would be optional for inclusion in a State's self-assessment review and report.

The Required Program Compliance category draws upon selected areas of the child support program that have previously been covered by Federal

audits and which are addressed in regulations in Parts 302 and 303. These criteria represent the current program requirements that most directly relate to the major child support functions and which must be monitored to assess program performance. These criteria also bear a direct correlation to the goals and objectives set forth in OCSE's strategic plan and the 15 outcome measurements in that plan. These criteria would represent the minimum that States would be required to include in their self-assessment reviews and in their reports to the Secretary. A State would be able to modify the review requirements by imposing higher standards on itself or evaluating additional Federal or State requirements; however, a State would be required to document its review scope in its annual report. Nothing precludes States from expanding their reviews to include other program areas. A State may wish to expand the review to accommodate its specific management needs. Again, we envision these reviews as serving as management tools for the States. A State should feel free to modify them to best suit its program needs.

Federal financial participation (FFP) would be available to reimburse States for the cost of carrying out all three categories of self-assessment. States may add additional optional information to the information listed in categories 1, 2, and 3. FFP would also be available for gathering and reporting this additional optional information.

Federal Role

The Federal role in the self-assessment review process would be to receive reports submitted pursuant to section 452(a)(4)(B) of the Act and, as appropriate, provide to the States comments, recommendations for additional or alternative corrective action, and provide any technical assistance that a State may need. We propose that the Federal involvement include, but not be limited to: approving IV–D State plan amendments certifying that the State has a self-assessment review process; providing review requirements, guidelines, instructions and methodologies for the review to the State; responding to requests for help from the State; providing interpretation of compliance standards; developing continuing partnerships; reviewing and providing appropriate comments on self-assessment reports; developing a self-assessment review module; overseeing the implementation of the self-assessment process in the States; periodically analyzing self-assessment reports to identify 'best practices' to be shared with other States and providing comments and recommendations regarding the appropriateness of proposed corrective action or alternative correction action.

The Office of Child Support Enforcement is publishing a separate proposed rule regarding performance incentives and penalties. As indicated in that rule, results from State self-assessments may serve as a basis for more in-depth audits.

Description of Regulatory Provisions

We are proposing to implement the statutory requirement that a State annually assess the performance of its IV–D program and submit a report of the findings to the Secretary by adding a new Part 308, ''Annual State Self-Assessment Review and Report'' to existing rules in Chapter III governing the child support enforcement program under title IV–D of the Act.

Proposed section 308.0 sets the scope of the regulation and specifies it is applicable only to the annual State self-assessment review and report process.

Proposed section 308.1 provides the components of the self-assessment implementation methodology that States must use including organizational placement, sampling, scope of review, the review period, and reporting.

Proposed section 308.1(a) addresses options for the organizational placement of the self-assessment function. Ideally, the organizational placement would be within the IV–D agency. This would enable the agency to draw on the experience of IV–D staff who have the skills and qualifications needed to analyze the program, an important element of a meaningful self-assessment of the program. However, we recognize that this is not always possible. Therefore, the proposed regulations allow the self-assessment unit to be placed within the title IV–D agency's umbrella agency, or another State agency. Alternatively, a State may consider privatizing or contracting out the self-assessment function. However, regardless of the location of this function, the IV–D agency must maintain the responsibility and control for all reviews, review findings and the content of the annual report.

Proposed section 308.1(b) specifies that a State must either review all of its cases or conduct sampling which meets the criteria specified. Due to the differences in administrative structures in States, we believe it would be inappropriate for OCSE to prescribe a single sampling formula for universal use by all States. Instead, under proposed paragraph (b), a State would have discretion in designing its own sampling methodologies that could be tailored to meet individual State needs. However, under proposed paragraphs (b)(2) and (3), each State must maintain a minimum confidence level of 90 percent for each criterion, select statistically valid samples, and assure that there are no portions of the IV–D case universe omitted from the sample selection process.

The following checklist has been developed to provide guidance in the form of a series of steps that should be taken during the development and application of a sampling methodology. This checklist is not intended as a definitive pronouncement or mandate from OCSE, but only as a guide outlining a generic sampling approach. We provide it for reference and guidance only.

1. Define the reason(s) for collecting and evaluating the data: i.e. each State must evaluate its performance with regard to each required program compliance criterion set forth in proposed section 308.2.

2. Plan the data collection method(s):

a. Identify the criteria to be evaluated (refer to proposed section 308.2).

b. Select a method of data collection/evaluation.

c. Establish a minimally acceptable level of performance.

d. Set a desired confidence level.

e. Choose a method of random selection (e.g., simple random selection or systematic random selection).

3. Collect required data: After selecting the sample cases, obtain the case files and/or the pertinent computer records or data elements.

4. Process the collected data: Evaluate each case for each criterion to determine if the desired action was taken. Tabulate the results of the sample or samples.

5. Analyze the data. Quantify results and statistically evaluate the results obtained.

6. Present the results for each criterion in a tabular format and provide a narrative explanation of the results obtained.

Proposed section 308.1(c) relates to the scope of the self-assessment review. This paragraph would require a State to review all required criteria articulated in section 308.2 on a yearly basis. We considered accommodating some States who have not had the experience in conducting these types of reviews by allowing reviews for some of the criteria on a rotational basis rather than annual reviews on all required criteria by all States. We decided that if we permitted reviews of some of the required criteria on a rotational basis, the results would lose meaning and not be comparable to prior years. Therefore, we propose that

each State would be required to review all criteria under section 308.2 on a yearly basis.

Proposed section 308.1(d) would provide for a 12-month review period, ending no later than 12 months after the effective date of this final rule and each 12 month period thereafter. We believe the proposed 12-month review period is consistent with prior audit review periods and allows enough time to evaluate the case processing timeframes in Part 303. We also believe that it is not necessary for all States to match each other's review periods, provided that the case samples selected are from the period that will be reviewed and reflected in the report. Self-assessment reviews can be conducted in one of two ways: historically or incrementally. Using the historical approach, a State would not begin its self-assessment review until the end of the period to be reviewed.

Using the incremental approach, a State would select cases from several periods during the review period and add the results to provide a picture of performance for the entire period. The State should draw a separate sample for each incremental review period. The incremental approach would enable the State to spread its review effort over time and make more efficient use of available resources because the sample size could be smaller, while allowing the State to identify problem areas and take corrective action prior to the end of the review period. For those States who review their case samples incrementally, the cases selected must be reviewed and evaluated for the actions required at the beginning of the review period.

Proposed section 308.1(e) would address the contents of the annual reports and require copies to be sent to the Commissioner, OCSE and applicable Regional Offices. We propose that the State submit its written report no later than 6 months after the end of the review period. For example, if the review period ends September 30, 2000, the first report would be due by March 31, 2001.

Proposed section 308.2 lists and provides descriptions of the required program compliance criteria. In all cases, States must have the required procedures specified in the regulations. In this section we are also proposing to require States to use benchmarks for performance that are identical to those that were required when previous Federal audit standards were in place. The benchmarks for determining the adequacy of performance are still, we believe, appropriate under the new system of self-assessment reviews. States can use the benchmarks to determine if corrective action is necessary if they fail to meet one or more benchmarks. We propose that reviews of closed cases should demonstrate that appropriate action was taken in 90 percent of the cases reviewed. We further propose that reviews of the other required program criteria should show that appropriate action was taken in 75 percent of the cases reviewed.

Proposed section 308.2(a) would require reviews of closed IV–D cases to determine whether the case met one or more Federal case closure criteria under section 303.11.

Proposed section 308.2(b)(1) would require the review of State actions to establish paternity and support orders. A case would meet the review requirement if an order for support was required and established during the review period, notwithstanding the relevant timeframes. Section 308.2(b)(2) addresses the necessary procedures to follow when an order was required but not established during the review period.

Proposed section 308.2(c) would require the review of State actions to enforce child support orders. If income withholding was appropriate, a case would meet the review requirement if it was received during the review period, notwithstanding the mandatory timeframes. A review of the enforcement of orders would include all cases in which an ongoing income withholding is in place, as well as those cases in which new or repeated enforcement actions were required during the review period.

Proposed section 308.2(d) describes reviews of the disbursement of collections, requiring the implementation of a State Disbursement Unit (SDU) effective October 1, 1998, or on October 1, 1999, for those States in which the local courts are disbursing collections. This review would include a determination of whether States are complying with the 2-day requirement for disbursing certain collections. The statute had two effective dates but we anticipate that final rulemaking would be published after October 1, 1999, the date on which all States have to have an SDU in effect and therefore, we have not included any reference to the effective dates in the proposed rule.

Proposed section 308.2(e) would require reviews of securing and enforcing medical support orders. This would include measuring whether the requirements were met for: including a medical support provision in all new orders; taking steps to determine whether reasonable health insurance is available when health insurance is included in the order; informing the Medicaid agency when coverage was obtained; determining whether the custodial parent was informed of policy information when coverage has been obtained; determining whether employers are informing the State of lapses in coverage; and determining whether the State transferred notice of the health care provision to a new employer when a noncustodial parent changed employment. The forthcoming national medical support notice has the potential to vastly improve establishing and enforcing medical support orders. Once it becomes available, States should be using it and reviewing for its application in appropriate cases.

Proposed section 308.2(f) addresses the review and adjustment of orders. A case would meet the review requirement if it was reviewed and met the conditions for adjustment notwithstanding the applicable timeframes. An examination of the review and adjustment criterion would include reviews of assistance cases, review of cases where adjustments were not necessary, quarterly repeated location efforts, notices to the custodial and non-custodial parents informing them of their rights to request reviews within 180 days of determining that a review should be conducted, and reviews of whether both parties were given 30 days to contest adjustments if the cost-of-living or automated methods had been utilized.

Proposed section 308.2(g) addresses the interstate services. The review criterion would include the initiating State's responsibility to refer cases to the responding State within 20 days of determining that the noncustodial parent is in another State pursuant to section 303.7(b)(2); providing responses to the responding State with requested additional information within 30 calendar days of the request pursuant to section 303.7(b)(4); notifying the responding State of new information within 10 working days pursuant to section 303.7(b)(5); and sending a request for review of a child support order within 20 calendar days after receiving a request for review and adjustment under the Uniform Interstate Family Support Act (UIFSA) pursuant to section 303.7(b)(6).

Reviews would also include determining compliance with responsibilities of the responding State in interstate cases, including central registry requirements for review of submitted documentation for completeness, forwarding the case to the State Parent Locator Service for locate services, acknowledgment of the receipt

of the case and request for missing documentation from the initiating State, and whether the IV–D agency in the initiating State was informed of where the case was sent for action. The review would also determine whether the central registry responded to inquiries from other States within 5 working days of receipt of a request for a case status review pursuant to section 303.7(a)(4).

Section 308.2(b), (c), and (f) contain language that previously appeared in former section 305.20(d) relative to certain missed timeframes. As we stated in the preamble to the final rule revising Federal audit regulations in child support (59 FR 66204), the State should not be penalized when timeframes are missed in a case if a successful result is achieved (paternity or a support order is established, an order is adjusted, income is withheld, or a collection is made), since these results are the main goals of the child support enforcement program. We emphasize that all timeframes, including those for paternity establishment, support order establishment, review and adjustment, and income withholding, are still Federal requirements that States must meet.

Other timeframes that would actually be reviewed for compliance would include: 10 days to forward the case upon locating the non-custodial parent in a different jurisdiction pursuant to section 303.7(c)(5) and (6); 2 business days to forward any support payments collected to the initiating State pursuant to section 303.7(c)(7)(iv); and 10 working days to notify the initiating State upon receipt of new information pursuant to section 303.7(c)(9).

Proposed section 308.2(h) addresses the proposed timeframes applicable to the expedited processes criterion pursuant to section 303.101(b)(2)(i) and in keeping with previous definitions of substantial compliance in former section 305.20, we are proposing a benchmark of 75 percent for the number of cases to be completed within 6 months and a benchmark of 90 percent for the number of cases to be completed within one year. The 75 and 90 percent benchmark standards would apply to the establishment of orders from the date of service of process to the time of disposition.

Proposed section 308.3 lists and describes the proposed optional program areas of review, which would include program direction and program service enhancements. Proposed section 308.3(a) pertains to the review of State program direction.

The first optional category, Program Direction, is envisioned as an analysis of the relationships between case results relating to program compliance areas, and performance and program outcome indicators. While this review category is optional, by including the information, States have the opportunity to demonstrate how they are trying to manage their resources to achieve the best performance possible. This evaluation should explain the data and how the State adjusted its resources and processes to meet goals and improve performance. In this section, States are encouraged to discuss new laws and enforcement techniques, etc., that are contributing to increased performance. Barriers to success, such as State statutes, may also be discussed in this section.

Proposed section 308.3(b) pertaining to the optional review of State program service enhancements is envisioned as a report of practices initiated by the State that are contributing to improving program performance and customer service.

Examples would include improvement of client services through the use of expanded office hours, kiosks, internet, and voice response systems. This is an opportunity for a State to promote its programs and innovative practices. Some examples of innovative activities that a State may elect to discuss in the report include such things as: steps taken to make the program more efficient and effective; efforts to improve client services; demonstration projects testing creative new ways of doing business; collaborative efforts being taken with partners and customers; innovative practices which have resulted in improved program performance; actions taken to improve public image; and access/visitation projects initiated to improve non-custodial parents' involvement with the children. A State should also discuss in this review area whether the State has a process for timely dissemination of applications for IV–D services in cases that are not receiving public assistance, when requested, and child support program information to recipients referred to the IV–D program, as required by section 303.2(a).

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. The proposed changes in this rule contain the Secretary's standards for State self-assessment reviews that largely replace previously required mandatory Federal audits.

Assessment of Federal Regulations and Policies on Families

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

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 reporting requirements as described below. This NPRM contains reporting requirements in Part 308, which the Department has submitted, to OMB for its review.

Section 308.1(e) contains a requirement that a State report the results of annual self-assessment reviews to the appropriate OCSE Regional Office and to the Commissioner of OCSE. The information submitted must be sufficient to measure State compliance with Federal requirements for expedited procedures and to determine whether the program is in compliance with title IV–D requirements and case processing timeframes. The results of the report will be disseminated via ''best practices'' to other States and also be used to determine if technical assistance is needed and the use of resources to meet goals. The State plan preprint page for this requirement (page 2.15, Federal and State Reviews and Audits) was approved by OMB July 7, 1997 under OMB Number 0970–0017.

Respondents: State child support enforcement agencies of the 50 States,

the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

This information collection requirement 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 hours per response	Total annual burden hours
Section 308.1	54	1	3,866	208,764

The Administration for Children and Families (ACF) will consider comments by the public on the proposed information collection in order to evaluate the accuracy of ACF's estimate of the burden of the proposed collection of information. Comments by the public on this proposed collection of information will be considered in the following areas:

- Evaluating the accuracy of the ACF's estimate of the burden of the proposed collection[s] of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, *e.g.*, permitting electronic submission of responses.

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. This does not affect the deadline for the public to comment to the Department on the proposed regulations. 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, N.W., Washington, D.C. 20503, Attn: Desk Officer for the Administration for Children and Families.

Unfunded Mandates Act

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 government that may be significantly or uniquely impacted by the proposed rule.

We have determined that the proposed 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 government.

Congressional Review

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

List of Subjects in Part 308

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

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

Dated: April 20, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: June 14, 1999.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we propose to amend 45 CFR Chapter III by adding a new part 308 as set forth below:

PART 308—ANNUAL STATE SELF-ASSESSMENT REVIEW AND REPORT

Sec.
308.0 Scope.
308.1 Self-assessment implementation methodology.
308.2 Required program compliance criteria.
308.3 Optional program areas of review.

Authority: 42 U.S.C. 654 (15)(a) and 1302.

§ 308.0 Scope.

This part establishes standards and criteria for the State self-assessment review and report process required under section 454(15)(A) of the Act.

§ 308.1 Self-assessment implementation methodology.

(a) *Organizational placement.* A State must:

(1) Establish a self-assessment unit within the title IV–D agency, another State agency, or within the umbrella agency containing the IV–D agency; or

(2) Privatize the self-assessment functions provided that the IV–D agency maintains responsibility for and control of the results produced and contents of the annual report.

(b) *Sampling.* A State must either review all of its cases or conduct sampling which meets the following conditions:

(1) The sampling methodology maintains a minimum confidence level of 90 percent for each criterion;

(2) The State selects statistically valid samples of cases from the IV–D program universe of cases; and

(3) The State establishes procedures for the design of samples and assures that no portions of the IV–D case universe are omitted from the sample selection process.

(c) *Scope of review.* A State must conduct an annual review covering all of the required criteria in § 308.2.

(d) *Review period.* Each review period must cover a 12-month period. The first review period shall end no later than 12 months after the effective date of the final rule, and subsequent reviews shall cover each 12-month period thereafter.

(e) *Reporting.* (1) The State must provide a report of the results of the self-assessment review to the appropriate OCSE Regional Office, with a copy to the Commissioner of OCSE, no later than 6 months after the end of the review period.

(2) The report must include, but is not limited to:

(i) An executive summary, including a summary of the mandatory program criteria findings;

(ii) A description of optional program areas covered by the review;

(iii) A description of sampling methodology used, if applicable;

(iv) The results of the self-assessment reviews; and

(v) Any corrective actions proposed and/or taken.

§ 308.2 Required program compliance criteria.

(a) *Case closure.* (1) The State must have and use procedures for case closure pursuant to § 303.11 of this chapter in at least 90 percent of the closed cases reviewed.

(2) If a IV–D case was closed during the review period, the State must determine whether the case met requirements pursuant to § 303.11 of this chapter.

(b) *Establishment of paternity and support order.* The State must have and use procedures required in this paragraph in at least 75 percent of the cases reviewed.

(1) If an order for support is required and established during the review period, the case meets the requirements, notwithstanding the timeframes for: establishment of cases as specified in § 303.2(b) of this chapter; provision of services in interstate IV–D cases per § 303.7(a), (b), (c)(4) through (6), and (c) (8) and (9) of this chapter; and location and support order establishment under §§ 303.3(b)(3) and (5), and 303.4(d) of this chapter.

(2) If an order was required, but not established during the review period, the State must determine the last required action and determine whether the action was taken within the appropriate timeframe. The following is a list of possible last actions:

(i) Opening a case within 20 days pursuant to § 303.2(b) of this chapter;

(ii) If location activities are necessary, using all appropriate sources within 75 days pursuant to § 303.3(b)(3) of this chapter. This includes all the following locate sources as appropriate: custodial parent, Federal Parent Locator Service, U.S. Postal Service, State employment security agency, employment data, Department of Motor Vehicles, and credit bureaus;

(iii) Repeating location attempts quarterly and when new information is received in accordance with § 303.3(b)(5) of this chapter;

(iv) Establishing an order or completing service of process necessary to commence proceedings to establish a support order, or if applicable, paternity, within 90 days of locating the non-custodial parent, or documenting unsuccessful attempts to serve process in accordance with the State's guidelines defining diligent efforts pursuant to §§ 303.3(c) and 303.4(d) of this chapter.

(c) *Enforcement of orders.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. Enforcement cases include cases in which ongoing income withholding is in place as well as cases in which new or repeated enforcement actions were required during the review period.

(1) If income withholding was appropriate and a withholding collection was received during the last quarter of the review period and the case was submitted for Federal and State income tax refund offset, if appropriate, the case meets the requirements of § 303.6(c)(3) of this chapter, notwithstanding the timeframes for: establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV–D cases under § 303.7(a), (b), (c)(4) through (6), and (c) (8) and (9) of this chapter; and location and income withholding in §§ 303.3(b)(3) and (5), and 303.100 of this chapter.

(2) If income withholding was not appropriate, and an enforcement collection was received during the review period, and the case was submitted for Federal and State income tax refund offset, if appropriate, then the case meets the requirements of § 303.6(c)(3) of this chapter, notwithstanding the timeframes for: establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV–D cases under § 303.7(a), (b), (c)(4) through (6) and (c) (8) and (9) of this chapter; and location and enforcement of support obligations in §§ 303.3(b)(3) and (5), and 303.6 of this chapter.

(3) If an order needed enforcement during the review period, but income was not withheld or other collections were not received (when income withholding could not be implemented), the State must determine the last required action and determine whether the action was taken within the appropriate timeframes. The following is a list of possible last required actions:

(i) If location activities are necessary, using all appropriate location sources within 75 days pursuant to § 303.3(b)(3) of this chapter. This includes, at a minimum, all of the following locate sources as appropriate: custodial parent, Federal Parent Locator Service (FPLS), State employment security agency, Department of motor vehicles, and credit bureaus;

(ii) Repeating attempts to locate quarterly and when new information is received pursuant to § 303.3(b)(5) of this chapter;

(iii) If there is no immediate income withholding order, initiating income withholding upon identifying a delinquency equal to one month's arrears, in accordance with § 303.100(c) of this chapter;

(iv) If immediate income withholding is ordered, sending a notice to the employer within 15 calendar days of the date the support order was entered, if the employer was known, or within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, whichever occurs later in accordance with § 303.100(e)(2) of this chapter and section 453A(g)(1) of the Act;

(v) If income withholding is not appropriate or cannot be implemented, taking an appropriate enforcement action (other than Federal and State income tax refund offset), unless service of process is necessary, within no more than 30 days of identifying a delinquency or identifying the location the non-custodial parent, whichever occurs later in accordance with § 303.6(c)(2) of this chapter;

(vi) If income withholding is not appropriate or cannot be implemented and service of process is needed, taking an appropriate enforcement action (other than Federal and State income tax refund offset), within no more than 60 days of identifying a delinquency or locating the non-custodial parent, whichever occurs later, or documenting unsuccessful attempts to serve process in accordance with the State's guidelines for defining diligent efforts and § 303.6(c)(2)of this chapter;

(vii) If the case has arrearages, submitting the case for Federal and State income tax refund offset during the review period, if appropriate, in accordance with § § 303.72, 303.102 and 303.6(c)(3) of this chapter.

(d) *Disbursement of collections.* A State must have and use procedures required in this paragraph in at least 75 percent of the cases reviewed.

(1) States must implement a State Disbursement Unit by the statutory deadline applicable to that State.

(2) States must determine whether disbursements of collections received in the previous quarter were made within 2 business days after receipt by the State Disbursement Unit from the employer or other source of periodic income in accordance with section 457(a) of the Act, if sufficient information identifying the payee is provided pursuant to section 454B(c) of the Act.

(3) States may delay the distribution of collections toward arrearages until resolution of any timely appeals with respect to such arrearages pursuant to section 454B(c)(2) of the Act.

(e) *Securing and enforcing medical support orders.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. A State must:

(1) Determine whether all support orders established during the review period included medical support. If not,

determine whether medical support was included in the petition for support to the court or administrative authority pursuant to § 466(a)(19) of the Act and § 303.31(b)(1) of this chapter.

(2) If a requirement for medical support is included in the order, determine whether steps were taken to determine if reasonable health insurance was available pursuant to § 303.31(a)(1) and (b)(7) of this chapter.

(3) If reasonable health insurance was available, but not obtained, determine whether steps were taken to enforce the order pursuant to § 303.31(b)(7) of this chapter.

(4) Determine whether the IV–D agency informed the Medicaid agency that coverage had been obtained when health insurance was obtained during the review period pursuant to § 303.31(b)(6) of this chapter.

(5) Determine whether the custodial parent was provided with information regarding the policy when health insurance was obtained pursuant to § 303.31(b)(5) of this chapter.

(6) Determine whether the State requested employers providing health coverage to inform the State of lapses in coverage pursuant to § 303.31(b)(9) of this chapter.

(7) Determine whether the State transferred notice of the health care provision to a new employer when a noncustodial parent was ordered to provide health insurance coverage and changed employment and the new employer provides health care coverage.

(f) *Review and adjustment of orders.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed.

(1) If a case has been reviewed and meets the conditions for adjustment under State laws and procedures and § 303.8 of this chapter and the order is adjusted or a determination is made as a result of a review during the self-assessment period that an adjustment is not needed in accordance with the State's guidelines for setting child support awards, the State will be considered to have taken appropriate action in that case, notwithstanding the timeframes for: establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV–D cases under § 303.7(a), (b), (c)(4) through (6), and (c)(8) and (9) of this chapter; and location and review and adjustment of support orders contained in §§ 303.3(b)(3) and (5), and 303.8 of this chapter.

(2) If a case has not been reviewed, the State must determine the last required action and determine whether the action was taken within the appropriate timeframe. The following is a list of possible last actions:

(i) If locate is necessary to conduct a review, using all appropriate location sources within 75 days of opening the case pursuant to § 303.3(b)(3) of this chapter. This includes all the following locate sources as appropriate: custodial parent, FPLS, U.S. Postal Service, State employment security agency, unemployment data, Department of Motor Vehicles, and credit bureaus;

(ii) Repeating location attempts quarterly and when new information is received pursuant to § 303.3(b)(5) of this chapter;

(iii) Providing the custodial and non-custodial parents notices, not less often then once every three years, informing them of their right to request the State to review and, if appropriate, adjust the order;

(iv) The first notice may be included in the order pursuant to § 466(a)(10)(C) of the Act. After the initial notice, the State must periodically (at least once every 3 years) send notices to both parents;

(v) Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, conducting a review of the order and adjusting the order or determining that the order should not be adjusted pursuant to § 303.8(e) of this chapter;

(vi) If an adjustment was made during the review period using cost of living or automated methods, giving both parties 30 days to contest any adjustment to that support order pursuant to § 466(a)(10)(A)(ii) of the Act.

(g) *Interstate services.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. For all interstate cases requiring services during the review period, determine the last required action and determine whether the action was taken during the appropriate timeframe:

(1) Initiating interstate cases:

(i) Except when using the State's long-arm statute for establishing paternity, within 20 calendar days of determining that the non-custodial parent is in another State and, if appropriate, receipt of any necessary information needed to process the case, referring that case to the responding State's interstate central registry for action pursuant to § 303.7(b)(2) of this chapter.

(ii) If additional information is requested, providing the responding State's central registry with requested additional information within 30 calendar days of the request pursuant to § 303.7(b)(4) of this chapter.

(iii) Upon receipt of new information on a case, notifying the responding State of that information within 10 working days pursuant to § 303.7(b)(5) of this chapter.

(iv) Within 20 calendar days after receiving a request for review and adjustment) pursuant to § 303.7(b)(6) of this chapter.

(2) Responding interstate cases:

(i) Within 10 working days of receipt of an interstate IV–D case, the central registry reviewing submitted documentation for completeness, forwarding the case to the State Parent Locator Service (PLS) for locate or to the appropriate agency for processing, acknowledging receipt of the case and requesting any missing documentation from the initiating State, and informing the IV–D agency in the initiating State where the case was sent for action, pursuant to § 303.7(a)(2) of this chapter.

(ii) The Central registry responding to inquiries from other States within 5 working days of a receipt of request for case status review pursuant to § 303.7(a)(4) of this chapter.

(iii) Within 10 days of locating the non-custodial parent in a different jurisdiction or State, forwarding the case in accordance with Federal requirements pursuant to § 303.7(c)(5) and (6) of this chapter.

(iv) Within 2 business days of receipt of collections, forwarding any support payments to the initiating State pursuant to § 454B(c)(1) of the Act.

(v) Within 10 working days of receipt of new information notifying the initiating State of that new information pursuant to § 303.7(c)(9) of this chapter.

(h) *Expedited processes.* The State must have and use procedures required under this paragraph in the amounts specified in this paragraph in the cases reviewed for the expedited processes criterion.

(1) In IV–D cases needing support orders established, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following timeframes pursuant to § 303.101(b)(2)(i) of this chapter:

(i) 75 percent in 6 months; and

(ii) 90 percent in 12 months.

(2) States may count as a success for the 6-month standard cases where the IV–D agency uses long-arm jurisdiction and disposition occurs within 12 months of service of process on the alleged father or non-custodial parent.

§ 308.3 Optional program areas of review.

(a) *Program direction.* A State may include a program direction review in its self-assessment for the purpose of analyzing the relationships between case results relating to program compliance areas, and performance and

program outcome indicators. This review is an opportunity for States to demonstrate how they are trying to manage their resources to achieve the best performance possible. A program direction analysis could describe the following:

(1) Initiatives that resulted in improved and achievable performance accompanied with supporting data;

(2) Barriers impeding progress; and

(3) Efforts to improve performance.

(b) *Program service enhancement.* A State may include a program service enhancement report in its self-assessment that describes initiatives put into practice that improved program performance and customer service. This is an opportunity for States to promote their programs and innovative practices. Some examples of innovative activities that States may elect to discuss in the report include:

(1) Steps taken to make the program more efficient and effective;

(2) Efforts to improve client services;

(3) Demonstration projects testing creative new ways of doing business;

(4) Collaborative efforts being taken with partners and customers;

(5) Innovative practices which have resulted in improved program performance;

(6) Actions taken to improve public image; and

(7) Access/visitation projects initiated to improve non-custodial parents' involvement with the children.

(c) A State may provide any of the optional information in paragraphs (a) and (b) of this section in narrative form.

[FR Doc. 99–25901 Filed 10–7–99; 8:45 am]

BILLING CODE 4184–01–P