

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA-R09-OAR-2006-0580; FRL-8270-4]

**Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Arizona; Miami Sulfur Dioxide State Implementation Plan and Request for Redesignation to Attainment; Correction of Boundary of Miami Sulfur Dioxide Nonattainment Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the maintenance plan for the Miami Area in Gila County, Arizona, as a revision to the Arizona state implementation plan; to grant the request submitted by the State to redesignate this area from nonattainment to attainment of the national ambient air quality standards for sulfur dioxide (SO<sub>2</sub>); and to correct the boundary for the Miami SO<sub>2</sub> nonattainment area. EPA is proposing this action in accordance with the Clean Air Act.

**DATES:** Any comments on this proposal must arrive by February 23, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2006-0580, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the online instructions.

2. *E-mail:* [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

3. *Mail or deliver:* Ginger Vagenas (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and

included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Ginger Vagenas, EPA Region IX, (415) 972-3964, [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Rules and Regulations section of this **Federal Register**, we are taking direct final action to approve the maintenance plan for the Miami SO<sub>2</sub> nonattainment area and to approve the State of Arizona's request to redesignate the Miami area from nonattainment to attainment. We are also taking direct final action to correct the boundary of the Miami SO<sub>2</sub> nonattainment area. We are taking these actions without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final rule in this **Federal Register**.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 22, 2006.

**Sally Seymour,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. E7-995 Filed 1-23-07; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Administration for Children and Families****45 CFR Parts 301, 302, 303 and 304  
RIN 0970-AC24****Child Support Enforcement Program**

**AGENCY:** Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** These proposed regulations implement provisions of title IV-D of the Social Security Act (the Act) as amended by the Deficit Reduction Act of 2005, Pub. L. 109-171 (DRA of 2005). The proposed regulations address use of the tax refund intercept program to collect past-due child support on behalf of children who are not minors, mandatory review and adjustment of child support orders for families receiving Temporary Assistance to Needy Families (TANF), reduction of Federal matching rate for laboratory costs incurred in determining paternity, States' option to pay more child support collections to former assistance families, and the mandatory annual \$25 fee in certain child support (IV-D) cases in which the State has collected and disbursed at least \$500 of support. The regulations also make other conforming changes necessary to implement changes to the distribution and disbursement requirements.

**DATES:** Consideration will be given to comments received by March 26, 2007.

**ADDRESSES:** Send comments to: Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th Floor, Washington, DC 20447.

*Attention:* Director, Policy Division, *Mail Stop:* OCSE/DP. Comments will be available for public inspection Monday through Friday from 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address. You may also transmit written comments electronically via the Internet at: <http://www.regulations.acf.hhs.gov>. To download an electronic version of the rule, you may access <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Paige Hausburg, Policy Specialist, OCSE, 202-401-5635, *e-mail:* [phausburg@acf.hhs.gov](mailto:phausburg@acf.hhs.gov). Deaf and hearing-impaired individuals may call

the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m. eastern time.

#### SUPPLEMENTARY INFORMATION:

### I. Statutory Authority

This notice of proposed rulemaking is published under the authority granted to the Secretary of the U.S. Department of Health and Human Services (the Secretary) by section 1102 of the Act, 42 U.S.C. 1302. Section 1102 authorizes the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act. The Deficit Reduction Act of 2005 (DRA of 2005), Title VII, Subtitle C—Child Support, sections 7301–7311 amends title IV–D of the Act. The specific sections of the DRA of 2005 included in the proposed regulation are discussed in detail under Provisions of the Regulation.

### II. Provisions of the Regulations

#### *Part 301—State Plan Approval and Grant Procedures*

##### Section 301.1—General Definitions

Section 7301(f) of the DRA of 2005, effective October 1, 2007, amends the definition of “past-due support” at section 464(c) of the Act for purposes of the Federal income tax refund offset program. Currently, the term “past-due support” limits access to the Federal income tax refund offset process to past-due support owed to or on behalf of a qualified child (a child who was a minor or who, while a minor was determined to be disabled under subchapter II or XVI of the Act and for whom an order of support is in force). Prior to enactment of the DRA of 2005, only past-due support due to a qualified child or adult child who was disabled could be submitted for offset. That limitation is removed by section 7301(f) of the DRA of 2005, effective October 1, 2007. This amendment will allow collection of past-due child support from the Federal income tax refund offset program on behalf of individuals who were owed child support as children but then aged out of the system without having collected the full support amount owed to them.

Under § 301.1, we propose changes to two definitions. First, we propose to amend the definition of “past-due support” by inserting language to place a time limit on the definition. The revised language would read: “Through September 30, 2007, for purposes of referral for Federal income tax refund offset of support due an individual who is receiving services under § 302.33 of this chapter, past-due support means

support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.” Therefore, effective October 1, 2007, past-due support owed in non-TANF cases will be treated the same as past-due support owed in TANF cases and may be submitted for Federal income tax refund offset until the debt is satisfied.

Similarly, in § 301.1, we propose to limit the applicability of the definition of “Qualified child” through September 30, 2007, because there is no longer any reference to a “qualified child” in section 464 of the Act effective October 1, 2007. Therefore, on or after October 1, 2007, past-due support owed on behalf of adults in non-TANF cases would qualify for Federal income tax refund offset, regardless of whether they are disabled.

#### *Part 302—State Plan Approval Requirements*

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

The proposed regulations make conforming changes to certain language in § 302.32, Collection and Disbursement of Support Payments by the IV–D Agency, for consistency with certain changes made to sections 454 and 457 of the Act. (The term “distribution” refers to how a support collection is allocated between families and the State and Federal government in accordance with Federal requirements. The term “disbursement” refers to the act of paying, by check or electronic transfer, support collections to families.)

Under the new section 454(34) of the Act, effective October 1, 2009, or up to a year earlier at State option, States have a choice to distribute collections first to satisfy support owed to families in IV–D cases. These proposed regulations make technical changes in §§ 302.32(b)(2)(iv) and (3)(ii) to delete reference to a specific statutory requirement for payments to families to simplify the regulatory language. Technical changes to § 302.51 are addressed later in this preamble.

##### Section 302.33—Services to Individuals Not Receiving Title IV–A Assistance

We propose to add a new § 302.33(e) to address the statutory requirement in section 454(6)(B)(ii) of the Act to impose an annual \$25 fee in certain cases. We are also revising the title of the section to more appropriately reflect the scope of the revised section.

Section 7310(a) of the DRA of 2005 added section 454(6)(B)(ii) of the Act to require States, in the case of an individual who has never received assistance under a State program funded under title IV–A of the Act (hereinafter referred to as “title IV–A program”) and for whom the State has collected at least \$500 of support in any given Federal fiscal year, to impose an annual fee of \$25 for each case in which services are furnished. The statutory effective date is October 1, 2006, or if State legislation is necessary to impose the mandatory \$25 fee, the effective date is three months after the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of the DRA of 2005. However, final regulations governing the requirement may not be published until after the mandatory effective date for the annual \$25 fee in a State. In such a case, the State should implement the fee in accordance with the statutory requirements until such time as the final regulations are effective.

Section 454(6)(B)(ii) of the Act only refers to State programs funded under title IV–A of the Act. However, we believe it is authorized and consistent with the purpose and the scope of the statutory exemption from the \$25 fee for current and former TANF cases and the intent of the Congress to not impose the fee in IV–D cases involving individuals who are receiving or have received assistance from a Tribal title IV–A Temporary Assistance to Needy Families (TANF) program as well. Tribal TANF recipients are a narrow, additional category of individuals receiving assistance under the same basic title IV–A statutory authority as State TANF recipients, just not under a State TANF program. The two programs are linked. Funds to operate Tribal IV–A programs in a State are deducted from the State’s title IV–A block grant. The Federal statute at section 454 of the Act does not provide for any additional categories of exempt individuals besides these who may be receiving, or who may have received in the past, other types of Federal, State or Tribal assistance.

The proposed regulations at § 302.33(e)(1) would read: “Annual \$25 fee. (1) In the case of an individual who has never received assistance under a State or Tribal title IV–A program, and for whom the State has disbursed to the family at least \$500 of support in the Federal fiscal year, the State must impose in, and report for, that year an annual fee of \$25 for each case in which services are provided.”

A State would be required to impose the \$25 fee in any case that meets the conditions for imposition of the fee under § 302.33(e), including both existing and new IV–D cases.

For purposes of § 302.33(e)(1), an individual would be considered to have received assistance under a State or Tribal title IV–A program if he or she had received a cash assistance payment or some other type of TANF assistance as defined in Federal regulations governing the State title IV–A program at 45 CFR 260.31, or under a Tribal title IV–A program at 45 CFR 286.10. A State title IV–A program would include both assistance under a State TANF program as well as assistance under the TANF program's predecessor, Aid to Families with Dependent Children (AFDC), as defined in Federal regulations governing the AFDC program.

#### Definition of “Annual”

We propose that States impose the annual \$25 fee within a Federal fiscal year period and report the fees for that Federal fiscal year. This proposal would ensure consistency among State programs in assessing the fee and reporting fees as program income as part of a State's mandated Federal reporting procedures. However, we encourage comments on, and a rationale for, an alternative 12-month period, for example, a calendar year, for providing more State flexibility.

#### When the \$500 of Support Threshold Is Reached

Under section 454(6)(B)(ii) of the Act, the annual fee must be imposed after the collection of at least \$500 in a Federal fiscal year. Paragraph (e)(1) would require that support payments that make up this \$500 also must have been disbursed to the family within the Federal fiscal year.

We are proposing to require that the \$500 support collection must have actually been disbursed to the family in a title IV–D case before imposing the \$25 fee because to allow otherwise would result in imposition of a \$25 fee in cases in which support is collected but is neither distributed nor disbursed to the family, e.g., a Federal income tax refund offset that is being held by the State because the obligated parent has requested a review under § 303.72, or a collection that has not yet been disbursed because the State has lost contact with, and is attempting to locate, the family. We believe this would be inconsistent with the statute's concept that a case subject to the \$25 fee would have benefited from receipt of \$500 in support during the year before an annual \$25 fee is imposed. Therefore,

at least \$500 in support collections must have been disbursed to the family in a year before an annual \$25 fee is imposed for that year. If \$500 in support is collected in one year but not disbursed until the next year, the fee would be imposed in the year in which the collection was actually disbursed to the family.

Imposing a time period within which the \$500 must be collected and disbursed is consistent with the purpose of the fee provision which requires States to impose an “annual fee.” Setting a specific time period for reaching the \$500 threshold (i.e. within a Federal fiscal year) will also contribute to the efficient administration of HHS' oversight responsibility with respect to the title IV–D program.

#### One \$25 Fee for Each Qualifying Case

Section 454(6)(B)(ii) of the Act, in part, requires a \$25 fee to be imposed for each case in which services are provided. A title IV–D case is defined in instructions to the Federal reporting form 157 as a noncustodial parent (or putative father), custodial parent and child(ren) in common. Therefore, only one \$25 fee would be imposed in a title IV–D case that otherwise met the requirements for imposition of the fee. If a custodial parent has multiple children by different noncustodial parents, there would be a separate title IV–D case for each noncustodial parent, and the State must impose the annual \$25 fee for each of these title IV–D cases in which the State disburses at least \$500 in the Federal fiscal year. And, if a noncustodial parent has multiple children in separate title IV–D cases, the State must impose the \$25 fee in each qualifying case in which the \$500 threshold and other conditions for imposing the fee under § 302.33(e) are met.

#### Who Imposes the Fee in Interstate, International and Intergovernmental Tribal Title IV–D Cases?

Section 454(6)(B)(ii) of the Act does not directly address imposition of the annual \$25 fee in interstate cases, cases involving tribal members or the Tribal title IV–D programs, or international cases receiving services under section 454(32) of the Act. States have asked for clarification in this regulation about which State imposes a \$25 fee when the conditions under section 454(6)(B)(ii) are met in these kinds of cases. We address each type separately, starting with interstate cases that involve more than one State. Many States take direct action against noncustodial parents or putative fathers in different States to

establish paternity and a support order using long-arm statutes or to enforce an order through direct income withholding, for example. The requirements of proposed § 302.33(e) would apply to these interstate cases in which one State uses long-arm jurisdiction to establish or enforce support orders in another State where the noncustodial parent is living, without involving the IV–D agency in the other State. Therefore, for purposes of this discussion, we are only referring to title IV–D cases in which one State has requested assistance from another State in a child support case as interstate cases. The proposed regulation, under § 303.7(e), requires the annual \$25 fee to be imposed and reported by the initiating State in an interstate case. We have taken this position because the initiating State is the only State that has sufficient information to determine whether all the requirements for imposition of the fee have been met. That change is discussed further later in this preamble.

With respect to international cases in which parents live in different countries, we believe such cases are covered by the fee provisions. However, section 454(32)(C) of the Act provides that “no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).” Section 459A of the Act addresses the Federal-level declaration of a foreign country to be a foreign reciprocating country and refers, under section 459A(d), to State-level reciprocal arrangements with foreign countries that are not the subject of a Federal-level declaration. (See PIQ–04–01, Processing Cases with Foreign Reciprocating Countries.) Therefore, while the \$25 fee must be imposed when appropriate in international cases (when \$500 has been collected in a Federal fiscal year and the family has never received State or Tribal TANF), it may not be taken out of the collection sent to, or charged to, a custodial parent in another country. The State could charge the noncustodial parent the fee or pay the fee itself in such cases.

The proposed regulations at § 302.33(e)(2) would require the State that receives the request from a foreign reciprocating country or a foreign country covered by a State level reciprocal agreement to impose the annual \$25 fee in international cases receiving services under section 454(32) of the Act in which the criteria for imposition of the annual \$25 fee under § 302.33(e)(1) are met. Proposed § 302.33(e)(3), discussed later in the

preamble, will address how the fee will actually be recovered or paid in these international cases, taking into account the prohibition in section 454(32)(C) of the Act that no costs will be assessed against the foreign reciprocating country or foreign obligee.

We also considered the impact of the annual \$25 fee on Tribal members and Tribal title IV-D programs. Section 454(6)(B)(ii) is a State plan requirement and as such is not applicable to Tribal IV-D programs. However, if a Tribe is under cooperative agreement with a State title IV-D program under section 454(33) of the Act and § 302.34 to assist the State in delivering title IV-D services, the Tribe would be required to impose the annual \$25 fee in appropriate cases, if doing so is addressed under the cooperative agreement with the State. If it is not addressed in the cooperative agreement, the State IV-D agency would be responsible for collecting the fee in any case where it is the jurisdiction receiving the application for services or receiving a referral from the State TANF, foster care or title XIX programs. As described above, under § 302.33(e)(1), a State would only impose the \$25 fee in appropriate cases involving Tribal members who are receiving services from a State IV-D program and who have never received State or Tribal title IV-A assistance. A State may not impose a fee in a Tribal IV-D case that is referred to the State IV-D program for assistance in securing child support from a Tribal IV-D program because section 454(6)(B)(ii) of the Act does not apply to Tribal title IV-D programs under section 455(f) of the Act and 45 CFR Part 309. A case where a State IV-D program receives a request from another State IV-D program for assistance involving a tribal member would be treated as an interstate case and the fee would be imposed by the initiating State.

#### Collection of the Annual Fee: State Options To Retain, Charge, Recover or Pay the Annual Fee

Under section 454(6)(B)(ii) of the Act, as added by section 7310(a)(1) of the DRA of 2005, there are four options for the collection of the fee. The annual \$25 fee may be retained by the State from support collected on behalf of the individual (but not from the first \$500 so collected in a Federal fiscal year), or, it may be paid by the individual applying for services, recovered from the absent parent, or paid by the State out of its own funds. To implement this provision, the proposed regulation adds § 302.33(e)(3) under which after the first \$500 of support collected in a Federal

fiscal year is disbursed to the family, the annual fee must be collected by one or more of the following methods: (i) retained by the State from support collected in cases subject to the fee under § 302.33(e)(1) and (2), except in international cases receiving services under section 454(32) of the Act; (ii) paid by the individual applying for title IV-D services under section 454(4)(A)(ii) of the Act and implementing regulations at § 302.33; (iii) recovered from the noncustodial parent; or (iv) paid by the State out of its own funds.

In accordance with section 454(6)(B)(ii), the proposed § 302.33(e)(3) provides States with flexibility to choose the appropriate method or methods in a case to collect the fee, once imposed. The method or methods selected may affect the cost of administration of the title IV-D program. For example, a State may decide to first attempt to recover the fee by billing the noncustodial parent, and if the noncustodial parent does not pay the fee in a specified period of time (e.g., 60 days), may then choose to withhold the fee from a subsequent collection. Alternatively, a State could choose to require the noncustodial parent to pay the fee as part of the support order, and, should the noncustodial parent designate a portion of a subsequent payment as the \$25 fee, or an employer remit to the State IV-D agency withheld wages sufficient to cover both the fee and the support obligation included in the support order, the State may retain that amount from that payment.

Section 454(6)(B)(ii) of the Act also authorizes a State to retain the fee from support collected in excess of the first \$500 collected in a Federal fiscal year. Section 7310 of the DRA of 2005 also made a conforming amendment to section 457(a)(3) of the Act under which, in the case of a family that has never received assistance under title IV-A or title IV-E of the Act, the State shall distribute to the family the portion of the amount of support collected that remains after withholding any fee imposed pursuant to section 454(b)(B)(ii) of the Act. (A change to § 302.51 to reflect this authority is discussed later in this preamble.) Therefore, under the option to retain the fee from collections, a State does not need the custodial parent or caretaker relative's permission to withhold the annual \$25 fee from a collection on his or her behalf. Alternatively, a State could charge the custodial parent or caretaker relative the fee (assuming they were the individuals who applied for services) and require payment within a

specified period of time or indicate that if the fee is not paid, the State will use the option to retain the fee from support and the fee will be deducted from the first collection following the deadline for payment of the fee by the custodial parent or caretaker relative.

Retaining the annual fee from support collected on behalf of the family may be the least administratively burdensome method when collections in excess of the first \$500 are disbursed to the family. However, while a State may charge the \$25 fee to a custodial parent in an international case in which the custodial parent is in the U.S. and the noncustodial parent is in a foreign country, a State may not impose the fee on an individual residing in a foreign country in an international case. As discussed previously, section 454(32) of the Act prohibits States from charging application fees or assessing costs against the foreign country or foreign obligee. In such cases, the annual \$25 fee imposed in international cases must be recovered from the parent or guardian living in the U.S. or be paid by the State. For purposes of international cases receiving services under section 454(32) of the Act, the \$500 in support may be considered disbursed to the family when it is transmitted to the foreign reciprocating country or directly to the family.

#### Requirement That the Fee Be Collected by the End of the Fiscal Year

Under proposed § 302.33(e)(4), using the Secretary's rulemaking authority in section 1102 of the Act, the proposed regulations provide that the State must report, in accordance with reporting requirements under 45 CFR 302.15, and instructions issued to States by the Secretary, the total amount of annual \$25 fees imposed for each Federal fiscal year as program income, regardless of which method or methods are used under paragraph (e)(3). States are required to report program income on the 4th quarter expenditure report. Requiring States to report the total amount of fees imposed in that year will contribute to the efficient administration of the Secretary's functions under title IV-D of the Act by ensuring that States actually reduce title IV-D administrative costs for the fiscal year by the amount of fees that are due, as intended by the statute. Although section 7310 of the DRA of 2005 does not include any specific sanction for a State's failure to collect the fee, section 454(6)(B)(ii) of the Act conveys a clear expectation that the \$25 fee will actually be imposed and retained, collected, or paid in all eligible cases in which at least \$500 of support was

collected in a Federal fiscal year. Therefore, each State is responsible for imposing, retaining, collecting or paying, and reporting the total of amount of annual \$25 fees imposed in all cases in which it is required to be imposed during the fiscal year. If the \$500 threshold is reached toward the end of a Federal fiscal year, the methods available to the State to collect or pay the fee may be limited to retaining the fee from a subsequent collection, if there is one made and disbursed before the end of the year, or paying the fee out of State funds. If a State does not make any collections above the \$500 threshold or collects less than \$25 in excess of the first \$500 disbursed to the family in the year, the State must collect the fee using one of the other methods, and, if all else fails, pay the fee itself by the end of the fiscal year. We are specifically soliciting comments on ways to effectively ensure timely collection of the annual fee.

Section 7310(b) of the DRA of 2005 makes a conforming amendment to section 457(a)(3) of the Act, which requires that in the case of families that never received assistance, the State must distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii) of the Act. Therefore, if a State opts to retain the fee from a collection, the State may retain the annual \$25 fee imposed under § 302.33(e)(1) and (2) from a collection in excess of the first \$500 disbursed to the family in a never-assistance case, regardless of whether or not the collection is considered, under section 457 of the Act and implementing regulations at § 302.51, a payment on current support or arrearages.

For purposes of distribution under section 457 of the Act, assistance is defined in section 457(c)(1) as assistance under a State title IV–A TANF program or the program that TANF replaced, AFDC or title IV–E foster care program. If the State withholds the annual \$25 fee from the collection on behalf of a never assistance case (*i.e.*, opts to retain the fee from a collection in such a case), and chooses to assess the fee against the custodial parent the State must give the noncustodial parent credit in the payment record for the entire amount of the payment. However, the State may deduct the annual \$25 fee from a payment if the State has chosen to recover the fee from the noncustodial parent and the noncustodial parent has designated a portion of the payment as the annual \$25 fee. In such a case, the noncustodial parent must get credit for paying the fee, and for paying support

in the amount that is paid in excess of the fee.

#### Annual \$25 Fee as Program Income

The intent of the annual \$25 fee is to recoup in part the costs of the title IV–D program to the Federal and State governments by decreasing program expenditures. Under § 304.50, Treatment of Program Income, fees, recovered costs, and interest are considered program income that must be used to reduce title IV–D expenditures before seeking Federal financial participation in the title IV–D program's expenditures. Program income is reported in accordance with 45 CFR 302.15 and instructions issued by the Secretary. This reported program income must include the total amount of annual \$25 fees imposed, regardless of whether the fees are retained from collections, paid by the custodial parent, recovered from the noncustodial parent or paid by the State. In addition, State-paid annual \$25 fees are not an allowable title IV–D expenditure eligible for Federal matching under section 455 of the Act or 45 CFR part 304. Section 454(6)(B)(ii) of the Act requires that State funds used to pay the annual \$25 fee may not be considered as an administrative cost of the State title IV–D program and must be counted as program income.

Therefore, proposed § 302.33(e)(5) requires that State funds used to pay the annual \$25 fee shall not be considered administrative costs of the State for operation of the title IV–D plan, and that all annual \$25 fees imposed during a Federal fiscal year must be considered income to the program, in accordance with § 304.50. States will be required to report the total amount of annual \$25 fees imposed on Line 2a, Fees and Costs Recovered, on Form OCSE–396A, Child Support Enforcement Program Financial Report, in addition to any other fees, costs recovered and interest.

#### Section 302.51—Distribution of Support Collections

Section 7301(b) of the DRA revises section 457(a)(3) of the Act to require a State to pay, to a family that has never received assistance under a title IV–A or IV–E program, the portion of an amount collected that remains after withholding any annual \$25 fee that may be imposed under section 454(6)(B)(ii) of the Act. This statutory requirement is being addressed in these proposed regulations by an amendment to § 302.51(a)(1) to include an additional exception in accordance with proposed paragraph (a)(5). Therefore, the revised paragraph (a)(1) would read as follows: “(a)(1) For purposes of distribution in a IV–D case,

amounts collected, except as provided under paragraphs (a)(3) and (5) of this section, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.” Paragraph (a)(5) would read as follows: “(a)(5) The State must pay to a family that has never received assistance under a State program funded or approved under title IV–A of the Act or foster care under title IV–E of the Act the portion of the amount collected that remains after withholding any annual \$25 fee that the State imposes under § 302.33(e) of this part.”

Certain changes made by section 7301(b) of the DRA which allow States to increase child support payments to families and simplify child support distribution rules were explained earlier under the discussion of § 302.32, Collection and Disbursement of Support Payments by the IV–D agency, including a new State plan requirement at section 454(34) of the Act under which a State must certify which option for distribution of collections in former assistance cases it will use. This statutory requirement is being addressed in these proposed regulations at § 302.51(a)(3) for consistency with State options for distribution of collections in former assistance cases authorized under the section 7301(b) of the DRA of 2005.

Current § 302.51(a)(3) requires that amounts collected through Federal income tax refund offset must be distributed as arrearages in accordance with implementing regulations for the Federal income tax refund offset process in § 303.72(h), and section 457(a)(2)(B)(iv) of the Act, under which Federal income tax refund offsets are first retained to satisfy any past-due support assigned to the State. We are making a conforming change to § 302.51(a)(3) to include the States' option, effective October 1, 2009, or up to a year earlier at State option, under section 454(34) of the Act, to use Federal income tax refund offset collections to satisfy current support, if not already paid for the month and to first pay collections, including Federal income tax refund offsets, to a former assistance family, before satisfying any support assigned to the State.

#### Section 302.70—Required State Laws

Section 7302 of the DRA of 2005 amended section 466(a)(10) of the Act to require States to enact laws requiring

the use of procedures to review, and if appropriate, adjust at least once every three years, child support orders for families receiving TANF in which there is an assignment of support under title IV–A of the Act. Under section 466(a)(10) of the Act and § 303.8, States may review orders using State child support guidelines and adjust them if appropriate, apply a cost-of-living adjustment to the orders, or use automated methods to identify orders eligible for review, conduct the reviews and adjust the orders, if appropriate. Section 7302 of the DRA of 2005 reinstates the pre-1996 requirement for States to review and, if appropriate, adjust orders in TANF cases on a three-year cycle. This change only affects those cases in which the families are currently receiving TANF. It does not apply to arrearage-only IV–D cases in which a State is only collecting arrearages assigned to the State because of title IV–A assistance provided in years past.

For consistency with section 466(a)(10) of the Act, the proposed regulations revise § 302.70(a)(10), under which the State must have in effect laws providing for the review and adjustment of child support orders. The requirements in current §§ 302.70(a)(10)(i) and (ii) are obsolete and would be replaced with reference to requirements for review and adjustment of child support orders in accordance with § 303.8. Specific changes to the content of § 303.8(b)(1), which address the requirements that are in effect until September 30, 2007 and those that become effective on October 1, 2007, are discussed later in this preamble.

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

##### **Section 303.7—Provision of Services in Interstate Title IV–D Cases**

In § 302.33(c)(2), in an interstate case, the application fee is charged by the State in which the individual applies for services. Under responding State responsibilities in interstate cases in § 303.7(c)(7)(iv), the responding State must forward collections to the location specified by the initiating State title IV–D agency for distribution and disbursement. Because the application fee is paid in the initiating State and that State is responsible for distribution and disbursement of collections in interstate cases in accordance with Question and Answer 12 of OCSE–AT–98–24 (<http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9824.htm>), only the initiating State has all the information necessary to know whether the annual \$25 fee should be

imposed in a particular case. Accordingly, we believe it is appropriate for the initiating State to impose the annual \$25 fee in eligible cases after the \$500 threshold is met, and to report the amount of fees imposed as required under § 302.33(e)(3).

Section 7310 of the DRA does not specifically address which State is to impose and collect the annual \$25 fee. Using the Secretary's rulemaking authority in section 1102 of the Act, we are proposing to amend § 303.7(e) to require that the title IV–D agency in the initiating State impose the annual \$25 fee in accordance with proposed changes to § 302.33(e) discussed earlier in this preamble. This change is necessary to ensure consistency in the collection of the mandatory annual \$25 fee in interstate cases.

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

As discussed earlier, section 7302 of the DRA of 2005 revised section 466(a)(10) of the Act, effective October 1, 2007, to require States to review and, if appropriate, adjust orders in State title IV–A cases at least once every three years. Now that title IV–A assistance is time limited under TANF, it is especially important that States ensure, prior to the family ceasing to receive TANF, that the support order, which is essential to the family's continued financial independence, is set at the appropriate level based on the responsible parent's or parents' income and ability to pay.

Under current § 303.8(b)(1), a State must conduct a review every three years only if requested by either the parent or the title IV–D agency. Proposed § 303.8(b)(1) would require, effective October 1, 2007, a State to have procedures under which, every three years (or such shorter cycle as the State may determine), if there is an assignment under part A or upon the request of either parent, the State shall, with respect to a support order being enforced under this part, take into account the best interests of the child involved and (i) review and, if appropriate, adjust orders in accordance with the State's guidelines; (ii) apply a cost-of-living adjustment to the order; or (iii) use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

##### **Section 303.72—Requests for Collection of Past-Due Support by Federal Tax Refund Offset**

As discussed earlier in the preamble, section 7301(f) of the DRA of 2005 changes the definition of "past-due support" at section 464(c) of the Act to allow, effective October 1, 2007, arrearages owed to grown children to be submitted for Federal income tax refund offset process. Therefore, the proposed regulations revise § 303.72(a)(3)(i), with respect to past-due support owed in cases in which the IV–D agency is providing services under § 302.33, to allow support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, to be submitted for Federal income tax refund offset, effective October 1, 2007.

As discussed earlier with respect to distribution options for States under section 454(34) of the Act, as added by section 7301(b)(2)(C) of the DRA of 2005, effective October 1, 2009, or up to a year earlier at State option, a State may choose either to apply amounts collected, including amounts offset from Federal income tax refunds, to satisfy any support owed to the family first or to continue to distribute Federal tax offset amounts, as under current 457(a)(2)(B)(iv), to satisfy any past-due support assigned to the State first. Section 303.72(h)(1) would be revised to eliminate reference to distributing amounts offset as past-due support and to refer simply to distribution in accordance with section 457 of the Act, and effective October 1, 2009, or up to a year earlier at State option, in accordance with section 454(34) of the Act, pursuant to which States elect which distribution priority in former assistance cases to use under their IV–D programs. In addition, § 303.72(h)(3) would be revised to include the requirement that a IV–D agency, effective October 1, 2009, or up to a year earlier at State option, must inform individuals receiving services under § 302.33 in advance, when the State has opted, under section 454(34) of the Act, to continue to apply amounts offset first to satisfy any past-due support which has been assigned to the State and submitted for Federal income tax refund offset.

#### *Part 304—Federal Financial Participation*

##### **Section 304.20—Availability and Rate of Federal Financial Participation**

Section 7303 of the DRA of 2005 reduces the previously enhanced Federal matching rate for laboratory

costs to determine paternity, effective October 1, 2006. The enhanced matching rate was originally implemented in 1988 because of the high costs of genetic testing for the determination of paternity. However, the cost of genetic testing is much more reasonable than it was in 1988. The Federal matching rate of 66 percent applies to laboratory costs for determining paternity beginning October 1, 2006.

Currently, § 304.20(d) allows Federal financial participation at the 90 percent rate for laboratory costs incurred in determining paternity on or after October 1, 1988. The proposed regulation revises § 304.20(d) by eliminating the availability of enhanced funding for genetic testing costs after September 30, 2006.

**III. Impact Analysis**

*Paperwork Reduction Act of 1995*

This rule contains information collection requirements that have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA). Under this Act, no persons are required to respond to a collection of information unless it displays a valid OMB control number. These requirements will not become effective until approved by OMB.

There is a new reporting requirement for a State's IV-D plan in section 454(34) of the Act, to indicate which distribution option the State will choose to implement. A new State plan preprint page has been developed as part of this Paperwork Reduction Act (PRA) request. In addition, a new State plan

preprint page has been developed for the State to indicate that a State will impose a fee and how it will be collected. States will also be required to keep track of the total amount of \$25 fees that must be included as program income reported on the OCSE-396A. A State plan preprint page is not necessary. However, the tracking burden is indicated below.

All States already have the capability of automating the new and revised information collection requirements imposed by the DRA of 2005 and these implementing regulations. Therefore, as provided below, the paperwork impact on States under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) will be minimal.

The additional incremental estimated burdens for these data collections (i.e. not including existing burden) are:

Requirement	Number of respondents	Yearly submittals	Average burden hours per response	Total burden hours
State Plan (OCSE-100) .....	.....	.....	.....	.....
Preprint page 2.4 Collection/Distribution of Support Payments .....	54	1	.25	13.5
State Plan Transmittal Page (Distribution) .....	54	1	.25	13.5
Preprint page 2.5-4 Services to Individuals (Fee) .....	54	1	.25	13.5
State Plan Transmittal Page (Fee) .....	54	1	.25	13.5
Financial Form 396A (Tracking the \$25 fee) .....	54	4	1	216

The total estimated burden for the entire State Plan and Financial Report Forms are:

Requirement	Number of respondents	Yearly submittals	Total burden hours *
State Plan (OCSE-100) .....	54	6	189
State Plan Transmittal (OCSE-21-U4) .....	54	6	108
<b>Total</b> .....	.....	.....	.....
Financial Report Form (396A) .....	54	4	1944

\* Includes incremental burden noted in previous chart.

In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the information collection requirements contained in this proposed rule. The Administration for Children and Families (ACF) will consider comments by the public on this proposed collection of information in the following areas:

(1) Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;

(2) 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;

(3) Enhancing the quality, usefulness and clarity of the information to be collected; and

(4) 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.

To make sure that your comments and related material do not reach OMB more than once, please submit them by only one of the following means:

1. By fax to OMB at (202) 395-6974.

To ensure your comments are received in time, mark the fax to the attention of the Desk Officer for the Administration for Children and Families.

2. By e-mail to [kmatsuoka@omb.eop.gov](mailto:kmatsuoka@omb.eop.gov).

Copies of the proposed collection may be obtained by writing to the Administration for Children and



Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection (i.e., State Plan OCSE-100 and State Plan Transmittal OCSE-21-U4). E-mail address: [rsargis@acf.hhs.gov](mailto:rsargis@acf.hhs.gov)

#### *Regulatory Flexibility Analysis*

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

#### *Regulatory Impact Analysis*

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that these proposed rules are consistent with these priorities and principles and is an economically significant rule as defined by the Executive Order because it will have an estimated \$500 million impact on the economy over a 5 year period and, potentially, a \$100 million impact on the economy in any given year. Specifically, we estimate that the requirement for review and adjustment of child support orders in TANF cases every three years will cost the Federal government approximately \$15 million in FY 2008 but result in approximately \$40 million in savings over four years. Similarly, this provision will cost State governments approximately \$10 million in FY 2008 but save States almost \$40 million over four years with a net government impact of approximately \$25 million in costs in FY 2008 and approximately \$80 million in savings by FY 2011. These costs reflect the upfront increased administrative costs involved in reviewing these cases and as appropriate updating the orders every three years and the savings that will result overtime in the way of increased revenues (Federal and State shares of the larger collections amounts). This provision also is beneficial to families in terms of ensuring that support order remain fair and equitable over time and reflect the noncustodial parent's current ability to pay support.

The provision on imposition of a \$25 annual collection fee for never-TANF cases with at least \$500 in collections will save the Federal government a little less than \$50 million in FY 2007 (when the provision is effective) and result in approximately \$270 in Federal savings

over five years. The provision will save State governments approximately \$25 million in FY 2007 and approximately \$140 million over five years. These fees will partially offset the government's costs of providing services and are representative of Federal and State cost sharing in the program (66 and 34 percent respectively).

Finally, the provision eliminating enhanced Federal funding for the cost of paternity testing will save the Federal government almost \$8 million in FY 2007 and approximately \$40 million over five years and will result in a dollar for dollar increase in State costs. In other words, for each dollar saved by the Federal government because of the decrease in federal financial participation will result in a dollar in State costs. Enhanced federal funding for paternity testing is no longer necessary because the cost of these tests has decreased significantly over time.

All together these provisions save the Federal and State governments approximately \$66 million in FY 2007 and approximately \$495 million over five years. As each of these provisions was mandated under the Deficit Reduction Act of 2005, alternatives to this rulemaking are limited. We could have chosen not to update program regulations to reflect these statutory changes but that would be confusing to the public and would ultimately have no budgetary impact since these provisions are effective without regard to the issuance of regulations.

In the end, the proposed rule remains consistent with the statute and the underlying budget implications.

#### *Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$120 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The Department has determined that this proposed rule, in implementing the new statutory requirements of the Deficit Reduction Act, would not

impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year. Rather, we estimate that combined the proposed provisions will result in savings to States. Over five years, the Federal government will save approximately \$315 million as a result of the review and adjustment and collection fee provisions of the regulation and States will save almost \$180 million. States will receive approximately \$40 million less in federal reimbursement for laboratory costs associated with paternity establishment over five years. Thus, the net impact of the regulation on States is a savings of almost \$140 million over five years.

#### *Congressional Review*

This notice of proposed rule making is not a major rule as defined in 5 U.S.C. chapter 8.

#### *Assessment of Federal Regulations and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may negatively affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. The required review of the regulations and policies to determine their effect on family well-being has been completed and these regulations will have a positive impact on family well-being as defined in the legislation because expanded access to the Federal income tax refund offset, mandatory three-year reviews of support orders in TANF cases, and State options to pay more collections to families will ensure more child support is paid to families.

#### *Executive Order 13132*

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments or is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. We do not believe the regulation has federalism impact as defined in the Executive order. However, consistent with Executive Order 13132, the Department specifically solicits comments from State and local



government officials on this proposed rule.

**List of Subjects**

*45 CFR Part 301*

Child support, Grants programs/social programs.

*45 CFR Part 302*

Child support, Grants programs/social programs.

*45 CFR Part 303*

Child support, Grant programs/social programs.

*45 CFR Part 304*

Child support, Grants programs/social programs.

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

**Wade F. Horn,**

*Assistant Secretary for Children and Families.*

Approved: October 23, 2006.

**Michael O. Leavitt,**

*Secretary of Health and Human Services.*

For the reasons discussed above, we propose to amend title 45 chapter III of the Code of Federal Regulations as follows:

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

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

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

2. In § 301.1, revise the definitions of “Past-due support” and “Qualified child” to read as follows:

**§ 301.1 General definitions.**

\* \* \* \* \*

*Past due support* means the amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child, or of a child and the parent with whom the child is living, which has not been paid. Through September 30, 2007, for purposes of referral for Federal income tax refund offset of support due an individual who is receiving services under § 302.33 of this chapter, past-due support means support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

\* \* \* \* \*

*Qualified child*, through September 30, 2007, means a child who is a minor or who, while a minor, was determined

to be disabled under title II or XVI of the Act, and for whom a support order is in effect.

\* \* \* \* \*

**PART 302—STATE PLAN APPROVAL 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 1396k.

2. In § 302.32, revise paragraphs (b) introductory text, (b)(2) introductory text, (b)(2)(iv), and (b)(3)(ii) to read as follows:

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

\* \* \* \* \*

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

(1) \* \* \*

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

(i) \* \* \*

(ii) \* \* \*

(iii) \* \* \*

(iv) Collections as a result of Federal income tax refund offset paid to the family or distributed in title IV–E foster care cases under § 302.52(b)(4) of this part, must be sent to the title IV–A family or title IV–E agency, as appropriate, within 30 calendar days of the date of initial receipt by the title IV–D agency, unless State law requires a post-offset appeal process and an appeal is filed timely, in which case the SDU must send any payment to the title IV–A family or title IV–E agency within 15 calendar days of the date the appeal is resolved.

(3)(i) \* \* \*

(ii) Collections due the family as a result of Federal income tax refund offset must be sent to the family within 30 calendar days of the date of initial receipt in the title IV–D agency, except:

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

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

3. In § 302.33, revise the section heading and add new paragraph (e) to read as follows:

**§ 302.33 Services to individuals not receiving title IV–A assistance.**

\* \* \* \* \*

(e) *Annual \$25 fee.* (1) In the case of an individual who has never received assistance under a State or Tribal title IV–A program, and for whom the State has disbursed to the family at least \$500 of support in the Federal fiscal year, the State must impose in, and report for, that year an annual fee of \$25 for each case in which services are provided.

(2) The State must impose the annual \$25 fee in international cases under section 454(32) of the Act in which the criteria for imposition of the annual \$25 fee under paragraph (e)(1) of this section are met.

(3) For each Federal fiscal year, after the first \$500 of support is disbursed to the family, the fee must be collected by one or more of the following methods:

(i) Retained by the State from support collected in cases subject to the fee except in international cases receiving services under section 454(32) of the Act;

(ii) Paid by the individual applying for services under section 454(4)(A)(ii) of the Act and implementing regulations in this section;

(iii) Recovered from the noncustodial parent; or

(iv) Paid by the State out of its own funds.

(4) The State must report, in accordance with § 302.15 of this part and instructions issued by the Secretary, the total amount of annual \$25 fees imposed under this section for each Federal fiscal year as program income, regardless of which method or methods are used under paragraph (e)(3) of this section.

(5) State funds used to pay the annual \$25 fee shall not be considered administrative costs of the State for the operation of the title IV–D plan, and all annual \$25 fees imposed during a Federal fiscal year must be considered income to the program, in accordance with § 304.50 of this chapter.

4. In § 302.51, revise paragraphs (a)(1) and (a)(3) and add paragraph (a)(5) to read as follows:

**§ 302.51 Distribution of support collections.**

\* \* \* \* \*

(a)(1) For purposes of distribution in a IV–D case, amounts collected, except as provided under paragraphs (a)(3) and (5) of this section, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts

which represent payment on the required support obligation for previous months.

(2) \* \* \*

(3)(i) Except as provided in subparagraph (ii) of this paragraph, amounts collected through Federal income tax refund offset must be distributed as arrearages in accordance with § 303.72 of this chapter, and section 457 of the Act;

(ii) Effective October 1, 2009, or up to a year earlier at State option, amounts collected through Federal income tax refund offset shall be distributed in accordance with § 303.72 of this chapter and the option selected under section 454(34) of the Act.

(4) \* \* \*

(5) The State must pay to a family that has never received assistance under a state program funded or approved under title IV-A or foster care under title IV-E of the Act the portion of the amount collected that remains after withholding any annual \$25 fee that the State imposes under § 302.33(e) of this part.

\* \* \* \* \*

5. In § 302.70, revise paragraph (a)(10) in its entirety to read as follows:

§ 302.70 Required State laws.

(a) \* \* \*

(10) Procedures for the review and adjustment of child support orders in accordance with § 303.8(b) of this chapter.

\* \* \* \* \*

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation for part 303 is revised to read as follows:

Authority: 42 U.S.C. 651 through 658, 659, 659A, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396k.

2. In § 303.7, add new paragraph (e) to read as follows:

§ 303.7 Provision of services in interstate cases.

\* \* \* \* \*

(e) Imposition and reporting of annual \$25 fee in interstate cases. The title IV-D agency in the initiating State must impose and report the annual \$25 fee in accordance with § 302.33(e) of this chapter.

\* \* \* \* \*

3. In § 303.8, revise paragraphs (b) introductory text and (b)(1) introductory text to read as follows:

§ 303.8 Review and adjustment of child support orders.

(a) \* \* \*

(b) Required procedures. Pursuant to section 466(a)(10) of the Act, effective

October 1, 2007, when providing services under this chapter:

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

\* \* \* \* \*

4. In § 303.72 revise paragraphs (a)(3) introductory text, (a)(3)(i), and (h)(1) and (h)(3) to read as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) For support owed in cases where the title IV-D agency is providing title IV-D services under § 302.33 of this chapter:

(i) The support is owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent.

\* \* \* \* \*

(h) Distribution of collections.

(1) Collections received by the IV-D agency as a result of refund offset to satisfy title IV-A or non-IV-A past-due support shall be distributed as required in accordance with section 457 and, effective October 1, 2009, or up to a year earlier at State option, in accordance with the option selected under section 454(34) of the Act.

\* \* \* \* \*

(3)(i) Through September 30, 2009, or up to a year earlier at State option, the IV-D agency must inform individuals receiving services under § 302.33 of this chapter in advance that amounts offset will be applied to satisfy any past-due support which has been assigned to the State and submitted for Federal tax refund offset.

(ii) Effective October 1, 2009, or up to a year earlier at State option, the IV-D agency must inform individuals receiving services under § 302.33 of this chapter in advance when the State has opted, under section 454(34) of the Act, to continue to apply amounts offset first to satisfy any past-due support which has been assigned to the State and submitted for Federal tax refund offset.

\* \* \* \* \*

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 1396k.

§ 304.20 [Amended]

2. In § 304.20, revise paragraph (d) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

\* \* \* \* \*

(d) Federal financial participation at the 90 percent rate is available for laboratory costs incurred in determining paternity on or after October 1, 1988, and until September 30, 2006, including the costs of obtaining and transporting blood and other samples of genetic material, repeated testing when necessary, analysis of test results, and the costs for expert witnesses in a paternity determination proceeding, but only if the expert witness costs are included as part of the genetic testing contract.

[FR Doc. E7-953 Filed 1-23-07; 8:45 am]

BILLING CODE 4184-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket 06-160; DA 07-25]

Processing Applications in the Direct Broadcast Satellite Service; Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Service in the United States

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: On August 18, 2006, the Commission released a Notice of Proposed Rulemaking (71 FR 56923, September 28, 2006) (NPRM) in the proceeding captioned above. The NPRM seeks comment from the public on proposed licensing procedures and service rules for satellites providing Direct Broadcast Satellite (DBS) service. The NPRM also seeks comment on licensing non-nine-degree-spaced DBS applications.

On December 22, 2006, SES Americom, Inc. filed a Motion for Extension of Time, requesting the Commission to extend the reply comment filing deadline in this proceeding. SES Americom, Inc. stated that an extension would enable the parties to the proceeding to provide a more complete record for review, considering the important policy and