

OFFICE OF MANAGEMENT AND BUDGET

AGENCY: Office of Management and Budget, Executive Office of the President.

5 CFR Part 1320

Control of Paperwork Burdens on the Public; Regulatory Changes Reflecting  
Amendments to the Paperwork Reduction Act

53 FR 16618

May 10, 1988

**ACTION:** Final rule.

**SUMMARY:** This rule implements the amendments to the Paperwork Reduction Act of 1980 made by the Paperwork Reduction Reauthorization Act of 1986. In amendments to 44 U.S.C. 3507, Congress sought to enable the public to participate more fully and meaningfully in the Federal paperwork review process. Consistent with the purpose of these legislative amendments, this rule requires agencies (1) to include, in the Federal Register notice that indicates submission to the Office of Management and Budget of an information collection clearance package, an estimate of the average burden hours per response and -- when seeking expedited OMB review -- a copy of the collection of information; and (2) to indicate on each collection of information (or any related instructions) the estimated average burden hours per response, together with a request that respondents direct to the agency and OMB any comments on the accuracy of the estimate and suggestions for reducing the burden. In an amendment to 44 U.S.C. 3502(11), Congress also clarified the applicability of the Paperwork Reduction Act to collections of information contained in proposed and current regulations.

**EFFECTIVE DATE:** June 9, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jefferson B. Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (202/395-3176).

**TEXT: SUPPLEMENTARY INFORMATION:**

A. Background

The Office of Management and Budget (OMB) issued 5 CFR Part 1320 -- Controlling Paperwork Burdens on the Public -- on March 31, 1983 (48 FR 13666). This rule implemented provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. Chapter 35) concerning agency responsibilities for obtaining OMB approval of their collections of information, and other paperwork control functions.

The Paperwork Reduction Reauthorization Act of 1986 (section 101(m) [Title VIII, Part A] of Pub. L. 99-500 (October 18, 1986) and 99-591 (October 30, 1986), 100 Stat. 1783-335, 3341-335) amended the Paperwork Reduction Act of 1980, effective October 30, 1986. As a result of these legislative amendments, OMB published proposed changes to 5 CFR Part 1320 in a Notice of Proposed Rulemaking (NPRM) on July 23, 1987 (52 FR 27768).

In response to this NPRM, OMB has received comments from 19 Federal agencies and 49 members of the public. Each comment has been considered in preparing this final rule. In developing these amendments to 5 CFR Part 1320, OMB has also relied upon its seven years of practical experience in administering the Paperwork Reduction Act of 1980, and upon its four and a half years of implementing 5 CFR Part 1320. Significant comments received in response to the NPRM, and significant changes made in the amendments proposed therein, are discussed in detail below.

As a convenience to those wishing to use 5 CFR Part 1320, OMB is reprinting the entire Part as it is now amended.

## B. New Section 1320.21 -- Agency Disclosure of Estimated Burden

In the NPRM, OMB proposed adding a new § 1320.21 -- "Agency Display of Estimated Burden." (*See* proposed amendment 24, *52 FR at 27772*.) This section requires agencies to indicate on each instrument for the collection of information the estimated average burden hours per response, together with a request that the public direct any comments concerning the accuracy of this burden estimate to the agency and to OMB's Office of Information and Regulatory Affairs (OIRA). This proposal is intended to facilitate agency management of its collections of information, to reduce paperwork burdens on the public, and to encourage more meaningful public participation in the paperwork reduction process. As discussed below, the final regulation retains this provision with some modification.

This section drew many comments. The majority of the public comments supported this proposal, citing the reasons given in the preamble to the proposed rule (*52 FR at 27769-27770*). However, several public comments and agency comments expressed concerns that biased or skewed responses would be received from the public (e.g., only those taking longer than average would respond), that benefits of collections of information were being ignored (e.g., beneficiaries of collections of information are not always the respondents), and that the costs to implement this section were too high.

OMB does not find these arguments persuasive. First, since the Act's goal is to minimize the paperwork burden on the public, it is only logical that agencies and OMB, in implementing the Act, need the input of those respondents who are most burdened by a collection of information. As one comment stated, "[s]uch complaints are not intended to provide a statistically valid sample of the burden, but should provide a warning of paperwork burden that may not be justified in light of the perceived benefits" (Comment of National Security Industrial Association).

Second, this proposal does not ignore the benefits of collections of information. Agencies are already required, as part of the paperwork clearance process, to justify the uses and explain the benefits of proposed collections of information to OMB. The affected public has the opportunity to supplement agency statements of need and benefit, as well as to point out the reporting burdens involved. Moreover, these descriptions of need and benefit are typically in instructions, in regulatory preambles, and in the required Federal Register notices. n1

n 1 OMB believes that the American Bar Association (ABA) Section of Administrative Law excellently captured these points when it stated that:

"We are aware of the arguments that this display would emphasize only the burden of the collection, not its benefits, and that the responses and complaints that the agency or OMB might receive from the public as a result might be skewed.

"While there is some merit to this argument, we believe that the benefits to be derived from the display of the burden outweigh any negative effects. Accurate burden estimates for collections of information are critical to the calculus to be applied under the Paperwork Reduction Act. At the same time, agencies have a natural tendency to underrate the burden they impose on their respondents. Those who must comply with the collections are in the best position to determine the burden associated with them, but no one wants to impose another reporting requirement on these respondents to collect the burden information. A display of the estimated burden on the collection itself is a good compromise solution, because it is reasonable to expect that if the estimate is significantly awry, respondents will bring this to the agency's or OMB's attention. In this way, over time, the burden estimates can be refined."

Third, the cost of this new procedure has not been found to be high by the one Department (Interior) currently testing this procedure on a trial basis. A legitimate cost issue, however, does arise with the possible redesign of forms. For many forms, inclusion of this notice should require only a modest rearrangement of the requested data items; for those forms that cannot be easily reformatted, agencies may include this notice on the instruction sheet or on a separate, attached piece of paper. To allow adequate time to carry this out, OMB amends § 1320.21(c) to make this requirement applicable only to collections of information and their instructions printed or otherwise reproduced (or newly communicated or transmitted to the public by electronic or other means) after July 1, 1988.

There were a number of other comments on this proposed disclosure notice. Several requested clarification on whether this notice requirement applies to collections of information contained in or imposed by regulations submitted for review under §§ 1320.12 (e.g., those "interim final" rules) and 1320.13. Section 1320.21 *does* apply to such collections of information because they are among the most burdensome imposed by the Federal government.

Section 1320.21, however, does *not* apply to collections of information in current regulations that are only submitted for OMB review under § 1320.14. When an agency submits an information collection contained in a current regulation for review under § 1320.14, the agency does not propose changes to the current regulation, and therefore does not, as part of the clearance process, include the disclosure notice in either the text or preamble to the regulation. Instead, the agency provides the burden hour estimate and request for public comments as part of the Federal Register notice that indicates submission to OMB of the information collection clearance package. An agency need not engage in rulemaking solely to include the burden estimate and request for comments required by § 1320.21, nor need an agency engage in rulemaking every time it revises burden estimates for collections of information contained in a current regulation, *unless* the regulation itself otherwise undergoes regulatory amendment.

A comment requested clarification on whether the notice should be placed in the regulation's preamble or text. As proposed, § 1320.21(b) provides that "the agency may display the burden estimate and request for comments \* \* \* at the beginning of the preamble to the proposed or final rule that contains the collection of information." On the other hand, in the existing rule, § 1320.7(f) already defines "display," as that term is used in this rule, to require that the OMB control number be published as part of the regulation's text, both when submitted for OMB review under § 1320.13 and when issued in final. <sup>n 2</sup> To eliminate this inconsistency between these two provisions, and to clarify the meaning of § 1320.21(b), OMB is replacing the references to "display" in § 1320.21 with the words "disclose" and "place." By "beginning of the preamble", OMB means at or near the beginning of the "SUPPLEMENTARY INFORMATION" section of the proposed or final rule containing the collection of information.

<sup>n 2</sup> With the deletion of the definition of "collection of information requirement," the definition of "display" is now found in § 1320.7(e). *See* proposed amendment 8, *52 FR at 27771*.

One comment recommended that the burden estimate and the request for comments be placed both in the text or preamble of the regulation containing the collection of information and also on the forms or other information collection instruments developed or relied upon to implement the regulatory collection of information. OMB agrees, and amends § 1320.21(b) accordingly.

In the "SUPPLEMENTARY INFORMATION" section of the NPRM, OMB also set forth two possible standard formats for the disclosure notice, and asked whether a standard format should be required by regulation (*52 FR at 27770*). Responses were received both supporting and opposing inclusion of the standard format in the rule. One comment, with which OMB agrees, recommended placing one particular provision of the standard format into the rule. This change to § 1320.21(a)(2) requires agencies to request from the public not only comments concerning the accuracy of the burden estimates, but also suggestions for reducing the burden itself.

To maintain needed agency flexibility, OMB has decided not to set forth a specific standard format in the rule. Based on public comment, however, OMB recommends that agencies adopt the standard formats, as set forth below. This agency disclosure notice should be included as part of each collection of information submitted for OMB review under the Act. Any change from the alternative formats set forth below should be explained in the information collection clearance package:

Public reporting burden for this collection of information is estimated to average XX hours [or minutes] per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to [title and address of agency component]; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Or

Public reporting burden for this collection of information is estimated to vary from XX to XX hours [or minutes] per response, with an average of XX hours [or minutes] per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to [title and address of agency component]; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

### C. 44 U.S.C. 3507 -- Public Notice

1. In new § 1320.15(b), OMB proposed a new procedure for agencies to follow when requesting an expedited review (faster than 60 days from the date of submission). (See proposed amendment 20, 52 FR at 27772.) This proposal was designed to ensure maximum public participation in the paperwork review process. New § 1320.25(b) would require an agency seeking expedited review to include, as part of its Federal Register notice, a copy of the collection of information, together with any related instructions, for which it seeks OMB approval. An agency would also have to indicate the time period within which it is asking OMB to take action. As described below, the final regulation retains this requirement with some modification.

Proposed new § 1320.15(b) generated much comment, with almost all of the public comments supporting it and most agency comments opposing it. The agencies' major concern was the potential cost and burden it would impose on them. While there will be a cost (and administrative burden) to the agencies, OMB believes that this is more than offset by the requirement's enhancement of public participation in the paperwork process. Moreover, because this additional cost or burden in § 1320.15(b) is imposed only when agencies seek expedited review, agencies may avoid the cost or burden entirely merely by allotting sufficient time for nonexpedited review.

Several comments expressed concern about how this new § 1320.15(b) would affect collections of information contained in proposed regulations (i.e., those submitted for OMB review under § 1320.13). Such collections of information are not subject to § 1320.15(b). Section 1320.13 applies to collections of information contained in proposed rules published for public comment in the Federal Register. Such publication itself offers the public the opportunity to comment. To impose a second publication requirement in § 1320.15(b) would be duplicative. OMB amends § 1320.15 by stating more clearly that only subsection (a), and not subsection (b), is applicable to § 1320.13.

Other comments raised concerns about implementation, such as informal requests for quick review action. This concern is best handled on a case-by-case basis. n3 If agencies know, in advance of the submission to OMB, that they will be requesting a quick review of a proposed collection of information, they should assume it will be treated like a request for expedited OMB review under § 1320.18(g), and they should prepare the required Federal Register notice and comply with new § 1320.15(b).

n 3 One comment asked how to handle irregularly shaped forms. Such issues should also be discussed with OMB and handled on a case-by-case basis.

Agencies may also utilize the current emergency review procedures in § 1320.18(a)-(f).

Several public comments suggested procedural changes to the required Federal Register notice. First, they suggested delaying the start of the OMB review period until the notice is published. In order to prevent excessive delay in an agency's collection of needed information, however, the Paperwork Reduction Act generally requires OMB review to be concluded within sixty (and in some cases, ninety) days "of receipt" of a collection of information (44 U.S.C. 3507(b)).

Second, the public comments suggested that OMB establish a minimum review period. In contrast, several agencies raised a concern that the standard OMB review period would now become 60 days from receipt of the agency submission. As a general matter, this is OMB's goal, mainly to provide adequate time for public participation in the review process. Agencies should take this time period into consideration when setting internal agency timetables for the preparation of OMB review submissions. To ensure that the public does receive adequate notice, agencies should also take special care to comply with the provisions in §§ 1320.12(a), 1320.13(b), and 1320.14(b), which require agencies to forward to the Federal Register and to OMB, on or before the day of actual submission to OMB, the public notice indicating submission of an agency's information collection clearance package.

Of course, emergency and expedited review procedures remain in place to handle special, and uncontrollable, circumstances. For example, OMB takes note of the fact that for certain types of information collections, such as biomedical research studies, normal review periods may be far less than 60 days.

One concern that was raised involves requests for expedited review of collections of information contained in "interim final" regulations, referred to in one comment as "non-notice" regulations. In some instances, these regulations are tied to agency enforcement actions. Depending on the nature of the enforcement action involved, pre-action disclosure of the underlying collection of information may enable individuals to respond in a way to defeat the purpose of the ac-

tion. Thus, OMB recognizes the need for exemptions to the requirement for advance publication, and is amending new § 1320.15(b) accordingly. If an agency demonstrates that advance publication would defeat the purpose of the collection of information, OMB will consider the agency's request for exemption.

2. In new § 1320.15(a), "Federal Register notice of OMB review," OMB proposed to establish by regulation the content of the Federal Register notice that each agency is required to publish when submitting a paperwork clearance package to OMB for review under the Act. (*See* proposed amendment 20, *52 FR at 27772*.) The notice would be required to contain, at a minimum, a title for the collection; a brief description of the need, use, likely respondents, frequency of response, and burden estimates disaggregated into discrete components applicable to each separate information collection instrument; the average hours per response; the frequency of response; and the likely number of respondents. Furthermore, OMB encouraged agencies to state the basis for their burden estimates. As described below, the final regulation adopts this proposed amendment.

Comments on this new § 1320.15(a) both supported and opposed disaggregating burden estimates. Those in opposition (primarily agencies) expressed concerns about the additional cost and administrative burden imposed on them by this proposal, and asserted that it would duplicate information provided to OMB in the agency information collection clearance packages. Public comments, however, clearly supported this section. Unless potential respondents receive notice in the Federal Register of the estimated burden to be imposed upon them, they will probably lack the incentive to contact the agency to request a copy of the information collection clearance package, and thus be unable to provide the agency and OMB with timely and meaningful comments. Indeed, many public comments expressed a desire for additional information in the Federal Register notice, including the inclusion of OMB approval numbers, agency form numbers, more extensive discussions of major changes to collections or summaries of new collections, bases for burden estimates, and requested expiration dates.

OMB believes the public's need for the information proposed to be included in the Federal Register notice outweighs the potential increase in agency burdens and costs. The need for the additional information that the public comments recommended, however, is not so clear. OMB, therefore, is not adopting any expansion of this proposal. n4

n 4 Several agencies raised concerns about specific situations in which they asserted that disaggregating burden estimates in particular ways would impose substantial burden without commensurate benefits to the public, e.g., in those cases in which different categories of respondents fill out different portions of a form, or fill out the form at different intervals. These cases should be discussed individually with OMB and handled on a case-by-case basis.

3. The proposed addition to § 1320.4(b)(3) would require agencies to indicate in their collection of information clearance packages what practicable steps they have taken to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. (*See* proposed amendment 3, *52 FR at 27771*.) The final regulation adopts this section as proposed.

Public comments supported this amendment, with several suggesting that additional information be included in the clearance packages. These suggestions included required discussions of why sampling or other less burdensome collection procedures were not undertaken, and discussions of the potential uses of comparable (not just duplicative) data. OMB has not adopted these suggestions. OMB is now able to raise these and other appropriate concerns with the agency as part of its review of each agency's information collection clearance package.

4. The NPRM's Supplementary Information section discussed *44 U.S.C. 3507(h)*, which requires, with one exception, that any written communication between OIRA and an agency or a member of the public concerning a proposed collection of information be made available to the public (*52 FR at 27769*). OMB emphasized its support for this provision. However, OMB also raised in the NPRM a concern that complaints from possible whistleblowers about a collection of information might be hindered if these complainants believe that the sponsoring agency reviewing a substantive complaint will be able to identify them and institute possible actions of reprisal, such as more intensified regulatory enforcement, or a denial of a grant or other benefits.

OMB received a number of comments on this discussion, several supporting it, others expressing concerns about it, and still others requesting clarification. For the purposes of clarification, OMB reiterates that it will follow the legal requirements set forth in *44 U.S.C. 3507(h)*, notwithstanding the discussion of the Privacy Act in the NPRM. Thus, those who provide OMB with any communications concerning a proposed collection of information, regardless of whether they request confidentiality, should recognize that written communications concerning such collections of in-

formation will be made available to the public and also, as a general matter, to the sponsoring agency, except for those involving classified information.

OMB remains concerned about the potential discouragement of possible whistleblowers. As such, those who wish to submit comments on proposed collections of information, but who do not wish to be identified to the sponsoring agency, may need to consider in advance how best to do so. A comment from the ABA Section of Administrative Law suggested submission of anonymous comments, but questioned whether OMB would "discount comments submitted anonymously." OMB wants to assure the public that any substantive comment received on proposed collections of information, whether or not submitted anonymously, through an intermediary (e.g., a public interest group or a trade association), or with full disclosure of source, will be considered as part of any paperwork review and brought to the attention of the appropriate agency.

The paperwork clearance file will contain all written, nonclassified communications, including those submitted anonymously or through intermediaries, and will be publicly available in OMB's docket library. Moreover, and as required by 44 U.S.C. 3507(b), any determination to approve, modify, or disapprove a proposed collection of information and explanation thereof shall be publicly available.

#### D. 44 U.S.C. 3502(11) -- OMB Clearance Procedures

Several comments discussed proposed amendments to clarify the applicability of the public protection provisions in 44 U.S.C. 3512 (see proposed amendments 4 and 5, 52 FR at 27771) and, more generally, numerous technical amendments replacing the terms "information collection request" and "collection of information requirement" with the term "collection of information."<sup>n5</sup> The purpose of this action was, consistent with the 1986 amendment to 44 U.S.C. 3502(11), to make clear (unless circumscribed by the clearance procedures in 44 U.S.C. 3504(h), involving collections of information contained in proposed regulations) that all of the provisions of the Act apply to any collection of information, whether called for by a printed form, oral question, or a proposed or current rule. These provisions include, among many, the public protection provisions of the Act, the required Federal Register notices, and the three-year limit on the duration of an OMB approval of a collection of information. (See 52 FR at 27768-69.)

<sup>n5</sup> For example, in response to one comment, OMB amends section 1320.14(i) to state more clearly which collections of information would no longer be valid upon receiving a disapproval from OMB pursuant to that section.

Several comments expressed concern with the statutory, three-year limit, namely, that an agency might try to nullify regulatory provisions for reporting or recordkeeping simply by allowing OMB approval for a collection of information contained in a current regulation to expire. OMB believes that this fear is unfounded. Congress debated and agreed to the three-year limit to OMB approvals when it enacted the Paperwork Reduction Act in 1980. <sup>n6</sup>

<sup>n6</sup> OMB stated the underlying rationale for this three-year limit in the NPRM:

"[T]he three-year limit to paperwork approval, combined with the notice provisions in the Act, gives the public the opportunity to comment on any collection of information (including any recordkeeping requirement) contained in a current rule every three years, not just when the rule was first issued. After a respondent has complied with a collection of information (including a recordkeeping requirement) contained in a current rule for several years, the respondent should have clearer knowledge of the burdens involved, and the agency more concrete experience with the practical utility of the information obtained. Through this iterative review process, the agency is able on a continuing basis to improve and reduce the burden of its collection of information." (52 FR at 27768.)

More recently, when recommending passage of the 1986 Amendments, the Senate Committee on Governmental Affairs explicitly discounted the danger that an agency might nullify these regulatory provisions simply by allowing OMB approval to expire:

If an agency fails to resubmit a collection of information requirement after its clearance expires, the public protection clause of the Act would preclude the agency from penalizing persons who fail to respond to the collection of information requirement. However, the rule requiring the collection of information would remain in effect, and in the com-

mittee's view the agency could be sued successfully for failing to enforce its own rules ["Federal Management Reorganization and Cost Control Act of 1986," Report to accompany S. 2230, Senate Committee on Governmental Affairs, July 31, 1986, Report 99-347].

In addition to these protections, OMB requires all agencies to submit collections of information contained in rules for review 90 days prior to the current expiration dates (§ 1320.14(a)). Every month, OMB routinely sends agency information collection clearance offices chronological listings of every collection of information that is going to expire within 120 days. Thus, agencies that do not seek to renew a collection of information in an existing rule are in violation of the OMB rule. To prevent inadvertent noncompliance with 5 CFR Part 1320, agencies should establish information collection management tracking systems. In response to comments from the ABA Section of Administrative Law, OMB is amending 5 CFR 1320.14(a) to stress the importance of agency compliance with this rule.

#### E. Other Amendments

The NPRM proposed a number of other amendments, including having agencies consider reducing burden through the use of automated collection techniques or other forms of information technology (§ 1320.6(k); *see* proposed amendment 7, *52 FR at 27771*), having OMB make publicly available any OMB decision to approve or disapprove a collection of information and explanation thereof (§ 1320.11(d); *see* proposed amendment 9, *52 FR at 27771*), and emergency processing requirements (§ 1320.18; *see* proposed amendment 22, *52 FR at 27772*). These amendments proposed in the NPRM received few substantive comments, and are adopted as proposed. n7

n 7 Upon further review of 5 CFR Part 1320, OMB has also decided to make the following technical amendments:

(1) Various provisions in 5 CFR Part 1320 have taken effect on different dates. For example, OMB published amendments to this Part on May 16, 1984 (*49 FR 20792*). As a result, the last sentence of § 1320.2, which made this regulation effective on May 2, 1983, is obsolete and is therefore deleted.

(2) OMB amends § 1320.6(e) to clarify that it applies to collections of information that provide for any payment or gift to respondents or potential respondents, including but not limited to compensation of respondents for their time or other costs incurred in providing the information requested.

(3) The Civil Aeronautics Board no longer exists. The reference to it in § 1320.7(h) is therefore deleted.

(4) OMB amends § 1320.16(c) to state clearly that the new amendments to 5 CFR Part 1320 also apply to Standard and Optional Forms, and to any other collections of information prescribed by another agency.

(5) OMB amends section 1(e) of Appendix A to correct two cross-references (the prior references to § § 1320.17 and 1320.19 are changed, respectively, to § § 1320.18 and 1320.20).

#### F. Additional Public Comments

In response to the NPRM, OMB also received a number of comments which, although they concern OMB's paperwork review practices, neither address particular proposed amendments in the NPRM nor suggest alternative amendments. Although OMB is not obligated to respond to such comments, a few of them raise issues of widespread concern or interest. OMB therefore believes that a short discussion of these is worthwhile.

1. Several comments expressed a desire for OMB to explain how it reviews collections of information. OMB is now drafting an "Information Collection Review Handbook" for use by OMB staff. When it is completed, the Handbook will be provided to agencies and to interested members of the public. This Handbook will describe agency and OMB responsibilities under the Paperwork Reduction Act, the scope of the information collection review program, the information collection review process, the types of information collections that are and are not covered by the Act, the criteria for obtaining OMB approval, and public involvement in OMB reviews.

Some comments raised the kinds of issues that will be discussed in the Handbook. For example, the ABA Section of Administrative Law questioned whether it was OMB's intent to approve collections of information in an existing rule during the time agencies may seek to amend or repeal those collections of information through a regulatory amendment. Similarly, an agency asked OMB to clarify, when OMB approves a collection of information contained in a proposed

regulation, whether an existing, related regulatory information collection remains in force until the new regulatory information collection can take effect through completion of the amendatory rulemaking. n8

n 8 To answer these questions: A proposed regulatory information collection is reviewed under § 1320.13. A current regulatory information collection is reviewed under § 1320.14. As a basic matter, if an information collection in a proposed rule is going to change an information collection in a current rule, the agency should take care to assure that the existing regulatory information collection continues to be approved by OMB while the agency is conducting the regulatory amendment.

In addition, it is OMB practice to assure that this happens. When OMB approves a proposed regulatory information collection under § 1320.13, OMB allows the related current regulatory information collection to remain in effect until the approved, new or revised regulatory information collection takes effect, unless otherwise noted -- in particular circumstances -- in the conditions of clearance. Similarly, even when OMB fails to approve a proposed regulatory information collection submitted for review under § 1320.13, but instead files public comments, OMB approves the related current regulatory information collection for at least as long as it takes to resolve the dispute.

2. Several comments questioned whether financial monitoring, audit requirements, and audit guides are covered by the Act. The answer varies from case to case, depending on whether the audit guide contains "identical" reporting or recordkeeping requirements (see the amendment to § 1320.7(c)), and on whether the collection of information has been previously approved as part of another paperwork clearance (see *48 FR 13675*, March 31, 1983).

3. Comments also expressed a concern about the Information Collection Budget (ICB). While the ICB was not the subject of the rulemaking, it is important to clarify an apparent misperception concerning the ICB and how it is used. The ICB is a management tool and it is an adjunct to the individual case-by-case review required by the Paperwork Reduction Act and OMB's paperwork clearance procedures. It is used by agency officials in their planning and control processes to review the totality of the collections of information their staff plans to keep, or put, in place during the forthcoming year. OMB uses the ICB in conjunction with its management reviews of agencies, to assure that they comply with the Act's direction to manage information needs and uses carefully. Some comments suggested that, through the ICB, OMB may disapprove a collection of information. This is inaccurate; disapprovals of collections of information may occur only as part of OMB's case-by-case review of each information collection clearance package, in accordance with the procedures and policies of the Act.

4. Several members of the public asserted that OMB, in implementing the Paperwork Reduction Act, spends too much time and effort in reviewing collections of information imposed on businesses. OMB believes that this criticism is unwarranted, and that it may arise due to a lack of public awareness of how the Federal government's paperwork burden weighs upon the various segments of our society. OMB records indicate that as of September 30, 1987, agencies estimated that approximately 63 percent of all Federal reporting burden fell on businesses and other institutions (including hospitals and universities), while 32 percent of the total fell on individuals and households, 4 percent on State and local governments, and 1 percent on farms. Broken down by major Federal agency, the imposition of reporting and recordkeeping burden by respondent category is, as follows:

Active Information Collections, the Affected Public, Percent of Burden Hours by Agency

Agency	Individuals/ households (percent)	State government (percent)	Farms (percent)	Business and other institutions (percent)
Agriculture	22	64	10	4
Commerce	16	9	0	75
Defense	3	0	0	97
Education	30	10	0	60
Energy	0	0	1	99
HHS	15	9	0	76
HUD	2	53	0	45
Interior	10	18	0	72



## Active Information Collections, the Affected Public, Percent of Burden Hours by Agency

Agency 9	Individuals/ households (percent)	State government (percent)	Farms (percent)	Business and other institutions (percent)
Justice	83	0	0	17
Labor	1	6	0	93
State	99	0	0	1
DOT	2	4	0	94
Treasury	51	0	0	49
CFTC	0	0	0	100
CPSC	2	0	0	98
EEOC	0	98	0	2
EPA	1	3	0	96
FCC	1	2	0	97
FDIC	0	0	0	100
FEMA	13	87	0	0
FERC	0	0	0	100
FHLBB	0	0	0	100
FRS	0	0	0	100
FTC	0	0	0	100
GSA	4	0	0	96
ICC	3	0	0	97
NASA	0	0	0	100
NCUA	0	0	0	100
NSF	15	0	0	85
NRC	0	0	0	100
OPM	96	0	0	4
SEC	0	0	0	100
SBA	10	1	0	89
VA	83	2	0	15
All Government	32	4	1	63

9 The abbreviated agencies are as follows: HHS=Health and Human Services; HUD=Housing and Urban Development; DOT= Transportation; CFTC=Commodity Futures Trading Commission; CPSC=Consumer Product Safety Commission; EEOC=Equal Employment Opportunity Commission; EPA=Environmental Protection Agency; FCC=Federal Communications Commission; FDIC=Federal Deposit Insurance Corporation; FEMA=Federal Emergency Management Agency; FERC=Federal Energy Regulatory Commission; FHLBB=Federal Home Loan Bank Board; FRS=Federal Reserve System; FTC=Federal Trade Commission; GSA=General Services Administration; ICC=Interstate Commerce Commission; NASA=National Aeronautics and Space Administration; NCUA=National Credit Union Administration; NSF=National Science Foundation; NRC=Nuclear Regulatory Commission; OPM=Office of Personnel Management; SEC=Securities and Exchange Commission; SBA=Small Business Administration; VA=Veterans' Administration.

## Regulatory Impact and Regulatory Flexibility Act Analysis

OMB has analyzed the effects of this rule under both Executive Order No. 12291 and the Regulatory Flexibility Act. Copies of this analysis are available upon request. In summary, OMB has concluded that these amendments will have a salutary impact on small entities through the reduction of unnecessary paperwork and that, while the costs and benefits of procedural amendments such as these are largely unquantifiable, the amendments meet all the requirements of the Executive Order.

List of Subjects in 5 CFR Part 1320

Reporting and recordkeeping requirements, Paperwork, Collections of information.  
Issued in Washington, DC, May 4, 1988.

James B. MacRae, Jr.,

Acting Administrator and Deputy Administrator, Office of Information and Regulatory Affairs.

5 CFR Part 1320 is revised to read as follows:

**PART 1320 -- CONTROLLING PAPERWORK BURDENS ON THE PUBLIC**

Sec.

1320.1 Purpose.

1320.2 Effect.

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1320.21 Agency disclosure of estimated burden.

1320.22 Other authority.

Appendix A -- Agencies With Delegated Review and Approval Authority

Authority: *31 U.S.C. Sec. 1111* and 44 U.S.C. Chs. 21, 25, 27, 29, 31, 35.

§ 1320.1 Purpose.

The purpose of this part is to implement the provisions of the Paperwork Reduction Act of 1980, as amended, (44 U.S.C. Chapter 35) (the Act) concerning collections of information. It is issued under the authority of section 3516 of the Act, which provides that "The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this Chapter." It is designed to minimize and control burdens associated with the collection of information by Federal agencies from individuals, businesses and other private institutions, and State and local governments. In the case of inter-agency reporting, this Part establishes policy and promulgates regulations to ensure the effective management of inter-agency reporting requirements in the executive branch, and is promulgated under the authority of the Federal Records Act (44 U.S.C. Chapters 21, 25, 27, 29, 31) and section 104 of the Budget and Accounting Procedures Act of 1950 (*31 U.S.C. 1111*) as well as the Act.

§ 1320.2 Effect.

This Part supersedes and rescinds Circular No. A-40, Revised, dated May 3, 1973, and Transmittal Memorandum No. 1, dated February 10, 1976.

§ 1320.3 Coverage.

The requirements of this Part apply to all agencies as defined in § 1320.7(a) and to all collections of information conducted or sponsored by those agencies, as defined in § 1320.7(c), wherever conducted or sponsored, except for collections of information:

(a) By compulsory process pursuant to the Anti-trust Civil Process Act or section 13 of the Federal Trade Commission Improvements Act or section 13 of the Federal Trade Commission Improvements Act of 1980;

(b) During the conduct of intelligence activities, as defined in Section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders, including Executive Order 12333, issued December 4, 1981, or during the conduct of cryptologic activities that are communications securities activities; or

(c) During the conduct of a Federal criminal investigation or prosecution, during the disposition of a particular criminal matter, during the conduct of a civil action to which the United States or any official or agency thereof is a party, or during the conduct of an administrative action or investigation involving an agency against specific individuals or entities. This exception applies during the entire course of the investigation or action, whether before or after formal charges or complaints are filed or formal administrative action is initiated, but only after a case file or its equivalent is opened with respect to a particular party. General collections of information prepared or undertaken with reference to a category of individuals or entities, such as a class of licensees or an industry, do not fall within this exception.

§ 1320.4 General requirements.

(a) An agency shall not engage in a collection of information without obtaining Office of Management and Budget (OMB) approval of the collection of information and displaying a currently valid OMB control number and, unless OMB determines it to be inappropriate, an expiration date. An agency shall not continue to engage in such collection of information after the expiration date of the control number, unless OMB has approved an extension. Each agency shall ensure that collections of information required by law or necessary to obtain a benefit, and which are submitted to nine

or fewer persons, inform potential respondents that the collection of information is not subject to OMB review under the Act.

(b) To obtain OMB approval of a collection of information, an agency shall demonstrate that it has taken every reasonable step to ensure that:

(1) The collection of information is the least burdensome necessary for the proper performance of the agency's functions to comply with legal requirements and achieve program objectives;

(2) The collection of information is not duplicative of information otherwise accessible to the agency; and

(3) The collection of information has practical utility. The agency shall also seek to minimize the cost to itself of collecting, processing, and using the information, but shall not do so by means of shifting disproportionate costs or burdens onto the public. It shall also comply with the general information collection guidelines set out in § 1320.6, where applicable, and shall indicate, in its submission of a collection of information for OMB review, what practicable steps it has taken to consult with interested agencies and members of the public in order to minimize the burden of that collection of information.

(c) OMB shall determine whether the collection of information, as submitted by the agency, is necessary for the proper performance of the agency's functions. In making this determination, OMB will take into account the criteria listed in § 1320.4(b), and will consider whether the burden of the collection of information is justified by its practical utility. In addition:

(1) OMB will consider necessary any collection of information specifically mandated by statute or court order, but will independently assess any collection of information to the extent that the agency exercises discretion in its implementation; and

(2) OMB will consider necessary any collection of information specifically required by an agency rule approved or not acted upon by OMB pursuant to §§ 1320.13 or 1320.14, but will independently assess any such collection of information to the extent that it deviates from the specifications of the rule.

(d) Except as provided in § 1320.20, to the extent that OMB determines that all or any portion of a collection of information by an agency is unnecessary, for any reason, the agency shall not engage in such collection or portion thereof.

#### § 1320.5 Public protection.

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failure to comply with any collection of information:

(1) That does not display a currently valid OMB control number; or

(2) In the case of a collection of information required by law or to obtain a benefit which is submitted to nine or fewer persons, that fails to state, as prescribed by § 1320.4(a), that it is not subject to OMB review under the Act.

The failure to display a currently valid OMB control number for a collection of information contained in a current rule does not, as a legal matter, rescind or amend the rule; however, its absence **will alert the public** that either the agency has failed to comply with applicable legal requirements for the collection of information or the collection of information has been disapproved, and that therefore the portion of the rule containing the collection of information has no legal force and effect and the public protection provisions of *44 U.S.C. 3512* apply.

(b) Whenever an agency has imposed a collection of information as a means for proving or satisfying a condition to the receipt of a benefit or the avoidance of a penalty, and the collection of information does not display a **currently valid** OMB control number or statement, as prescribed in § 1320.4(a), the agency shall not treat a person's failure to comply, in and of itself, as grounds for withholding the benefit or imposing the penalty. The agency shall instead permit respondents to prove or satisfy the legal conditions in any other reasonable manner.

(1) If such a collection of information is disapproved in whole by OMB (and the disapproval is not overridden pursuant to § 1320.20), the agency shall grant the benefit to (or not impose the penalty on) otherwise qualified persons without requesting further proof concerning the condition.

(2) If such a collection of information is ordered modified by OMB (and the order is not overridden pursuant to § 1320.20) the agency shall permit respondents to prove or satisfy the condition by complying with the collection of information as so modified.

(c) Whenever a member of the public is protected from imposition of a penalty under this section for failure to comply with a collection of information, such penalty may not be imposed by an agency directly, by an agency through judicial process, or by any other person through judicial or administrative process.

#### § 1320.6 General information collection guidelines.

Unless the agency is able to demonstrate that such collection of information is necessary to satisfy statutory requirements or other substantial need, OMB will not approve a collection of information:

- (a) Requiring respondents to report information to the agency more often than quarterly;
- (b) Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- (c) Requiring respondents to submit more than an original and two copies of any document;
- (d) Requiring grantees to submit or maintain information other than that required under OMB Circular A-102 or A-110;
- (e) Providing for any payment of gift to respondents, other than remuneration of contractors or grantees;
- (f) Requiring respondents to retain records, other than health, medical, or tax records, for more than three years;
- (g) In connection with a statistical survey that is not designed to produce results that can be generalized to the universe of study;
- (h) Unless the agency has taken all practicable steps to develop separate and simplified requirements for small businesses and other small entities;
- (i) Requiring respondents to submit proprietary, trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect its confidentiality to the extent permitted by law;
- (j) Requiring respondents to maintain or provide information in a format other than that in which the information is customarily maintained;
- (k) Unless the agency has considered reducing the burden on respondents by use of automated collection techniques or other forms of information technology.

#### § 1320.7 Definitions.

For purposes of implementing the Paperwork Reduction Act and this Part, the following terms are defined as follows:

(a) "Agency" means any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government, or any independent regulatory agency, but does not include the General Accounting Office, Federal Election Commission, and governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions, or government-owned contractor-operated facilities including laboratories engaged in national defense research and production activities.

(b) "Burden" means the total time, effort, or financial resources required to respond to a collection of information, including that to read or hear instructions; to develop, modify, construct, or assemble any materials or equipment; to conduct tests, inspections, polls, observations, or the like necessary to obtain the information; to organize the information into the requested format; to review its accuracy and the appropriateness of its manner of presentation; and to maintain, disclose, or report the information.

(1) The time and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records) will be excluded from the "burden" if the agency demonstrates that the reporting or recordkeeping activities needed to comply are usual and customary.

(2) A collection of information sponsored by a Federal agency that is also sponsored by a unit of state or local government is presumed to impose a Federal burden except to the extent the agency shows that such state or local requirement would be imposed even in the absence of a Federal requirement.

(c) "Collection of information" means the obtaining or soliciting of information by an agency from ten or more persons by means of identical questions, or identical reporting or recordkeeping requirements, whether such collection of information is mandatory, voluntary, or required to obtain a benefit. For purposes of this definition, the "obtaining or soliciting of information" includes any requirement or request for persons to obtain, maintain, retain, report, or publicly disclose information. In the Act, a "collection of information requirement" is a type of "information collection request." As used in this Part, a "collection of information" refers to the act of collecting information, to the information to be collected, to a plan and/or an instrument calling for the collection of information, or any of these, as appropriate.

(1) A "collection of information" includes the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar methods. Similar methods may include contracts, agreements, policy statements, plans, information collection requests, collection of information requirements, rules or regulations, information collection requests or collection of information requirements contained in, derived from, or authorized by such rules or regulations, planning requirements, circulars, directives, instructions, bulletins, requests for proposal or other procurement requirements, interview guides, oral communications, disclosure requirements, labeling requirements, telegraphic or telephonic requests, automated collection techniques, and standard questionnaires used to monitor compliance with agency requirements.

(2) Requirements by an agency for a person to obtain or compile information for the purpose of disclosure to members of the public or to the public at large, through posting, notification, labeling, or similar disclosure requirements, constitute the "collection of information" whenever the same requirement to obtain or compile information would be a "collection of information" if the information were directly provided to the agency. The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition.

(3) A "collection of information" includes questions posed to agencies, instrumentalities, or employees of the United States, if the results are to be used for general statistical purposes.

(d) "Director" means the Director of OMB or his designee.

(e) "Display" means:

(1) In the case of forms, questionnaires, instructions, and other written collections of information, individually distributed to potential respondents, to print the OMB control number (and, unless OMB determines it to be inappropriate, the expiration date) in the upper right hand corner of the front page of the collection of information;

(2) In the case of collections of information published in regulations, guidelines, and other issuances in the Federal Register, to publish the OMB control number in the Federal Register (as part of the regulatory text or as a technical amendment) and ensure that it will be included in the Code of Federal Regulations if the issuance is also included therein;

(3) In other cases, and where OMB determines that special circumstances exist, to use other means to inform potential respondents of the OMB control number (and, unless OMB determines it to be inappropriate, the expiration date).

(f) An "Education agency or institution" means any public or private agency or institution with the primary function of education.

(g) "A Federal education program" means any Federal activity with a primary purpose of offering instruction or affecting an educational agency's or institution's ability to offer instruction.

(h) "Independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Credit Union Administration, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission.

(i) "General purpose statistics" are those collected chiefly for public and general government uses, without primary reference to policy or program operations of the agency collecting the information.

(j) "Information" means any statement of fact or opinion, whether in numerical, graphic, or narrative form, and whether oral or maintained on paper, magnetic tapes, or other media. "Information" does not generally include items in the following categories; however, OMB may determine that any specific item constitutes "information":

(1) Affidavits, oaths, affirmations, certifications, receipts, changes of address, consents, or acknowledgments, provided that they entail no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument;

(2) Samples of products or of any other physical objects;

(3) Facts or opinions obtained through direct observation by an employee or agent of the sponsoring agency or through nonstandardized oral communication in connection with such direct observations;

(4) Facts or opinions submitted in response to general solicitations of comments from the public, published in the Federal Register or other publications, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition to the agency's full consideration of the comment;

(5) Facts or opinions obtained initially or in follow-on requests, from individuals (including individuals in control groups) under treatment or clinical examination in connection with research on or prophylaxis to prevent a clinical disorder, direct treatment of that disorder, or the interpretation of biological analyses of body fluids, tissues, or other specimens, or the identification or classification of such specimens;

(6) A request for facts or opinions addressed to a single person;

(7) Examinations designed to test the aptitude, abilities, or knowledge of the persons tested and the collection of information for identification or classification in connection with such examinations;

(8) Facts or opinions obtained or solicited at or in connection with public hearings or meetings;

(9) Facts or opinions obtained or solicited through nonstandardized follow-up questions designed to clarify responses to approved collections of information;

(10) Like items so designated by the Director.

(k) "Interagency reporting requirement" means any requirement that an agency report information to another agency or agencies.

(l) "Modify" means to approve in part and disapprove in part.

(m) "Penalty" means the imposition by an agency or court of a fine or other punishment; judgment for monetary damages or equitable relief; or revocation, suspension, reduction, or denial of a license, privilege, right, grant, or benefit.

(n) "Person" means an individual, partnership, association, corporation, (including operations of government-owned contractor-operated facilities), business trust, legal representative, organized group of individuals, state, territory, or local government or component thereof. Current employees of the Federal government are excluded from this definition for purposes of the collection of information within the scope of their employment. Military reservists and members of the National Guard are considered Federal employees when on active duty, and for purposes of obtaining information about duty status. Retired and other former Federal employees are included entirely within the definition of "person."

(o) "Practical utility" means the actual, not merely the theoretical or potential, usefulness of information to an agency, taking into account its accuracy, adequacy, and reliability, and the agency's ability to process the information in a useful and timely fashion. In determining whether information will have "practical utility," OMB will take into account whether the agency demonstrates actual timely use for the information either to carry out its functions or to make it available to the public, either directly or by means of a public disclosure or labeling requirement, for the use of persons who have an interest in entities or transactions over which the agency has jurisdiction. In the case of general purpose statistics or recordkeeping requirements, "practical utility" means that actual uses can be demonstrated.

(p) "Recordkeeping requirement" means a requirement imposed by an agency on persons to maintain specified records and includes requirements that information be maintained or retained by persons but not necessarily provided to an agency.

(q) "Reporting requirement" means a requirement imposed by an agency on persons to provide information to another person or to the agency. Reporting requirements may implicitly or explicitly include related recordkeeping requirements.

(r) "Sponsor." A Federal agency is considered to "sponsor" the collection of information if the agency collects the information, causes another agency to collect the information, contracts or enters into a cooperative agreement with a person to collect the information, or requires a person to provide information to another person. A collection of information undertaken by a recipient of a Federal grant is considered to be "sponsored" by an agency only if:

- (1) The recipient of a grant is collecting information at the specific request of the agency; or
- (2) The terms and conditions of the grant require specific approval by the agency of the collection of information or the collection procedures.

(s) "Ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period, and to any independent entities to which the initial addressee may reasonably be expected to transmit the collection of information during that period, including independent state or local entities and separately incorporated subsidiaries or affiliates, but not including employees of the respondent within the scope of their employment, or contractors engaged for the purpose of complying with the collection of information.

(1) Any recordkeeping or reporting requirement contained in a rule of general applicability is deemed to involve ten or more persons.

(2) Any collection of information addressed to all or a substantial majority of an industry is presumed to involve ten or more persons.

#### § 1320.8 Agency head and senior official responsibilities.

(a) Except as provided in paragraph (b) of this section, each agency head shall designate a Senior Official to carry out the responsibilities of the agency under the Act.

(1) The Senior Official shall report directly to the head of the agency and shall have the authority, subject to that of the agency head, to carry out the responsibilities of the agency under the Act and this Part.

(2) The Senior Official shall independently assess all collections of information to ensure that they meet the criteria specified in § 1320.4(b) and that the agency conducts no collection of information that does not display a currently valid OMB control number.

(b) An agency head may retain full undelegated review authority for any component of the agency which by statute is required to be independent of any agency official below the agency head. For each component for which responsibility under the Act is not delegated to the Senior Official, the agency head shall be responsible for the performance of those functions.

(c) Upon request of the Director, the head or the Senior Official of each agency (other than an independent regulatory agency) shall make its services, personnel, and facilities available to OMB for the performance of Paperwork Reduction Act functions, unless such head or Senior Official determines in writing that the provision of such resources is impracticable.

#### § 1320.9 Delegation of approval authority.

(a) The Director may, after complying with the notice and comment procedures of 5 U.S.C. Chapter 5, delegate OMB review of some or all of an agency's collections of information to the Senior Official, or to the agency head with respect to those components of the agency for which he has not delegated authority.

(b) No delegation of review authority shall be made unless the agency demonstrates to OMB that the Senior Official or agency head to whom the authority would be delegated:

(1) Is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved, and



(2) Has sufficient resources to carry out this responsibility effectively.

(c) OMB may limit, condition, or rescind, in whole or in part, at any time, such delegations of authority, and reserves the right to review any individual collection of information, or part thereof, sponsored by an agency, at any time.

(d) Subject to the provisions of this part, and in accord with the terms and conditions of each delegation as specified in Appendix A to this part, the Director delegates review and approval authority to the following agencies:

(1) Board of Governors of the Federal Reserve System.

§ 1320.10 Information collection budget.

Each agency's Senior Official, or agency head in the case of any agency for which the agency head has not delegated responsibility under the Act for any component of the agency to the Senior Official, shall develop and submit to OMB, in such form and in accordance with such procedures as OMB may prescribe, an annual comprehensive budget for all collections of information from the public to be conducted or sponsored by the agency in the succeeding twelve months. If during the course of such year, the agency proposes a collection of information not included in the annual budget, it shall, in accordance with such instructions as OMB may provide, either make offsetting reductions in other items in the budget or obtain supplemental authorization for the additional collection. For good cause, and where it is possible to meet its statutory responsibilities by other means, OMB may exempt any agency from this requirement.

§ 1320.11 Agency submissions of collections of information.

(a) Agency submissions of collections of information for OMB review may be made only by the agency head or Senior Official, or their designee. Submissions shall be made in accordance with such procedures and in such form as the Director may prescribe. Submissions shall provide sufficient information to permit consideration of the criteria set out in § 1320.4 (b) and (c), shall include an estimate of burden, calculated in a manner prescribed by OMB, shall identify any significant burdens placed on a substantial number of small businesses or other small entities, and shall contain such additional supporting material as the Director may request.

(b) Agencies shall provide copies of the material submitted to OMB for review promptly upon request by any person.

(c) OMB shall review all agency submissions in accordance with the standards set forth in § 1320.4 (b) and (c).

(d) In determining whether to approve, disapprove, modify, review, initiate proposals for changes in or stay the effectiveness of its approval of, any collection of information, OMB shall consider any public comments received, and may provide the agency and interested persons additional opportunities to be heard or to submit statements in writing. Any such determination and explanation thereof shall be publicly available.

(e) Agencies shall submit collections of information contained in proposed rules published for public comment in the Federal Register in accordance with the requirements set forth in § 1320.13. Agencies shall submit collections of information contained in current regulations that were published as final rules in the Federal Register in accordance with the requirements set forth in § 1320.14. Agencies shall submit collections of information other than those contained in proposed rules published for public comment in the Federal Register or in current regulations that were published as final rules in the Federal Register, in accordance with the requirements set forth in § 2320.12. Special rules for clearance and inventory of collections of information prescribed by an agency, but collected by another agency, are set forth in § 1320.16. Special rules for emergency processing of collections of information are set forth in § 1320.18.

(f) Prior to the expiration date assigned to a collection of information, after consultation with the agency, OMB may decide to review the collection of information, and shall so notify the agency. Such decisions will be made only when relevant circumstances have changed or the burden estimates provided by the agency at the time of the initial submission were materially in error. Upon such notification, the agency shall submit the collection of information for review under the procedures outlined in § 1320.12 or 1320.14, as appropriate. The agency may continue to sponsor the collection of information while the submission is pending. For good cause, after consultation with the agency, OMB may stay the effectiveness of its approval of any collection of information not specifically required by agency rule, whereupon the agency shall cease sponsoring such collection of information while the submission is pending, and shall publish a notice in the Federal Register to that effect.

(g) Whenever the persons to whom a collection of information is addressed are primarily educational agencies or institutions or whenever the purpose of such activities is primarily to request information needed for the management or

formulation of policy related to Federal education programs, or research or evaluation studies related to implementation of Federal education programs, the collection of information shall be submitted to OMB in accordance with the procedures outlined in this Part. Such request or requirement will be reviewed by the Federal Education Data Acquisition Council (FEDAC), or organizational unit fulfilling the same statutory function within the Department of Education, prior to approval or disapproval by OMB. Collections of information addressed to educational agencies or institutions and submitted to the Secretary of Education under the provisions of *20 U.S.C. 1221-3* shall be submitted by the Secretary of Education to OMB for approval in accordance with procedures contained in this Part, in time to receive OMB approval and to be announced publicly by the agency by the February 15 preceding the school year in which the information is to be collected.

(h) No substantive or material modification may be made by an agency in a collection of information after it has been assigned an OMB control number unless the modification has been submitted to OMB for review and approval pursuant to the procedures outlined in this Part.

(i) OMB will reconsider its disapproval of a collection of information upon the written request of an agency head or Senior Official only if the sponsoring agency is able to provide significant new or additional information relevant to the original decision.

(j) For purposes of time limits for OMB review of collections of information, any submission received by OMB after 12:00 noon will be deemed to have been received on the following business day.

#### § 1320.12 Clearance of collections of information.

Agencies shall submit all collections of information, other than those contained either in proposed rules published for public comment in the Federal Register or in current rules that were published as final rules in the Federal Register, in accordance with the following requirements:

(a) On or before the day of submission to OMB, the agency shall, in accordance with the requirements set forth in § 1320.15, forward a notice to the Federal Register stating that OMB approval is being sought. The notice shall direct requests for information, including copies of the proposed collection of information and supporting documentation, to the agency, and shall direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for [name of agency]. A copy of the notice submitted to the Federal Register, together with the date of expected publication, shall be included in the agency's submission to OMB.

(b) Within 60 days of its receipt of a proposed collection of information, OMB shall notify the agency involved of its decision to approve, modify, or disapprove the collection of information and shall make such decision publicly available. OMB may extend this 60-day period for an additional 30 days upon notice to the agency. Upon approval of a collection of information, OMB shall assign a control number and an expiration date. OMB shall not approve any collection of information for a period longer than three years.

(c) If OMB fails to notify the agency of its approval, disapproval, or extension of review within the 60-day period (or 90-day period if notice of an extended review has been given), the agency may request, and OMB shall assign without further delay, a control number that shall be valid for not more than one year.

(d) A collection of information may not become effective until the agency has displayed a valid OMB control number (and, unless OMB determines it to be inappropriate, an expiration date).

#### § 1320.13 Clearance of collections of information in proposed rules.

Agencies shall submit collections of information contained in proposed rules published for public comment in the Federal Register in accordance with the following requirements:

(a) The agency shall include, in accordance with the requirements set forth in § 1320.15, in the preamble to the Notice of Proposed Rulemaking a statement that the collections of information contained in the rule, and identified as such, have been submitted to OMB for review under section 3504(h) of the Act. The statement shall direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for [name of agency].

(b) All such submissions shall be made to OMB not later than the day on which the Notice of Proposed Rulemaking is published in the Federal Register, in such form and in accordance with such procedures as the Director may direct. Such submissions shall include a copy of the proposed regulation and preamble.

(c) Within 60 days of publication of the proposed rule, OMB may file public comments on collection of information provisions. Such comments shall be in the form of an OMB Notice of Action, which shall be sent to the Senior Official or agency head, or their designee, and which shall be made a part of the agency's rulemaking record.

(d) If an agency submission is not in compliance with paragraph (b) of this section, OMB may disapprove the collection of information in the proposed rule within 60 days of receipt of the submission. If an agency fails to submit a collection of information subject to this section, OMB may disapprove it at any time.

(e) When the final rule is published in the Federal Register, the agency shall explain how the final rule responds to any comments received from OMB or the public. The agency shall include an identification and explanation of any modifications made in the rule, or explain why it rejected the comments. If requested by OMB, the agency shall include OMB's comments in the preamble to the final rule.

(f) If OMB has not filed public comments pursuant to § 1320.13(c), or has approved the collection of information contained in a rule before the final rule is published in the Federal Register, OMB may assign a control number prior to publication of the final rule, and the agency may display the number in its publication of the final rule.

(g) On or before the date of publication of the final rule, the agency shall submit the final rule to OMB, unless it has been approved pursuant to § 1320.13(f) (and not substantively or materially modified by the agency after approval). Not later than 60 days after publication OMB shall approve, modify, or disapprove the collection of information contained in the final rule. Any such disapproval may be based on one or more of the following reasons, as determined by OMB:

(1) The agency failed to comply with paragraph (b) of this section;

(2) The agency had substantially modified the collection of information contained in the final rule from that contained in the proposed rule, without providing OMB with notice of the change of sufficient information to make a determination concerning the modified collection of information at least 60 days before publication of the final rule; or

(3) In cases where OMB had filed public comments pursuant to paragraph (c) of this section, the agency's response to such comments was unreasonable, and the collection of information is unnecessary for the proper performance of the agency's functions.

(h) After making such decision to approve, modify, or disapprove a collection of information, OMB shall so notify the agency. If OMB approves the collection of information or if it has not acted upon the submission within the time limits of this section, OMB shall assign a control number. If OMB disapproves the collection of information, it shall make the reasons for its decision publicly available.

(i) OMB shall not approve any collection of information for a period longer than three years. Approval of any collection of information submitted under this section will be for the full three-year period, unless the Director determines that there are special circumstances requiring approval for a shorter period.

(j) After receipt of notification of OMB's approval, disapproval, or failure to act, and prior to the effective date of the rule, the agency shall publish a notice in the Federal Register to inform the public of OMB's decision. If OMB has approved or failed to act upon the collection of information, the agency shall include the OMB control number in such notice. A collection of information may not become effective until OMB has assigned a control number, and such number is displayed.

#### § 1320.14 Clearance of collections of information in current rules.

Agencies shall submit collections of information contained in current regulations that were published as final rules in the Federal Register in accordance with the following procedures:

(a) In order to prevent the control number and OMB approval for a collection of information subject to this section from expiring without the agency first having complied with all applicable procedures attendant to the amendment or repeal of the rule containing the collection of information, agencies shall submit to OMB all previously approved collections of information subject to this section not later than 90 days before the expiration date of the OMB control number assigned to the collection.

(b) On or before the day of submission to OMB, the agency shall, in accordance with the requirements set forth in § 1320.15, forward a notice to the Federal Register stating that OMB review is being sought. The notice shall direct requests for information, including copies of the collection of information and supporting documentation, to the agency,

and shall direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for [name of agency]. A copy of the notice submitted to the Federal Register, together with the date of expected publication, shall be included in the agency's submission to OMB.

(c) Within 60 days of its receipt of a collection of information submission, OMB shall notify the agency involved of its decision whether to approve or to initiate proposals for change in the collection and shall make such decision publicly available. OMB may extend this 60-day period for an additional 30 days upon notice to the agency. Upon approval of a collection of information, OMB shall assign a control number and an expiration date.

(d) OMB shall not approve any collection of information for a period longer than three years. Approval of any collection of information submitted under this section will be for the full three year period, unless the Director determines that there are special circumstances requiring approval for a shorter period.

(e) If OMB fails to notify the agency of its approval, decision to initiate proposals for change, or extension of review within the 60-day period (or 90-day period if notice of an extended review has been given), the agency may request, and OMB shall assign without further delay, a control number that shall be valid for not more than one year. Upon assignment of a control number by OMB, the agency shall display such number in accordance with § 1320.7(e)(2).

(f) If OMB has notified the agency of a decision to initiate proposals for change in the collection of information, it shall extend the existing approval of the collection for the duration of the period required for consideration of proposed changes, including that required for OMB approval or disapproval of the collection of information under § 1320.12(b) or § 1320.13(g), as appropriate. In the case of a collection of information not previously approved, a control number shall be granted for such period. The agency shall publish a notice on the agency's next practicable publication date in the Federal Register to inform the public that OMB has initiated proposals for change in the collection, and has granted or extended its approval of the collection of information.

(g) Thereafter, the agency shall, within a reasonable period of time not to exceed 120 days, undertake such procedures as are necessary in compliance with the Administrative Procedure Act and other applicable law to amend or rescind the collection of information, and shall notify the public through the Federal Register. Such notice shall identify the proposed changes in the collections of information and shall solicit public comment on retention, modification, or rescission of such collections of information. If the agency employs notice and comment rulemaking procedures for amendment or rescission of the collection of information, publication of the above in the Federal Register and submission to OMB shall initiate OMB clearance procedures under section 3504(h) of the Act and § 1320.13. If the agency does not employ notice and comment rulemaking procedures for amendment or rescission of the collection of information, publication of such notice and submission to OMB shall initiate OMB clearance procedures under section 3507 of the Act and § 1320.12. All procedures shall be completed within a reasonable period of time to be determined by OMB in consultation with the agency.

(h) OMB may disapprove, in whole or in part, any collection of information subject to the procedures of this section, if the agency:

- (1) Has refused within a reasonable time to comply with an OMB directive to submit the collection of information for review;
- (2) Has refused within a reasonable time to initiate procedures to change the collection of information; or
- (3) Has refused within a reasonable time to publish a final rule continuing the collection of information, with such changes as may be appropriate, or otherwise complete the procedures for amendment or rescission of the collection of information.

(i) Upon disapproval by OMB of a collection of information subject to this section, the OMB control number assigned to such collection shall immediately expire, and no agency shall conduct or sponsor such collection of information. Any such disapproval shall constitute disapproval of the collection of information contained in the Notice of Proposed Rulemaking or other submissions, and also of the preexisting information collection instruments directed at the same collection of information and therefore constituting essentially the same collection of information.

#### § 1320.15 Federal Register notice of OMB review.

(a) In each notice prescribed by §§ 1320.12(a) and 1320.14(b), and the statement prescribed by § 1320.13(a), agencies shall set forth, at a minimum:

- (1) The title for the collection of information;
- (2) A brief description of the agency's need for the information to be collected, including the use to which it is planned to be put;
- (3) A description of the likely respondents; and
- (4) An estimate of the total annual reporting and recordkeeping burden that will result from each collection of information. This total burden for each collection of information shall also be disaggregated and set forth in terms of the estimated average burden hours per response, the proposed frequency of response, and the estimated number of likely respondents.

(b)(1) If, at the time of submittal of a collection of information for OMB review in accordance with the requirements set forth in § 1320.12 or 1320.14, an agency plans to request, or has requested OMB to conduct its review on an expedited schedule (a review faster than 60 days from the date of receipt by OMB), the agency shall publish as part of this Federal Register notice the time period within which it is requesting OMB to approve or disapprove the collection of information, and a copy of the collection of information, together with any related instructions, for which OMB approval is being sought.

(2) If advance publication of the collection of information and any related instructions would defeat the purpose of the collection of information, OMB may, in consultation with the agency, exempt from the requirements of this subsection specific collections of information or categories thereof.

#### § 1320.16 Collections of information prescribed by another agency.

(a) Any collection of information prescribed by an agency and to be adopted as a Standard or Optional Form after approval by the General Services Administration (GSA) shall be submitted to OMB for approval through GSA in accordance with such procedures and in such form as the Director may prescribe.

(1) Standard and Optional Forms used for the collection of information must be approved by OMB and assigned a currently valid control number before they can be used.

(2) GSA, with the assistance of the agencies using the forms, shall submit annually to OMB a list of all Standard and Optional Forms in use during that year for the collection of information from the public, stating which agencies use these forms, the number of each form used by each agency, and an estimate of the burden required to complete each form. Burden estimates developed by GSA will be counted as burden imposed by each agency in proportion to the use of the information.

(b) Any other collections of information prescribed by an agency but collected by another agency or agencies shall be submitted to OMB for approval by the agency that prescribes the collection, in accordance with such procedures and in such form as the Director may prescribe. With the assistance of the agencies collecting the information, the agency making the submission shall inform OMB of which agencies collect the information and an estimate of the burden of the collection of information. Burden estimates developed by the submitting agency will be counted as burden imposed by each agency in proportion to their use of the information.

(c) In other respects, collections of information under this section shall be treated under the standards and procedures of §§ 1320.11-1320.15, and 1320.21, as appropriate.

#### § 1320.17 Interagency reporting.

In accordance with authorities in the Act, the Federal Records Act, and the Budget and Accounting Procedures Act, as amended, the General Services Administration (GSA) is directed to issue regulations or requirements for the management of interagency reporting and provide for the approval and clearance of interagency reporting, whether mandatory or voluntary. Upon request, GSA shall report to the Director on the status of interagency reporting. Judicial branch requirements contained in court orders or decrees, and OMB and other Executive Office of the President requirements shall be exempt from the provisions of this section.

#### § 1320.18 Emergency and expedited processing.

An agency head or the Senior Official may request emergency processing of submissions of collections of information.

(a) Any such request shall be accompanied by a written determination that the collection of information is essential to the mission of the agency, and that public harm will result if normal clearance procedures are followed, or that an unanticipated event has occurred which will prevent or disrupt the collection of information or cause a statutory or judicial deadline to be missed if normal procedures are followed.

(b) The agency shall state the time period within which OMB should approve or disapprove the collection of information.

(c) The agency shall submit information indicating that it has taken all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information.

(d) The agency shall set forth in the Federal Register notice prescribed by § 1320.15 a statement that it is requesting emergency processing, and the time period stated under § 1320.18(b).

(e) OMB shall approve or disapprove each such submission within the time period stated under § 1320.18(b), provided such time period is consistent with the purposes of the Act.

(f) If OMB approves the collection of information, it shall assign a control number valid for a maximum of 90 days after receipt of the agency submission.

(g) Upon request by an agency, OMB may agree to act on a collection of information submission on an expedited schedule, even though such submission may not qualify for emergency processing under this section.

#### § 1320.19 Public access.

(a) In order to enable the public to participate in and provide comments during the clearance process, OMB will ordinarily make its paperwork docket files available for public inspection during normal business hours. Notwithstanding other provisions of this rule, requirements to publish public notices or to provide materials to the public may be modified or waived by the Director to the extent that public participation in the approval process would defeat the purpose of the collection of information; jeopardize the confidentiality of proprietary, trade secret, or other confidential information; violate State or Federal law; or substantially interfere with an agency's ability to perform its statutory obligations. Provisions of this paragraph guaranteeing public availability of comments on agency collections of information will not be waived or modified.

(b) Agencies conducting or sponsoring a collection of information shall take reasonable steps to inform potential respondents of the identity of the Federal agency sponsoring any collection of information, why the information is being collected, how it is to be used, the average burden hours per response, whether responses to the request are voluntary, required to obtain or retain a benefit (citing authority), or mandatory (citing authority), and the nature and extent of confidentiality to be provided, if any (citing authority).

#### § 1320.20 Independent regulatory agency override authority.

An independent regulatory agency may override OMB's disapproval or stay of effectiveness of approval of a collection of information by majority vote of its members or commissioners. The agency shall certify any such override to the Director, and shall explain in writing its reasons for exercising the override authority. OMB shall promptly assign an OMB control number, valid for the length of time requested by the agency, up to three years, to any collection of information as to which this authority is exercised. No override shall become effective until the independent regulatory agency has displayed the OMB control number.

#### § 1320.21 Agency disclosure of estimated burden.

(a)(1) Agencies shall disclose on each collection of information, as close to the current OMB control number as practicable, the agency estimate of the average burden hours per response.

(2) Agencies shall include with this estimate of burden a request that the public direct to the agency and the Office of Information and Regulatory Affairs any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden.

(b) If it is not practicable to place the burden estimate and request for comments on the front page, or otherwise at the beginning of the collection of information or in the regulatory text, the agency may place the burden estimate and request for comments at the beginning of the instructions that accompany the collection of information, or at the beginning of the preamble of a proposed or final rule that contains the collection of information. If an agency develops or

relies upon forms or other instruments in order to implement a collection of information in a proposed or final rule, the agency shall place the applicable burden estimate and the request for comments on both the rule and the forms or other information collection instruments.

(c) An agency need place the burden estimate and request for comments only on copies of the collection of information, or on its instructions, printed or otherwise reproduced (or newly communicated) after July 1, 1988.

(d) If special circumstances exist, OMB may, in consultation with the agency, exempt from the requirements of this section specific collections of information or categories thereof.

§ 1320.22 Other authority.

(a) The Director shall determine whether any collection of information or other matter is within the scope of the Act, or of this Part.

(b) In appropriate cases, after consultation with the agency, the Director may initiate a rulemaking proceeding to determine whether an agency's collection of information is consistent with statutory standards. Such proceedings shall be in accordance with informal rulemaking procedures under 5 U.S.C. Chapter 5.

(c) Each agency is responsible for complying with the information policies, principles, standards, and guidelines prescribed by the Director.

(d) To the extent permitted by law, the Director may waive any requirements contained in this Part.

(e) Nothing in this Part shall be interpreted to limit the authority of the Director under the Paperwork Reduction Act of 1980, the Paperwork Reduction Reauthorization Act of 1986, or any other law. Nothing in this Part, the Paperwork Reduction Act of 1980, or the Paperwork Reduction Reauthorization Act of 1986 shall be interpreted as increasing or decreasing the authority of OMB with respect to the substantive policies and programs of the agencies.

Appendix A -- Agencies With Delegated Review and Approval Authority

1. The Board of Governors of the Federal Reserve System.

(a) Authority to review and approve collection of information requests, collection of information requirements, and collections of information in current rules is delegated to the Board of Governors of the Federal Reserve System.

(1) This delegation does not include review and approval authority over any new collection of information or any modification to an existing collection of information that:

(i) Is proposed to be collected as a result of a requirement or other mandate of the Federal Financial Institutions Examination Council, or other Federal executive branch entities with authority to require the Board to conduct or sponsor a collection of information.

(ii) Is objected to by another Federal agency on the grounds that that agency requires information currently collected by the Board, that the currently collected information is being deleted from the collection, and the deletion will have a serious adverse impact on the agency's program, provided that such objection is certified to OMB by the head of the Federal agency involved, with a copy to the Board, before the end of the comment period specified by the Board on the Federal Register notices specified in (3)(i) below.

(iii) Would cause the burden of the information collections conducted or sponsored by the Board to exceed by the end of the fiscal year the Information Collection Budget allowance provided to the Board by OMB for the fiscal year-end.

(2) The Board may ask that OMB review and approve collections of information covered by this delegation.

(3) In exercising delegated authority, the Board will:

(i) Provide the public, to the extent possible and appropriate, with reasonable opportunity to comment on collections of information under review prior to taking final action approving the collection. Reasonable opportunity for public comment will include publishing a notice in the Federal Register informing the public of the proposed collection of information, notifying the public of the availability of copies of the "clearance package," and providing the public with the opportunity to comment. Such Federal Register notices shall also advise the public that they may also send a copy of their comments to the OMB/OIRA Desk Officer for the Federal Reserve Board.

(A) Should the Board determine that a new collection of information or a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation, the Board may approve of the collection of information without providing opportunity for public comment. At the earliest practical date after approving the collection of information, the Board will publish a Federal Register notice informing the public of its approval of the collection of information and indicating why immediate action was necessary.

(B) In such cases, before taking final action to reauthorize the collection of information for an additional period, the Board will take into account any comments received after the institution of the collection.

(ii) Provide the OMB/OIRA Desk Officer for the Federal Reserve Board with a copy of the Board's Federal Register notice not later than the day the Board files the notice with the Office of the Federal Register.

(iii) Assure that approved collections of information are reviewed not less frequently than once every three years, and that such reviews are normally conducted before the expiration date of the prior approval. Where the review has not been completed prior to the expiration date, the Board may extend the report, for up to three months, without public notice in order to complete the review and consequent revisions, if any. There may also be other circumstances in which the Board determines that a three-month extension without public notice is appropriate.

(iv) Take every reasonable step to ensure that the collection of information conforms to the requirements of 5 CFR 1320.4(b). In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies. The Board will not approve a collection of information that it determines does not satisfy the guidelines set forth in 5 CFR 1320.6, unless it determines that departure from these guidelines is necessary to satisfy statutory requirements or other substantial need.

(v) Assure that each approved collection of information displays an OMB control number and that all collections of information, except those contained in regulations, display the expiration date of the approval.

(vi) Assure that each approved collection of information, together with a completed SF83, a supporting statement, a copy of each comment received from the public and other agencies in response to the Board's Federal Register notice or a summary of these comments, and a certification that the Board has approved of the collection of information in accordance with the provisions of this delegation is transmitted to OMB for incorporation into OMB's public docket files. Such transmittal shall be made as soon as practical after the Board has taken final action approving the collection. However, no collection of information may be instituted until the Board receives written or oral notification from OMB or OMB staff that the transmittal has been received.

(b) OMB will:

(1) Provide the Board in advance with a block of control numbers which the Board will assign in sequential order to, and display on, new collections of information.

(2) Provide a written notice of action to the Board indicating that Board approvals of collections of information have been received by OMB and incorporated into OMB's public docket files and inventory of currently approved collections of information.

(3) Review any collection of information referred by the Board in accordance with the provisions of section 1(a)(2) of this Appendix.

(c) OMB may review the Board's paperwork review process under the delegation. The Board will cooperate in carrying out such a review. The Board will respond to any recommendations resulting from such review and, if it finds the recommendations to be appropriate, will either accept the recommendations or propose an alternative approach to achieve the intended purpose.

(d) This delegation may, as provided by 5 CFR 1320.9(c), be limited, conditioned, or rescinded, in whole or in part at any time. OMB will exercise this authority only in unusual circumstances and, in those rare instances, will do so, subject to the provisions of 5 CFR 1320.11(f), prior to the expiration of the time period set for public comment in the Board's Federal Register notices and generally only if:

(1) Prior to the commencement of a Board review (e.g., during the ICB review), OMB has notified the Board that it intends to review a specific new proposal for the collection of information or the continued use (with or without modification) of an existing collection;



(2) There is substantial public objection to a proposed information collection; or

(3) OMB determines that a substantially inadequate and inappropriate lead time has been provided between the final announcement date of the proposed requirement and the first date when the information is to be submitted or disclosed. When OMB exercises this authority it will consider that the period of its review began the day that OMB received the Federal Register notice provided for in section 1(a)(3)(i) of this Appendix.

(e) Where OMB conducts a review of a Board information collection proposal under section 1(a)(1), 1(a)(2), or 1(d) of this Appendix, the provisions of 5 CFR 1320.18 and 5 CFR 1320.20 continue to apply.

*(31 U.S.C. Sec. 18a and 44 U.S.C. Chs. 21, 25, 27, 29, 31, 35)*  
[FR Doc. 88-10224 Filed 5-5-88; 10:15 am]