

therefore, be burdensome. To reduce burden and improve the cost-effectiveness of collection efforts, several commenters suggested that the Secretary bill borrowers with minimal monthly payments on a quarterly or annual basis.

One commenter questioned whether the Secretary would send delinquency notices to borrowers with \$2.00 monthly payments who are \$4.00 behind in payments (that is, two months behind in payments).

Discussion: The Secretary agrees with those commenters who argued that borrowers with a calculated monthly payment amount of \$0 should not be required to make monthly payments. In addition, the Secretary agrees with commenters that collecting \$2.00 monthly payments may not be cost-effective. The Secretary has determined that requiring a \$5.00 minimum monthly payment of borrowers whose calculated monthly payment amount is greater than \$0 but less than or equal to \$5.00 would be more cost-effective and would better promote responsible repayment practices than establishing a minimum \$2.00 payment amount. In addition, the Secretary believes that this change in policy will not impose a significant burden on borrowers. Therefore, the Secretary has decided to require a \$5.00 minimum monthly payment of borrowers whose calculated monthly payment amount is greater than \$0 but less than or equal to \$5.00.

In response to concerns that monthly billing will be burdensome for borrowers with minimal monthly repayment amounts, the Secretary will consider carefully the option of billing these borrowers on a quarterly or other less frequent basis. The Secretary has not prescribed billing cycles or billing frequency in these regulations and thus has the flexibility to change billing frequency if this action is warranted.

The Secretary considers a borrower to be delinquent after the borrower has missed a monthly payment. Therefore, a borrower with required \$5.00 monthly payments who is \$10.00 behind in payments is considered to be delinquent, and the Secretary would send a delinquency notice to the borrower.

Changes: None.

Comment Period

Comments: Several commenters were concerned that the comment period was too short, especially considering that the Department published six NPRMs, all with comment periods ending at approximately the same time.

Discussion: In the six NPRMs referred to above, the Secretary proposed

numerous improvements and necessary changes to the Student Financial Assistance Program. The "Master Calendar" provisions contained in section 482 of the HEA require that regulations be published in final form by December 1 prior to the start of the award year for which they will become effective. Because of the importance of implementing these changes and improvements for the award year beginning July 1, 1996, the Secretary established a comment period that would allow publication of these final regulations by December 1, 1995, consistent with the "Master Calendar" timeframe. The Secretary always endeavors to provide as long a comment period as possible.

Changes: None.

Section 685.209(a) Repayment Amount Calculation

Comments: Several commenters expressed support for the new repayment amount calculation provisions. Many commenters approved of the Secretary's simplifying the existing income contingent repayment plan, which requires borrowers to choose between two formulas, so that there is only one formula. However, several commenters expressed objections to the new formula. For example, in response to the Secretary's statement in the preamble to the NPRM that the revised income contingent repayment plan will discourage over-borrowing, several commenters argued that the Secretary should not attempt to discourage over-borrowing through the income contingent repayment plan. One commenter suggested that the Secretary's efforts to discourage over-borrowing will result in a repayment plan that will prevent borrowers from entering public service and will discourage borrowers from choosing high-tuition institutions, even if they wish to attend such institutions.

With regard to specific problems commenters identified in the new income contingent repayment plan, numerous commenters noted that the new formula makes no adjustment for family size. To address this problem, several commenters recommended that the Secretary incorporate into the new plan the current income contingent repayment plan's definition of discretionary income, which takes family size into account. Another commenter suggested offering forbearance to borrowers with larger households. Similarly, several commenters were concerned that the levels of discretionary income the plan established are well below the poverty level for borrowers with dependents. In

addition, commenters argued that the level of discretionary income for single borrowers and head-of-household borrowers should not be identical.

Other commenters noted that head-of-household borrowers would make higher payments than married borrowers with the same level of income and debt, due to the income percentage factors applicable to the two categories of borrowers. These commenters questioned whether this outcome of the proposed formula is appropriate. Another commenter who commented on the income percentage factors asked when the Secretary would apply the annually updated income percentage factors—each January 1st or when the Secretary obtains updated income data.

One commenter stated that the proposed revision to the income contingent repayment plan violates section 455(e)(4) of the HEA because the proposed calculation amount is relative to income and debt, and the statute states only that payments should be relative to income.

Finally, one commenter questioned whether the effect of the revised income contingent repayment plan would result in middle-class borrowers supporting lower-income borrowers.

Discussion: The Secretary agrees with the commenters that using only one formula to calculate repayment under the income contingent repayment plan will simplify the income contingent repayment option. While several commenters objected to the Secretary's attempt to discourage over-borrowing, the Secretary believes that it is fiscally irresponsible to structure an income contingent repayment plan that encourages over-borrowing. As stated in the preamble to the September 20, 1995, NPRM, the Secretary believes that the existing income contingent repayment plan may encourage over-borrowing because borrowers' payments increase only negligibly as debt increases. To remove this incentive to over-borrow, the Secretary believes it is appropriate to revise the plan so that payments increase significantly with amounts borrowed.

The Secretary disagrees with the commenter who stated that the proposed revision to the income contingent repayment plan is in violation of the HEA because it bases payments on income and debt. The existing plan also bases payments on income and debt. The new plan simply takes the amount borrowed into greater consideration than the existing plan. Contrary to this commenter's suggestion, section 455(e)(4) of the HEA does not prohibit the Secretary from taking into account a borrower's debt