

Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562-8919.

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Cedartown Municipal Landfill, Cedartown, Polk County, Georgia, from the National Priorities List (NPL), which is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 42 U.S.C. 9605 (40 CFR 300.425(e)(3) of the NCP), any site deleted from the NPL remains eligible for fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future.

EPA published a Notice of Intent to Delete the Cedartown Municipal Landfill Site from the NPL on November 23, 1998 in the **Federal Register** (63 FR 64668-64669). The closing date for comments on the Notice of Intent Delete was December 23, 1998. EPA received no comments; therefore, no responsiveness summary is necessary for attachment to this Notice of Deletion. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 15, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 4.

40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 9601-9657; 42 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR

191 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site "Cedartown Municipal Landfill Cedartown, Georgia".

[FR Doc. 99-5829 Filed 3-9-99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 303, and 304

RIN 0970-AB69

Child Support Enforcement Program; State Plan Requirements, Standards for Program Operations, and Federal Financial Participation

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements part of the paternity establishment provisions contained in section 331 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) Pub. L. 104-193 and amended by section 5539 of Pub. L. 105-33, which impose new statutory requirements for a State's voluntary paternity acknowledgment process and require the Secretary to promulgate regulations governing voluntary paternity establishment services and identifying the types of entities other than hospitals and birth record agencies that may be allowed to offer voluntary paternity establishment services. States will be required to adopt laws and procedures that are in accordance with the statutory and regulatory provisions. These regulations address these procedures and related provisions.

EFFECTIVE DATE: The final rule is effective: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Jan Rothstein, OCSE Division of Policy and Planning, (202) 401-5073. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800-877-8339 between 8:00 a.m. and 7:00 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

Background

Paternity establishment is a necessary first step for obtaining child support in cases where a child is born out-of-wedlock. In addition to child support,

there are other potential financial benefits to establishing paternity, including establishing a child's rights to the father's social security benefits, veterans' benefits, pension benefits, and other rights of inheritance. Paternity establishment could also be the first step in developing a psychological and social bond between the father and child, in giving the child social and psychological advantages and a sense of family heritage, and in providing access to important medical history information.

Congress and the Federal government have long recognized the importance of paternity establishment. In 1975, Title IV-D of the Social Security Act was enacted to require States to establish public child support agencies. These IV-D agencies provided child support enforcement services, including paternity establishment services. The Child Support Enforcement Amendments of 1984 required States to permit paternity to be established until a child's 18th birthday.

The Family Support Act of 1988 contained several provisions designed to improve paternity establishment, including performance standards, timeframes for case processing, enhanced funding (90% Federal financial participation) for genetic testing, a requirement that States compel all parties in a contested paternity case to submit to genetic testing upon the request of a party, a requirement that States compel each parent to provide his or her social security number as part of the birth certificate issuance process, and a clarification of the earlier expansion of the requirement permitting paternity establishment to 18 years of age.

The Omnibus Reconciliation Act of 1993 (OBRA '93) further reformed the child support enforcement program to increase the performance standards for both the number of paternities established for children born out-of-wedlock and the timeliness with which paternity establishment is accomplished. One major provision of OBRA '93 was the requirement that States have laws providing for voluntary paternity establishment services at birthing hospitals statewide.

Partly as a result of these Federal and State statutory provisions and their implementation, the number of paternities established each year by the Title IV-D Child Support Enforcement program has increased substantially from about 270,000 in fiscal year (FY) 1987 to over 553,000 in FY 1993, an increase of over 100 percent in just six years. Nearly a million paternities were established in FY 1996, an increase of

over 80 percent in the three years since enactment of OBRA '93.

Finally, in section 101 of PRWORA, Congress cited a number of social and statistical findings relating to the need for paternity establishment. In 1992, only 54 percent of single-parent families with children had a child support order established and, of that number, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection. The number of individuals receiving services under Title IV-A of the Social Security Act more than tripled since 1965, and more than two-thirds of these recipients are children, with eighty-nine percent of children receiving Aid to Families with Dependent Children benefits living in homes in which no father is present. The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Congress further cited that between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent, and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock. The estimated rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991, while the overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992.

Response to Comments

On January 5, 1998, we published a Notice of Proposed Rulemaking in the **Federal Register** with a 60 day comment period (63 FR 187). We received 31 comments from State and local IV-D agencies, national child support enforcement organizations, advocacy groups representing custodial parents and children, and the general public. A summary of the comments received and our responses follow:

Description of Regulatory Provisions—Section 302.70(a)(5)(iii)

Section 302.70(a)(5)(iii) requires a State to have in effect laws requiring procedures for a simple civil process for voluntarily acknowledging paternity. Under these procedures, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and the putative father must be given notice, orally or through the use of video or audio equipment and in writing, of the alternatives to, the legal consequences of, and the rights

(including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity, and ensure that due process safeguards are afforded.

Paragraph (a)(5)(iii)(B) requires that State procedures must include a program for voluntary acknowledgment of paternity in State birth record agencies, and in other entities designated by the State and participating in the State's voluntary paternity establishment program. Paragraph (a)(5)(iii)(C) requires that State procedures governing hospital-based programs and birth record agencies must also apply to other entities designated by the State and participating in the State's voluntary paternity establishment program, including the use of the same notice provisions, the same materials, the same evaluation methods, and the same training for the personnel of these other entities providing voluntary paternity establishment services.

Response to Comments on Section 302.70 Required State Laws

1. *Comment:* One commenter was concerned that the regulation appears to require the State birth record agency to offer voluntary paternity services. The State currently uses a collaborative method in which the IV-D agency, birthing hospitals and birth record agencies work together to secure acknowledgments of paternity. The commenter wondered if the entities have to establish separate programs under these revised regulations?

Response: The State must make voluntary paternity establishment services available at birthing hospitals and the State birth record agency. However, these agencies may share staff to provide the services to parents. For example, many States station IV-D staff in hospitals to facilitate the acknowledgment process.

2. *Comment:* One commenter was concerned that the Notice of Proposed Rulemaking published January 5, 1998 (63 FR 187) gives no guidance to States on how to carry out the oral presentation on rights and responsibilities and no guidance on what to include on the acknowledgment form about how parents were given oral notice.

Response: We encourage States to place the explanation of rights and responsibilities in writing on the acknowledgment form itself. However, consistent with past policy, we are not mandating detailed Federal due process requirements. The explanation of rights and responsibilities should describe the rights and responsibilities, including the

duty to support the child financially, that each party will assume as a result of signing the acknowledgment. It should also describe rights that each party may be giving up by signing the acknowledgment (e.g., right to genetic testing). These rights and responsibilities will vary by State, depending on State law. Generally, we think a State is in a better position than the Federal government to determine the exact nature of such requirements in light of the State's particular circumstances. States' due process requirements also vary depending on State law and court rulings. However, because of the importance of the due process and rights and responsibilities issue, OCSE is committed to providing technical assistance, within its available resources, including sharing sample forms and materials from other jurisdictions, in order to assist States.

The oral presentation of rights and responsibilities may be made in several ways: through conversation with the mother and putative father, through use of an audio or video tape played for the mother and putative father or through the use of a tape recorded message the mother and putative father can call at their convenience.

3. *Comment:* One commenter wanted the regulation to include a date certain by which all States are to implement the oral presentation.

Response: Section 395 of PRWORA established dates for implementation of the oral presentation. The dates vary, depending on the beginning and ending of legislative sessions in each State. Statutory requirements should be in effect in all jurisdictions.

4. *Comment:* One commenter was concerned about the potential burden on States and other entities if they have to provide for the needs of hearing impaired mothers and putative fathers.

Response: While we are concerned that parents with special needs are also able to learn of their rights and responsibilities, we do not believe that this regulation should specify how the States operationalize these program requirements when interacting with parents with special needs. We are confident that each State has appropriate procedures for use with all parents and see our role as providing the overall program direction, to be implemented by the States in an appropriate manner for the particular circumstance.

5. *Comment:* One commenter proposed using other entities as "referral centers" that would direct parties to the locations already equipped to provide voluntary paternity services (i.e., hospitals). The commenter

suggested revising this section of the regulations to allow a category of entities which could assist in the establishment process without being subject to the procedures currently governing State hospital-based programs.

Response: States may choose to make voluntary paternity establishment services available in as few or as many entities beyond hospitals and birth record agencies as they see fit. If a State would prefer to make information about voluntary paternity services available at many locations but to restrict the number of entities actually providing the service, that would be perfectly within State flexibility. We do not think it is necessary to revise the regulations to grant States this flexibility. However, any entity that is providing voluntary paternity acknowledgment services will be subject to the procedures governing hospitals and birth record agencies.

6. *Comment:* One commenter requested that the regulations make it absolutely clear that State law must provide that, for a paternity acknowledgment to be valid, it must be signed by both parents. The commenter advised moving the language from section 303.5(g)(4) to section 302.70 so it is clear that this is a State plan requirement. The commenter further suggested that this section specify that it is a State plan requirement that both parents' signatures be authenticated for an acknowledgment to be valid and add a State plan requirement about the minimum data elements of the paternity acknowledgment form.

Response: The statute requires States to develop procedures under which the name of the father will be included on the record of birth of unmarried parents only if the father and mother have signed a voluntary acknowledgment of paternity or a court or an administrative agency has issued an adjudication of paternity. The State plan requirement at section 454(20) cross references all of section 466. Therefore, compliance with the paternity establishment requirements of section 466(a)(5) and the implementing regulations at 45 CFR 303.5(g) is required of all States in order to receive Federal funding under Title IV-D. As we stated in the preamble to the NPRM, we have not regulated the use of data elements set forth in OCSE-AT-98-02 paternity acknowledgment affidavit. We continue to think that is appropriate because, whether or not referenced in the regulations, States must include the mandated data elements developed by the Secretary in their paternity acknowledgment affidavits.

7. *Comment:* One commenter recommended the regulations provide more information on what the consequences of signing the acknowledgment are.

Response: Since the specific consequences may vary State-by-State and we are concerned about giving States more flexibility in designing their programs and the materials to be used to explain them, we think it is better to avoid being overly prescriptive and to avoid developing Federal requirements that would unnecessarily disrupt or interfere with the operation of existing, successfully functioning programs. Possible consequences include: establishment of a child support order, income withholding to pay child support ordered, and custody and visitation issues.

8. *Comment:* Two commenters objected to expanding the program to other entities including the State and local birth record agencies. At a minimum, this commenter felt States should have flexibility to determine what entities other than birthing hospitals and IV-D agencies should be involved in the program.

Response: Section 466(a)(5)(C)(iii)(I) of the Act requires that the State's procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services. Section 466(a)(5)(C)(iii)(II) of the Act requires the Secretary to prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies and to prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services. Thus, the statute and this regulation give States the flexibility to determine what entities, other than hospitals and birth record agencies, should be involved in the voluntary paternity establishment program. A State may choose to make the program available at one or all of the locations described in section 303.5(g)(1) of the final regulation.

9. *Comment:* One commenter was concerned that the requirement for oral and written notice would make it problematic to inform parents who are unable to come to an office of their rights and responsibilities.

Response: Parents do not need to be present in order to receive an explanation of their rights and responsibilities. Oral notice may be provided to parents via a phone line with recorded information, if the parents are given the number to call. Furthermore, we encourage States to place a written explanation of the

parent's rights and responsibilities on the paternity acknowledgment form itself.

Description of Regulatory Provisions—Section 303.5(g)

Section 303.5(g)(1) requires that the State's voluntary paternity establishment program be available at hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program. The designation of the particular entities that may offer voluntary paternity establishment services is the responsibility of the State.

These entities to be identified by the State could include the following and similar entities: public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics); private health care providers (including obstetricians, gynecologists, pediatricians, and midwives); agencies providing assistance or services under Title IV-A of the Act; agencies providing food stamp eligibility services; agencies providing child support enforcement (IV-D) services; Head Start and child care agencies (including child care information and referral providers); individual child care providers; Community Action Agencies and Community Action Programs; secondary schools (particularly those that have parenthood education curricula); Legal Aid agencies; and private attorneys; and any similar public or private health, welfare, or social services organization.

Sections 303.5(g)(2)–(8) apply to all hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program. This is consistent with the statutory requirement that the Secretary prescribe regulations governing the provision of services by the other entities. The statute specifies that the other entities participating in the State's voluntary paternity establishment program must use the same materials and be trained and evaluated in the same manner as the voluntary paternity establishment programs of hospitals and birth record agencies. We believe this consistency will greatly facilitate the establishment of paternities by entities other than hospitals and birth record agencies.

Section 303.5(g)(2)(i)(C) and 303.5(g)(5)(iii) require that hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary

paternity establishment program provide the mother and putative father an oral as well as written description of the consequences of voluntarily acknowledging paternity. The information about consequences may also be provided through the use of video or audio equipment. In response to comments, we revised this section to delete the phrase "if he is present" in reference to the father. We agreed that the phrase could lead some to think that the mother and father should be treated differently by the entity participating in the State's voluntary paternity establishment program.

The NPRM proposed to replace the reference to the requirement in section 303.5(g)(8) that the State designate an entity to which the voluntary acknowledgment program must forward completed voluntary acknowledgment forms or copies with a requirement that the State designate the State registry of birth records as the entity to which the voluntary acknowledgment program must forward completed voluntary acknowledgment forms or copies. In response to comments, we revised section 303.5(g)(8) to reflect that a State must designate an entity to which hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgments or copies in accordance with section 303.5(g)(2)(iv). If States opt to file the signed original voluntary acknowledgment or an adjudication of paternity with an entity other than the State registry of birth records, a copy must be filed with the State birth record registry, in accordance with section 303.5(g)(2)(iv).

Response to Comments on Section 303.5 Establishment of Paternity

Section 303.5(g)(1)

1. *Comment:* One commenter expressed fear that the wholesale involvement of other agencies in acknowledging paternity may not provide the kind of support that parents need to make an informed choice about completing a voluntary paternity acknowledgment.

Response: We are confident that States will not expand the program too quickly. We also feel that the protections built into section 303.5(g)(6) will require States to expand the program in a thoughtful and deliberate manner.

2. *Comment:* One commenter suggested adding correctional officers to the list of entities that may participate

in a State's voluntary paternity establishment program.

Response: States may choose to add to the list at section 303.5(g)(1). We intentionally added the sentence "any similar public or private health, welfare or social services organization" at section 303.5(g)(1)(G) to allow States the flexibility to add to the list of entities as they saw fit. However, correctional officers are law enforcement or penal officers and do not qualify as health, welfare or social service organizations. Due to the nature of the relationship between such officers and their charges and the authority or power of such officers over their charges, there would be significant risk for coercion. We do not believe they would be an appropriate category to be added for participation in the voluntary paternity establishment program.

3. *Comment:* One commenter wanted to know if a State would be in compliance if it only choose to identify one entity in addition to hospitals and birth record agencies to provide voluntary paternity services.

Response: Yes. The regulations require voluntary paternity establishment services to be available at hospitals and at State birth record agencies. States may choose to also make the services available at one or more of the other entities listed in the regulations at section 303.5(g)(1).

4. *Comment:* Several commenters were concerned that birth record agencies as the term is used in section 466(a)(5)(C)(iii)(II)(aa) should be interpreted to mean only State level birth record agencies and not to refer to local-level birth record agencies.

Response: We agree and have made several slight changes to emphasize that fact in the final regulations. Local birth record agencies *i.e.*, those operated by county or municipal agencies, may participate in a State's voluntary paternity establishment program if designated by the State, but are not Federally-mandated to participate.

5. *Comment:* One commenter recommended the preamble address the issue of the right to rescind a voluntary paternity acknowledgment and provide guidance on appropriate procedures for States.

Response: Section 466(a)(5)(D)(ii) of the Act requires the States to enact laws and develop procedures under which an individual who has signed a voluntary acknowledgment has the right to rescind that acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child. We think this is an area where further regulation is not needed at this time. We are prepared to

work with States to help them address any specific problems they face in implementing the minimum data requirements of the paternity affidavit which include a reference to the 60-day recession requirement. OCSE's paternity establishment workgroup has distributed copies of a model rescission form that has been proposed by the Association for Public Health Statistics and Information Systems. In addition, OCSE regional staff will be compiling information on State paternity programs including how States manage the 60 day rescission. Once the information has been compiled, it will be disseminated via the "State Paternity Profiles."

6. *Comment:* One commenter proposed that States establish voluntary paternity establishment services in cooperation with all birthing hospitals but not in cooperation with every hospital in the State.

Response: Neither the statute nor the regulations require that the State's procedures must include a program in all hospitals in the State. The hospital-based program requirement is limited to hospitals that either have an obstetric care unit or that provide obstetric services, consistent with previously issued regulations. A clarifying change was made by adding the word "all" and the regulation now reads "all private and public birthing hospitals" at section 303.5(g)(1)(i).

7. *Comment:* One commenter proposed revising this section to clarify that the staff of a paternity establishment services provider may be based out of any agency or contractor designated by the State, and need not be available outside of normal business hours.

Response: States are free to make voluntary paternity acknowledgment services available in as many locations and at any times they choose, so long as the services are available at hospitals and at State birth record agencies. We want to encourage States to make paternity acknowledgment services available to as many parents as possible after a thorough explanation of the rights and responsibilities of doing so. In fact, States have been successful making staff available outside of normal business hours, to recognize after-working-hour visits to the hospital.

8. *Comment:* One commenter recommended OCSE assist States in implementing in-hospital paternity acknowledgment before expanding paternity establishment services to other entities.

Response: OCSE has assisted States in several ways as they have moved to implement the OBRA '93 provisions related to in-hospital paternity

establishment. In the past, we have conducted meetings with our Regional Offices to bring together hospital personnel, IV-D staff and birth registry personnel to air issues and concerns about in-hospital paternity establishment and more recently we are moving to develop a national video on paternity establishment for unmarried parents regarding the benefits, rights, and legal consequences of signing a voluntary acknowledgment of paternity. We have also provided States copies of model agreements between State IV-D agencies and hospitals and will be publishing a resource handbook entitled "State Paternity Profiles," which will allow States to learn from other States what works to increase paternity establishment. In addition, we will be preparing a national paternity establishment training video for personnel directly involved in providing paternity acknowledgment services in entities designated by the State as participating in the State's voluntary paternity acknowledgment program.

Section 303.5(g)(2)

1. *Comment:* One commenter recommended deleting "if he is present" because in the context of participating entities it is likely to cause confusion, leading the entity to think it has to deal in person with the mother and by some other means with the father, but not to deal in person with the father and by some other means with the mother.

Response: We agree and are deleting the phrase in the two places in section 303.5(g)(2) where it appeared. All entities participating in the State's voluntary paternity establishment program should treat the mother and father equally and ensure that each has access to all the same information before signing the voluntary acknowledgment of paternity.

2. *Comment:* One commenter suggested adding a reference in the regulations to the effect that participating entities must provide both the mother and the father assurance that their eligibility for services from the entity would not be affected by their decision to acknowledge paternity. The same commenter also suggested adding a timeframe within which the entity must forward the acknowledgment to the State registry of birth records, and adding a requirement that State registries of birth records send written notice of receipt of the acknowledgment to both parents.

Response: We think that these suggestions warrant consideration by the States. As discussed in more detail

in the regulatory philosophy section above, we believe it is prudent at this time to use these regulations to extend existing regulatory requirements which govern voluntary paternity acknowledgment in hospitals to govern State birth record agencies and other entities participating in the State's voluntary paternity establishment program.

3. *Comment:* One commenter recommended that the consequences of acknowledging paternity vis-à-vis custody and visitation should be explained to both the mother and father.

Response: We are not specifying explicit rights and responsibilities regarding custody and visitation because these are essentially State matters, governed by State law. States are required by section 466(a)(5)(C)(i) of the Act to explain the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. When giving the parents the opportunity to voluntarily acknowledge paternity, we would also encourage that both parents receive an explanation about the potential impact of an acknowledgment under State law on custody and visitation, as well as the consequences.

4. *Comment:* One commenter recommended the regulation be amended to require that entities participating in the State's voluntary paternity establishment program afford parents a "reasonable" opportunity to speak with staff. The commenter was concerned that without this restriction, the language in section 303.5(g)(2) could be interpreted to mean staff would have to be available to answer questions 24-hours per day.

Response: Section 303.5(g)(2) was added to the regulations as a result of OBRA '93 (59 FR 66204) and it is only being amended by this final rule to reflect that it now applies to not only hospital-based programs, but to all entities participating in the State's voluntary paternity establishment program. As established in OBRA '93, to meet this requirement an entity participating in the State's program must: (1) have staff available during its regular business hours to talk with parents in person, or (2) provide written materials with a telephone number for State agency (IV-D or other agency) personnel that the parties may contact for additional information. A program may utilize both of these approaches. The technical amendments to PRWORA added videos to the list of material that can be used.

5. *Comment:* One commenter proposed the regulations be revised to apply only when both parents intend to

sign an acknowledgment so as not to waste the valuable time of staff.

Response: We do not agree that the regulations need to be revised in this manner. States can not know the intent of a parent when he or she volunteers to acknowledge paternity. States can only attempt to ensure that parents are fully informed of their rights and responsibilities before signing the form.

6. *Comment:* One commenter recommended that the text in section 303.5(g)(2)(i)(C) regarding notice be stated in a manner similar to that in section 302.70(a)(5)(iii). The commenter suggested the phrasing was confusing as written.

Response: We agree that the section could be written more clearly and have rewritten the section to more fully mirror the language in section 302.70(a)(5)(iii).

Section 303.5(g)(4)

1. *Comment:* One commenter recommended the preamble to the regulations make it plain that a State may determine that two separate acknowledgments (one signed by the mother and one by the father) will suffice to establish paternity.

Response: The Federal statute does not require both signatures on the same acknowledgment form.

Section 303.5(g)(6)

1. *Comment:* One commenter was concerned that the regulations could be interpreted as precluding a State from furnishing offices such as those of obstetricians/gynecologists with informational brochures concerning voluntary paternity acknowledgment without designating such offices as participating in the State's voluntary paternity acknowledgment program. Another commenter recommended communicating information about voluntary paternity acknowledgment services through expanded outreach efforts.

Response: Nothing in this regulation precludes a State from providing informational brochures or otherwise promoting the concept of the voluntary acknowledgment of paternity in any setting the State may choose. States select the entities (beyond hospitals and State birth record agencies) that will provide voluntary paternity acknowledgment services and they certainly can use other sites to promote the program. A site may be chosen to promote as well as to provide paternity services, or only to promote such services.

2. *Comment:* One commenter recommended the regulations distinguish between entities which offer

paternity establishment services and entities which participate in a State's voluntary paternity acknowledgment program. An example would be lawyers who may offer paternity services in their offices without participating in the State's program.

Response: These regulations apply only to those entities that are providing voluntary paternity acknowledgment services to parents in conjunction with the State IV-D agency's voluntary paternity acknowledgment program. They do not preclude private attorneys from helping parents with paternity establishment or contested paternity establishment. The regulations consistently refer to "entities participating in the State's voluntary paternity establishment program" to make it clear as to what entities are covered.

3. *Comment:* One commenter was concerned about the potential that exists for a lack of quality control if multiple entities are providing voluntary paternity acknowledgment services to the public.

Response: It is for that reason that the regulations require States to provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the program to all entities providing these services. States must assure quality control by participating entities through evaluation and training.

Section 303.5(g)(7)

1. *Comment:* One commenter recommended the regulations provide general evaluation criteria for the annual assessment of entities participating in the State's voluntary paternity establishment program.

Response: Existing prior requirements did not set specific evaluation criteria related to in-hospital paternity establishment programs because that is a State responsibility. In addition, since the statute and regulations require States to apply the same evaluation standard to other entities that they currently apply to the in-hospital paternity program, we do not want to introduce a new standard when States are already evaluating their in-hospital paternity program under existing requirements and State procedures.

Section 303.5(g)(8)

1. *Comment:* We received several comments regarding the proposed requirement that States designate the State registry of birth records as the entity to which hospitals, birth record agencies and other entities participating in the State's voluntary paternity

establishment program must forward completed voluntary acknowledgments or copies in accordance with section 303.5(g)(2)(iv). Most comments concerned allowing States to designate an agency other than the State registry of birth records as the agency to receive and process the completed acknowledgment of paternity forms.

Response: We agree that the statute only requires States to develop procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry. We also recognize that a number of States have established alternative repositories for voluntary acknowledgments. Therefore, States must file a copy of the signed original voluntary acknowledgment or an adjudication of paternity with the State registry of birth records if they file the original with another designated entity (e.g. the State IV-D agency or another agency or a contractor as the State deems appropriate). We do not think it is necessary that the State choose the State registry of birth records as the sole repository of these records. We have amended the regulation to allow States to designate an entity to which hospitals, birth record agencies and other entities must forward completed voluntary acknowledgments or copies. In accordance with section 303.5(g)(2)(iv), if the entity designated is not the birth record agency, a copy must be filed with the birth record agency.

2. *Comment:* One commenter was under the impression that States would be able to select the central registry of their choice via waiver or comparable process and wants that flexibility.

Response: The regulation allows States to designate another entity to which acknowledgments may be sent, as long as the birth registry also receives a copy. However, if a State does not want to send a copy to the birth record agency, as authorized by section 466(d), States may request an exemption from the requirement that acknowledgments be filed with the State registry of birth records, in accordance with OCSE-AT-97-02 which was issued February 10, 1997. The State must demonstrate that implementing this requirement will not increase the effectiveness and efficiency of its child support program. Until such request is approved, a State must comply with the requirement for filing with the State registry of birth records.

Description of Regulatory Provisions—Section 304.20(b)(2)

We have revised sections 304.20(b)(2)(vi), (vii), and (viii) to provide that Federal financial participation is available for allowable costs with respect to hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program. This is consistent with the expansion of the applicability of all existing provisions in sections 303.5(g)(2)–(8) to birth record agencies and other entities designated by the State and participating in the State's voluntary paternity establishment program.

Response to Comments on Section 304.20 Availability and Rate of Federal Financial Participation

1. *Comment:* One commenter proposed deleting the reference to "short-term" as the training itself is not short-term in nature.

Response: We think it continues to be appropriate to refer to this training as short-term, especially as this section contains a discussion of the sorts of activity Federal financial participation (FFP) will be available for. As the regulations state, FFP is available for reasonable and essential short-term training regarding voluntary acknowledgments of paternity associated with a State's program of voluntary paternity establishment services under section 303.5(g). Although the training must be short-term in order to be eligible for FFP, training of new staff may be provided on a periodic basis as necessary to assure understanding of the process and indeed, we think that is the most reasonable manner in which to provide it.

2. *Comment:* One commenter recommended FFP be made available to the IV-D agency to pay the State registry of birth records for costs relating to the statewide paternity database.

Response: According to the Office of Management and Budget's Circular A-87, "Cost Principles for State and Local Governments," the general rule governing this issue is that Federal funds are not available to offset the general costs of a State or local government. (See OMB Circular A-87, attachment B, #23.) That is, Federal funds may not be used to finance general types of government services normally provided to the public, such as the filing of birth records. Under this principle, FFP is not available for paying the start-up or ongoing costs of the State or local birth record agency

that has responsibility for maintaining completed acknowledgments of paternity. Likewise, FFP is also not available to reimburse a State or local vital records office for the costs of establishing a system to process or store paternity affidavits because those activities are required of those entities under general State law. However, as previously stated in OCSE-AT-94-06, "Final Rule—Paternity Establishment and Revision of Child Support Enforcement Program and Audit Regulations," FFP is available for the IV-D agency's cost in determining whether a voluntary acknowledgment has been recorded with the statewide database in IV-D cases needing paternity establishment. In addition, FFP is available for the IV-D agency's cost incurred under an agreement governing the routine exchange of information or documents regarding acknowledgments between the IV-D agency and the agency that maintains the statewide database.

3. *Comment:* One commenter recommended amending the regulations to clarify that FFP is available for the costs associated with the recording of and access to identifying information and documentation.

Response: FFP is available for three related costs. First, under section 304.20(b)(2)(i), which allows FFP for costs associated with reasonable efforts to determine the identity of a child's father, FFP is available for the IV-D agency's costs in determining, in accordance with section 303.5(h), whether a voluntary acknowledgment has been recorded with the statewide data base in IV-D cases needing paternity establishment. Second, FFP is available for reasonable and necessary costs, including fees, incurred by the IV-D agency in obtaining copies of documents such as voluntary acknowledgments or birth certificates. Third, FFP is available, under previously-existing policy, for the IV-D agency's costs of establishing an agreement, governing the routine exchange of information or documents regarding acknowledgments, between the IV-D agency and the entity designated in section 303.5(g)(8), the agency that maintains the statewide database, or any entity that gives the IV-D agency access to copies of acknowledgments.

4. *Comment:* One commenter wrote that FFP should be available for the costs of hiring and training hospital and other entity staff.

Response: As stated above, FFP is available for only a limited range of activities. While FFP is available for

training of staff, it is not available for hiring staff outright.

5. *Comment:* One commenter wondered if a State would have to have agreements with local Health Departments if these are to provide services or will a State level agreement suffice?

Response: Consistent with past policy, we are not mandating at what level of State government agreements between entities participating in a State's voluntary paternity acknowledgment program and the IV-D agency must be reached. We think this is an area where States should be granted flexibility. However, it is critical to ensure that all entities participating in a State's program of voluntary paternity establishment meet all Federal requirements.

6. *Comment:* One commenter suggested the regulations be amended to provide guidance to States on the development of materials in languages other than English, the design of materials for the visually or hearing impaired, and the proper literacy level for materials to be presented to the public.

Response: Just as we defer to State law regarding due process protections for persons with such limited abilities, we think it is appropriate to give States discretion in this matter. We encourage and expect States to address the special circumstances of individuals with limited understanding of English and to prepare materials geared to the general population in language and at reading levels appropriate to them.

7. *Comment:* One commenter felt the regulations should address the legal structure of the relationship between the State and the various entities participating in the voluntary paternity establishment program.

Response: We think this is legitimately an area where each State must have flexibility. Each State will have to determine for itself the structure of the relationship with the entities that will participate in the State's voluntary paternity establishment program.

8. *Comment:* One commenter felt the regulations should be more explicit that entities participating in the State's voluntary paternity establishment program have to use materials provided by the State.

Response: We think the statute and regulations are already quite clear that in order to participate in a State's voluntary paternity establishment program, an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and

evaluate the provision of such services in the same manner as the provision of such services is evaluated by voluntary paternity establishment programs of hospitals and State birth record agencies.

Regulatory Impact Analyses

Paperwork Reduction Act

Section 466(a)(5)(C) of the Social Security Act (the Act) (42 U.S.C. 666(a)(5)(C)), as added by section 331 of Pub. L. 104-193 and amended by section 5539 of Pub. L. 105-33, contains a requirement that information be disclosed to a third party. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), this request for approval of a new information collection has been approved by Office of Management and Budget as of March 2, 1998 under OMB control number 0970-0175. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 466(a)(5)(C) of the Act requires States to pass laws ensuring a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and putative father must be given notice, orally or through the use of video or audio equipment and in writing of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity. To comply with this requirement States must disclose information about these rights in written and oral formats or through the use of video or audio equipment to mothers and putative fathers. We estimate the time needed to disclose the information to mothers and putative fathers to be approximately 10 minutes (0.17 hours). In order to ensure effective disclosure of this information, States will need to provide training to other State employees and the employees of local governments, non-profit and for profit businesses. We estimate this training will take an additional 1,600 hours yearly for all entities. We have added these hours to the time estimated to be necessary for the third party disclosure in order to establish the total estimated burden hours for this requirement. The total burden hours estimated for the third party disclosure are 76,059.

Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant impact on a substantial number of small entities. The primary impact of these regulations is on State governments, which are not considered small entities under the Regulatory Flexibility Act. Most of the requirements being imposed on entities are required by statute. The regulations require hospitals, birth record agencies and the other entities participating in the State's voluntary paternity establishment program to be subject only to certain minimal requirements. These requirements include: undergoing training, being evaluated annually, providing oral and written information to mothers and putative fathers, and transmitting the acknowledgments to the State registry of birth records. The information about consequences may also be provided through the use of video or audio equipment. The Federal regulations do not specify the nature or extent of the training, evaluation or materials to be provided. The States will furnish the training, conduct the evaluation, and provide the materials and forms to be used. The requirements imposed by the regulations do not result in a significant impact on a substantial number of small entities. Therefore, the Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that these regulations will not result in a significant impact on a substantial number of small entities.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The regulations are required by PRWORA and represent expansion of the existing regulations to cover birth record agencies and other entities.

Unfunded Mandates Act

The Department has determined that this final rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Congressional Review of Regulations

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

List of Subjects in 45 CFR Parts 302, 303, and 304

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

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

Dated: October 21, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: December 1, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR chapter III of the Code of Federal Regulations is amended as follows:

PART 302—STATE PLAN REQUIREMENTS

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

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

2. Section 302.70 is amended by revising paragraph (a)(5)(iii) introductory text by revising paragraph (a)(5)(iii)(B), and by adding paragraph (a)(5)(iii)(C) to read as follows:

§ 302.70 Required State laws.

(a) * * *

(5) * * *

(iii) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and the putative father must be given notice, orally or through video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity, and ensure that due process safeguards are afforded. Such procedures must include:

(A) * * *

(B) A process for voluntary acknowledgment of paternity in hospitals, State birth record agencies, and in other entities designated by the State and participating in the State's voluntary paternity establishment program; and

(C) A requirement that the procedures governing hospital-based programs and State birth record agencies must also apply to other entities designated by the State and participating in the State's voluntary paternity establishment

program, including the use of the same notice provisions, the same materials, the same evaluation methods, and the same training for the personnel of these other entities providing voluntary paternity establishment services.

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PART 303—STANDARDS FOR PROGRAM OPERATIONS

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

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

4. Section 303.5 is amended by revising paragraph (g) to read as follows:

§ 303.5 Establishment of paternity.

* * * * *

(g) *Voluntary paternity establishment programs.* (1) The State must establish, in cooperation with hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, a program for voluntary paternity establishment services.

(i) The hospital-based portion of the voluntary paternity establishment services program must be operational in all private and public birthing hospitals statewide and must provide voluntary paternity establishment services focusing on the period immediately before and after the birth of a child born out-of-wedlock.

(ii) The voluntary paternity establishment services program must also be available at the State birth record agencies, and at other entities designated by the State and participating in the State's voluntary paternity establishment program. These entities may include the following types of entities:

(A) Public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics), and private health care providers (including obstetricians, gynecologists, pediatricians, and midwives);

(B) Agencies providing assistance or services under Title IV—A of the Act, agencies providing food stamp eligibility service, and agencies providing child support enforcement (IV—D) services;

(C) Head Start and child care agencies (including child care information and referral providers), and individual child care providers;

(D) Community Action Agencies and Community Action Programs;

(E) Secondary education schools (particularly those that have parenthood education curricula);

(F) Legal Aid agencies, and private attorneys; and

(G) Any similar public or private health, welfare or social services organization.

(2) The hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must, at a minimum:

(i) Provide to both the mother and alleged father:

(A) Written materials about paternity establishment,

(B) The forms necessary to voluntarily acknowledge paternity,

(C) Notice, orally or through video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities or acknowledging paternity, and

(D) The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(ii) Provide the mother and alleged father the opportunity to voluntarily acknowledge paternity;

(iii) Afford due process safeguards; and

(iv) File signed original of voluntary acknowledgments or adjudications of paternity with the State registry of birth records (or a copy if the signed original is filed with another designated entity) for comparison with information in the State case registry.

(3) The hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program need not provide services specified in paragraph (g)(2) of this section in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

(4) The State must require that a voluntary acknowledgment be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es).

(5) The State must provide to all hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program:

(i) Written materials about paternity establishment,

(ii) Form necessary to voluntarily acknowledge paternity, and

(iii) Copies of a written description of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity.

(6) The State must provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity, as necessary to operate the voluntary paternity establishment services in the hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program.

(7) The State must assess each hospital, State birth record agency, local birth record agency designated by the State, and other entity participating in the State's voluntary paternity establishment program that are providing voluntary paternity establishment services on at least an annual basis.

(8) Hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgments or copies to the entity designated by the State. If any entity other than the State registry of birth records is designated by the State, a copy must be filed with the State registry of birth records, in accordance with section 303.5(g)(2)(iv). Under State procedures, the designated entity must be responsible for promptly recording identifying information about the acknowledgments with a statewide database, and the IV-D agency must have timely access to whatever identifying information and documentation it needs to determine in accordance with § 303.5(h) if an acknowledgment has been recorded and to seek a support order on the basis of a recorded acknowledgment in accordance with § 303.4(f).

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PART 304—FEDERAL FINANCIAL PARTICIPATION

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

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

6. Section 304.20 is amended by revising paragraph (b)(2)(vi) through paragraph (b)(2)(viii) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

(b) * * *

(2) * * *

(vi) Payments up to \$20 to hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, under § 303.5(g) of this chapter, for each voluntary acknowledgment obtained pursuant to an agreement with the IV-D agency;

(vii) Developing and providing to hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, under § 303.5(g) of this chapter, written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity; and

(viii) Reasonable and essential short-term training associated with the State's program of voluntary paternity establishment services under § 303.5(g).

* * * * *

[FR Doc. 99-5832 Filed 3-9-99; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 303

RIN 0970-AB82

Child Support Enforcement Program; Standards for Program Operations

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends Federal regulations which govern the case closure procedures for the child support enforcement program. The final rule clarifies the situations in which States may close child support cases and makes other technical changes.

EFFECTIVE DATE: The final rule is effective: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Betsy Matheson, Director, Division for Policy and Planning, Office of Child Support Enforcement, 202-401-9386. Hearing-impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8:00 A.M. and 7:00 P.M.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule does not contain information collection provisions subject to review by the Office of