

PAPERWORK REDUCTION ACT OF 1995

APRIL 3, 1995.—Ordered to be printed

Mr. CLINGER, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 244]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 244), to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork Reduction Act of 1995".

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

**"CHAPTER 35—COORDINATION OF FEDERAL
INFORMATION POLICY**

"Sec.

"3501. Purposes.

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- "3514. Responsiveness to Congress.*
- "3515. Administrative powers.*
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- "3517. Consultation with other agencies and the public.*
- "3518. Effect on existing laws and regulations.*
- "3519. Access to information.*
- "3520. Authorization of appropriations.*

"§ 3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100-235); and

“(C) access to information, including section 552 of title 5;

“(9) ensure the integrity, quality, and utility of the Federal statistical system;

“(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

“(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

“§ 3502. Definitions

“As used in this chapter—

“(1) the term ‘agency’ means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

“(A) the General Accounting Office;

“(B) Federal Election Commission;

“(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

“(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

“(2) the term ‘burden’ means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

“(A) reviewing instructions;

“(B) acquiring, installing, and utilizing technology and systems;

“(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

“(D) searching data sources;

“(E) completing and reviewing the collection of information; and

“(F) transmitting, or otherwise disclosing the information;

“(3) the term ‘collection of information’—

“(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

“(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

“(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

“(B) shall not include a collection of information described under section 3518(c)(1);

“(4) the term ‘Director’ means the Director of the Office of Management and Budget;

“(5) the term ‘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 Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, 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;

“(6) the term ‘information resources’ means information and related resources, such as personnel, equipment, funds, and information technology;

“(7) the term ‘information resources management’ means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

“(8) the term ‘information system’ means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

“(9) the term ‘information technology’ has the same meaning as the term ‘automatic data processing equipment’ as defined by section 111(a) (2) and (3)(C) (i) through (v) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a) (2) and (3)(C) (i) through (v));

“(10) the term ‘person’ means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision;

“(11) the term ‘practical utility’ means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

“(12) the term ‘public information’ means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public;

“(13) the term ‘recordkeeping requirement’ means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to—

“(A) retain such records;

“(B) notify third parties, the Federal Government, or the public of the existence of such records;

“(C) disclose such records to third parties, the Federal Government, or the public; or

“(D) report to third parties, the Federal Government, or the public regarding such records; and

“(14) the term ‘penalty’ includes the imposition by an agency or court of a fine or other punishment; a judgment for monetary damages or equitable relief; or the revocation, suspension, reduction, or denial of a license, privilege, right, grant, or benefit.

“§ 3503. Office of Information and Regulatory Affairs

“(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

“§ 3504. Authority and functions of Director

“(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall—

“(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

“(B) provide direction and oversee—

“(i) the review and approval of the collection of information and the reduction of the information collection burden;

“(ii) agency dissemination of and public access to information;

“(iii) statistical activities;

“(iv) records management activities;

“(v) privacy, confidentiality, security, disclosure, and sharing of information; and

“(vi) the acquisition and use of information technology.

“(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

“(b) With respect to general information resources management policy, the Director shall—

“(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

“(2) foster greater sharing, dissemination, and access to public information, including through—

“(A) the use of the Government Information Locator Service; and

“(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

“(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

“(4) oversee the development and implementation of best practices in information resources management, including training; and

“(5) oversee agency integration of program and management functions with information resources management functions.

“(c) With respect to the collection of information and the control of paperwork, the Director shall—

“(1) review and approve proposed agency collections of information;

“(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

“(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

“(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

“(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

“(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

“(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

“(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

“(e) With respect to statistical policy and coordination, the Director shall—

“(1) coordinate the activities of the Federal statistical system to ensure—

“(A) the efficiency and effectiveness of the system; and

“(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

“(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the

quality of Federal statistics and prepare an annual report on statistical program funding;

“(3) develop and oversee the implementation of Government-wide policies, principles, standards, and guidelines concerning—

“(A) statistical collection procedures and methods;

“(B) statistical data classification;

“(C) statistical information presentation and dissemination;

“(D) timely release of statistical data; and

“(E) such statistical data sources as may be required for the administration of Federal programs;

“(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

“(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

“(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

“(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

“(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

“(A) be headed by the chief statistician; and

“(B) consist of—

“(i) the heads of the major statistical programs;

and

“(ii) representatives of other statistical agencies under rotating membership; and

“(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

“(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

“(B) all costs of the training shall be paid by the agency requesting training.

“(f) With respect to records management, the Director shall—

“(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

“(2) review compliance by agencies with—

“(A) the requirements of chapters 29, 31, and 33 of this title; and

“(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

“(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

“(g) With respect to privacy and security, the Director shall—

“(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

“(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

“(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

“(h) With respect to Federal information technology, the Director shall—

“(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

“(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

“(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

“(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759);

“(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

“(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

“(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

“(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

“(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemina-

tion of public information and the reduction of information collection burdens on the public.

“§ 3505. Assignment of tasks and deadlines

“(a) In carrying out the functions under this chapter, the Director shall—

“(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least 10 percent during each of fiscal years 1996 and 1997 and 5 percent during each of fiscal years 1998, 1999, 2000, and 2001, and set annual agency goals to—

“(A) reduce information collection burdens imposed on the public that—

“(i) represent the maximum practicable opportunity in each agency; and

“(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

“(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

“(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden; and

“(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

“(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

“(B) plans for—

“(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

“(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

“(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this chapter; and

“(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

“(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may, after consultation with the agency head, waive the application of any administrative directive issued by an agency with which the project is conducted, including any di-

rective requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

“§ 3506. Federal agency responsibilities

“(a)(1) The head of each agency shall be responsible for—

“(A) carrying out the agency’s information resources management activities to improve agency productivity, efficiency, and effectiveness; and

“(B) complying with the requirements of this chapter and related policies established by the Director.

“(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

“(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate senior officials who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated, the respective duties of the officials shall be clearly delineated.

“(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

“(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

“(b) With respect to general information resources management, each agency shall—

“(1) manage information resources to—

“(A) reduce information collection burdens on the public;

“(B) increase program efficiency and effectiveness; and

“(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

“(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

“(3) develop and maintain an ongoing process to—

“(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

“(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

“(C) establish goals for improving information resources management’s contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

“(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency’s information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

“(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

“(c) With respect to the collection of information and the control of paperwork, each agency shall—

“(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

“(A) review each collection of information before submission to the Director for review under this chapter, including—

“(i) an evaluation of the need for the collection of information;

“(ii) a functional description of the information to be collected;

“(iii) a plan for the collection of the information;

“(iv) a specific, objectively supported estimate of burden;

“(v) a test of the collection of information through a pilot program, if appropriate; and

“(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

“(B) ensure that each information collection—

“(i) is inventoried, displays a control number and, if appropriate, an expiration date;

“(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

“(iii) informs the person receiving the collection of information of—

“(I) the reasons the information is being collected;

“(II) the way such information is to be used;

“(III) an estimate, to the extent practicable, of the burden of the collection;

“(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

“(V) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number; and

“(C) assess the information collection burden of proposed legislation affecting the agency;

“(2)(A) except as provided under subparagraph (B) or section 3507(j), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

“(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

“(ii) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information;

“(iii) enhance the quality, utility, and clarity of the information to be collected; and

“(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

“(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

“(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

“(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

“(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

“(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

“(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

“(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

“(iii) an exemption from coverage of the collection of information, or any part thereof;

“(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

“(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

“(F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

“(G) contains the statement required under paragraph (1)(B)(iii);

“(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

“(I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

“(J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

“(d) With respect to information dissemination, each agency shall—

“(1) ensure that the public has timely and equitable access to the agency’s public information, including ensuring such access through—

“(A) encouraging a diversity of public and private sources for information based on government public information;

“(B) in cases in which the agency provides public information maintained in electronic format, providing timely and equitable access to the underlying data (in whole or in part); and

“(C) agency dissemination of public information in an efficient, effective, and economical manner;

“(2) regularly solicit and consider public input on the agency’s information dissemination activities;

“(3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and

“(4) not, except where specifically authorized by statute—

“(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

“(B) restrict or regulate the use, resale, or redissemination of public information by the public;

“(C) charge fees or royalties for resale or redissemination of public information; or

“(D) establish user fees for public information that exceed the cost of dissemination.

“(e) With respect to statistical policy and coordination, each agency shall—

“(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

“(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

“(3) protect respondents’ privacy and ensure that disclosure policies fully honor pledges of confidentiality;

“(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

“(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

“(6) make data available to statistical agencies and readily accessible to the public.

“(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

“(g) With respect to privacy and security, each agency shall—

“(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

“(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

“(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

“(h) With respect to Federal information technology, each agency shall—

“(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

“(2) assume responsibility and accountability for information technology investments;

“(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

“(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, includ-

ing changes that improve the ability of the agency to use technology to reduce burden; and

“(5) assume responsibility for maximizing the value and assessing and managing the risks of major information systems initiatives through a process that is—

“(A) integrated with budget, financial, and program management decisions; and

“(B) used to select, control, and evaluate the results of major information systems initiatives.

“§3507. Public information collection activities; submission to Director; approval and delegation

“(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

“(1) the agency has—

“(A) conducted the review established under section 3506(c)(1);

“(B) evaluated the public comments received under section 3506(c)(2);

“(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

“(D) published a notice in the Federal Register—

“(i) stating that the agency has made such submission; and

“(ii) setting forth—

“(I) a title for the collection of information;

“(II) a summary of the collection of information;

“(III) a brief description of the need for the information and the proposed use of the information;

“(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

“(V) an estimate of the burden that shall result from the collection of information; and

“(VI) notice that comments may be submitted to the agency and Director;

“(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

“(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

“(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

“(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

“(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

“(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

“(A) the approval may be inferred;

“(B) a control number shall be assigned without further delay; and

“(C) the agency may collect the information for not more than 1 year.

“(d)(1) For any proposed collection of information contained in a proposed rule—

“(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

“(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

“(2) When a final rule is published in the Federal Register, the agency shall explain—

“(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

“(B) the reasons such comments were rejected.

“(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

“(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

“(A) from disapproving any collection of information which was not specifically required by an agency rule;

“(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

“(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

“(D) from disapproving any collection of information contained in a final rule, if—

“(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

“(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

“(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

“(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

“(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

“(2) Any written communication between the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs, and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

“(3) This subsection shall not require the disclosure of—

“(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

“(B) any communication relating to a collection of information which is not approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

“(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

“(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

“(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

“(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

“(g) The Director may not approve a collection of information for a period in excess of 3 years.

“(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

“(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

“(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

“(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

“(A) publish an explanation thereof in the Federal Register; and

“(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

“(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

“(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

“(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

“(j)(1) The agency head may request the Director to authorize a collection of information, if an agency head determines that—

“(A) a collection of information—

“(i) is needed prior to the expiration of time periods established under this chapter; and

“(ii) is essential to the mission of the agency; and

“(B) the agency cannot reasonably comply with the provisions of this chapter because—

“(i) public harm is reasonably likely to result if normal clearance procedures are followed;

“(ii) an unanticipated event has occurred; or

“(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

“(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of

this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

“§3508. Determination of necessity for information; hearing

“Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary for any reason, the agency may not engage in the collection of information.

“§3509. Designation of central collection agency

“The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

“§3510. Cooperation of agencies in making information available

“(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

“(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

“(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

“§3511. Establishment and operation of Government Information Locator Service

“(a) In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

“(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the ‘Service’), which shall identify the major information systems, holdings, and dissemination products of each agency;

“(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

“(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

“(4) consider public access and other user needs in the establishment and operation of the Service;

“(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

“(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

“(b) This section shall not apply to operational files as defined by the Central Intelligence Agency Information Act (50 U.S.C. 431 et seq.).

“§3512. Public protection

“(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this chapter if—

“(1) the collection of information does not display a valid control number assigned by the Director in accordance with this chapter; or

“(2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.

“(b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

“§3513. Director review of agency activities; reporting; agency response

“(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review se-

lected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

“(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

“(1) be taken to address information resources management problems identified in the report; and

“(2) improve agency performance and the accomplishment of agency missions.

“§ 3514. Responsiveness to Congress

“(a)(1) The Director shall—

“(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

“(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

“(2) The Director shall include in any such report a description of the extent to which agencies have—

“(A) reduced information collection burdens on the public, including—

“(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

“(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter;

“(iii) a list of any increase in the collection of information burden, including the authority for each such collection; and

“(iv) a list of agencies that in the preceding year did not reduce information collection burdens in accordance with section 3505(a)(1), a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;

“(B) improved the quality and utility of statistical information;

“(C) improved public access to Government information; and

“(D) improved program performance and the accomplishment of agency missions through information resources management.

“(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

“§ 3515. Administrative powers

“Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

“§ 3516. Rules and regulations

“The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

“§ 3517. Consultation with other agencies and the public

“(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

“(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

“(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

“(2) take appropriate remedial action, if necessary.

“§ 3518. Effect on existing laws and regulations

“(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

“(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

“(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

“(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

“(B) during the conduct of—

“(i) a civil action to which the United States or any official or agency thereof is a party; or

“(ii) an administrative action or investigation involving an agency against specific individuals or entities;

“(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

“(D) during the conduct of intelligence activities as defined in section 3.4(e) of Executive Order No. 12333, issued December 4, 1981, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

“(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

“(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

“(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

“§3519. Access to information

“Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

“§3520. Authorization of appropriations

“There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, \$8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, and 2001.”.

SEC. 3. BURDEN REDUCTION REGARDING QUARTERLY FINANCIAL REPORT PROGRAM AT BUREAU OF THE CENSUS.

Section 91 of title 13, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The Secretary shall not select an organization or entity for participation in a survey, if—

“(A) the organization or entity—

“(i) has assets of less than \$50,000,000;

“(ii) completed participation in a prior survey in the preceding 10-year period, as determined by the Secretary; and

“(iii) was selected for that prior survey participation after September 30, 1990; or

“(B) the organization or entity—

“(i) has assets of more than \$50,000,000 and less than \$100,000,000;

“(ii) completed participation in a prior survey in the preceding 2-year period, as determined by the Secretary; and

“(iii) was selected for that prior survey participation after September 30, 1995.

“(2)(A) The Secretary shall furnish advice and similar assistance to ease the burden of a small business concern which is attempting to compile and furnish the business information required of organizations and entities participating in the survey.

“(B) To facilitate the provision of the assistance under subparagraph (A), the Secretary shall establish a toll-free telephone number.

“(C) The Secretary shall expand the use of statistical sampling techniques to select organizations and entities having assets less than \$100,000,000 to participate in the survey.

“(3) The Secretary may undertake such additional paperwork burden reduction initiatives with respect to the conduct of the survey as may be deemed appropriate by the Secretary.

“(4) For purposes of this subsection:

“(A) The term ‘small business concern’ means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant thereto.

“(B) The term ‘survey’ means the collection of information by the Secretary pursuant to this section for the purpose of preparing the publication entitled ‘Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations’.”.

SEC. 4. EFFECTIVE DATE.

(a) *IN GENERAL.*—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect on October 1, 1995.

(b) *AUTHORIZATION OF APPROPRIATIONS.*—Section 3520 of title 44, United States Code, as amended by this Act, shall take effect on the date of enactment of this Act.

(c) *DELAYED APPLICATION.*—In the case of a collection of information for which there is in effect on September 30, 1995, a control number issued by the Office of Management and Budget under chapter 35 of title 44, United States Code—

(1) the amendments made by this Act shall apply to the collection of information beginning on the earlier of—

(A) the first renewal or modification of that collection of information after September 30, 1995; or

(B) the expiration of its control number after September 30, 1995.

(2) prior to such renewal, modification, or expiration, the collection of information shall be subject to chapter 35 of title 44, United States Code, as in effect on September 30, 1995.

And the House agree to the same.

BILL CLINGER,
JOHN M. MCHUGH,
DAVID MCINTOSH,
JON FOX,
CARDISS COLLINS,
COLLIN C. PETERSON,
BOB WISE,

Managers on the Part of the House.

WILLIAM V. ROTH, Jr.,
BILL COHEN,
THAD COCHRAN,
JOHN GLENN,
SAM NUNN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 244) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report: The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor and clerical changes.

Short title (sec. 1)

The Senate bill contained a provision (section 101) that would establish the short title of the title I of the Senate bill as the "Paperwork Reduction Act of 1995".

The House amendment (section 1) contained a provision that would establish the short title of the act as the "Paperwork Reduction Act of 1995".

The conferees agree that the short title of the act should be the "Paperwork Reduction Act of 1995".

Coordination of Federal information policy (sec. 2)

The Senate bill contained a provision (sec. 102) that would provide a complete text of chapter 35 of title 44, United States Code, the codified version of the Paperwork Reduction Act of 1980, as previously amended.

The House amendment contained a similar provision (sec. 2).

The conference agreement reflects the following differences between the text of the Paperwork Reduction Act as contained in the Senate bill and the text contained in the House amendment.

1. Prior Legislative History Expressly Preserved.

Section 2 of the Paperwork Reduction Act of 1995 is drafted in the form of a complete recodification of chapter 35 of title 44, United States Code, due to the number of changes made. The modifications include word changes made for reasons of clarity and consistency, the deletion of obsolete provisions, the reorganization of sections, and substantive amendments made to update and strengthen

the original purposes of the Paperwork Reduction Act of 1980. As stated in report accompanying the S. 244 (S. Rpt. 104-8):

“To the extent the legislation is a restatement of the 1980 Act, as amended in 1988, the scope, underlying purposes, basic requirements, and legislative history of the law are unchanged. To the extent the legislation modifies provisions in current law, the amendments are made strictly for the purposes described in this report, and in order to further the purposes of the original law.” (S. Rpt. 104-4 at page 3)

The report accompanying H.R. 830, H. Rpt. 104-37, expressed essentially the same views regarding the preservation of the Act’s legislative history. (See, H. Rpt. 104-37 at page 35).

With respect to the views expressed in the reports accompanying S. 244 and H.R. 830 regarding the effect of the adopted format of both bills, a recodification of chapter 35 of title 44, United States Code, the conferees adopt and reiterate the positions expressed by those reports. Amendments to current law effected by this conference agreement are done for the purposes subsequently described in this Joint Explanatory Statement.

2. Definition of “collection of information”.

The Senate bill contained a modified definition of “collection of information”, which included adding a cross-reference to 35 U.S.C. 3518(c)(2) relating to the exclusion of certain types of collections of information from coverage under chapter 35 of Title 44.

The House amendment contained no similar modification to existing law.

The House recedes.

The conferees expressly note that the addition of the cross-reference to 35 U.S.C. 3518(c)(2) within the definition of the term “collection of information” is not intended to reflect any substantive change to existing law or to serve as a justification for any change by Federal agencies in the use of the authority granted by section 3518(c)(2).

3. Definition of “information system”.

The Senate bill contained an expanded definition of “information system”.

The House amendment added the phrase “and processes, automated or manual”.

The House recedes.

4. Definition of “information technology”.

The Senate bill contained a new definition of “information technology” (44 U.S.C. 3502(9)).

The House amendment contained a similar definition that did not contain some of the cross-references.

The House recedes.

The conferees note that the definition of “information technology” contained in section 3502(9) is intended to preserve the exemption for intelligence and military information technology that is found in current law, specifically the definition of “automatic data processing”, Section 3502(2). For the purpose of mere statutory simplification, the current exemption was incorporated by a simple reference to the so-called “Warner Amendment” to the Brooks Automatic Data Processing Act, Section 111(a)(3)(C) (i) through (v) of the Federal Property and Administrative Services Act of 1947

(40 U.S.C. 759(a)(3)(C)(i)–(v)). As under current section 3502(2), the exemption applies to information technology, the function, operation, or use of which involves activities specified in the “Warner Amendment”, namely: intelligence activities; cryptologic activities related to national security; the direct command and control of military forces; equipment which is an integral part of a weapon or weapons system; or information technology that is critical to the direct fulfillment of military or intelligence missions (but excludes information technology used for routine administrative and business applications, such as payroll, finance, logistics, and personnel management).

In this regard, the conferees note that OMB has not interpreted the authority granted by section 3504(f)(1) of the existing Paperwork Reduction Act to oversee the management of either classified or unclassified information which would typically be resident in information technology that itself is not subject to OMB’s oversight under the Act (e.g., an information system which is an integral part of a weapons system). Given the express intent to preserve existing law regarding the exclusion of information technology covered by the so-called “Warner Amendment” to the Brooks Automatic Data Processing Act, the conferees would note that the changes made by this Act do not grant any new authority or diminish any existing authority for OMB to develop or oversee security policies, principles, or guidelines applicable to information resident in information technology subject to the “Warner Amendment” exemption. Similarly, the amendments made by this definition change are not intended to impair OMB’s budgetary oversight of such information technology or its other existing authorities.

With regard to the modifications being made to section 3504(f)(3) of existing law, the conferees intend that revised section 3504(g)(2) continue to be implemented consistent with the provisions of the Computer Security Act of 1987 (40 U.S.C. 759), which assigns to the National Institute of Standards and Technology responsibility for developing technical, management, physical, and administrative policies, principles, standards, and guidelines for the cost-effective security and privacy of sensitive information in Federal computer systems subject to that act.

5. Definition of “recordkeeping requirement”.

The Senate bill contained a modified definition designed to make explicit the Act’s coverage of so-called third-party recordkeeping requirements to correct the ambiguity that lead to the adverse 1990 Supreme Court decision in *Dole v. United Steelworkers of America*.

The House amendment contained additional detail in this regard.

The Senate recedes with a clarifying amendment.

6. Office of Information and Regulatory Affairs—Qualifications of Administrator and Employees.

The Senate bill added a new subsection (c) to section 3503 regarding the professional qualifications of the Administrator of the Office of Information and Regulatory Affairs (OIRA) and the employees of that office.

The House amendment contained no similar provision.

The Senate recedes.

The conferees note that the purpose of this provision was to assure that adequate attention was given to the full range of responsibilities assigned to OIRA and its Administrator by the Paperwork Reduction Act of 1980, as amended. Such considerations are appropriate in the Presidential selection of a nominee for OIRA Administrator and in the Senate's consideration of that nominee, while recognizing the practical realities of requiring that a "qualified" candidate have substantial capabilities over the very broad range of responsibilities assigned to OIRA by the Act. Such practical considerations should also apply to the Administrator's selection of OIRA employees as well as the utility of having more narrowly focused "subject matter specialists" available on the OIRA staff.

7. Authority and functions of the Director—Burden reduction as an objective of information resources management.

The Senate bill contained a substantial modification to section 3504(a)(1) regarding the responsibilities of the OMB Director to oversee the Government's information resources with the objective of improving the effectiveness of Federal agency operations.

The House amendment contained no similar provision.

The House recedes with an amendment that adds to the Senate provision the concept that information resources management is also a substantial tool to minimize the burdens which the Government imposes on the public.

8. Authority and functions of the Director—Approval of proposed collections of information.

The Senate bill contained a modification to section 3504(a)(1)(B)(i) relating to the authority of the OMB Director to review and approve (or disapprove) a collection of information being proposed by an agency.

The House amendment includes a similar provision which retains the explicit reference to "review and approval" existing in current law.

The Senate recedes.

The conferees reiterate the existing interpretation of the authority granted to the OMB Director under section 3504(a)(1)(B)(i): that the power to "approve" a proposed agency paperwork requirement is the power to disapprove such a proposed collection. This has been the consistent interpretation of this provision since the enactment of the 1980 Act.

9. Authority and functions of the Director—Standard of Review for Proposed Agency Collections of Information.

The Senate bill amended section 3504(c)(1) regarding the OMB Director's authority to review and approve a proposed agency collections of information, seeking to cross-reference, and paraphrase, section 3508 which sets forth the Act's fundamental standard for the review of such a proposed collection of information by both the proposing agency and the OMB Director.

The House amendment included a direct statement of the OMB Director's authority to review and approve proposed agency collections of information.

The Senate recedes.

10. Authority and functions of Director—Coordination with Office of Federal Procurement Policy regarding payment.

The Senate bill contains a modification to section 3504(c)(2) relating to establishing a formal coordination between OIRA and the Office of Federal Procurement Policy (OFPP) regarding minimizing paperwork burdens associated with the Federal procurement process.

The House amendment contained a similar provision, but specifically identified the burdens associated with the payment of contractors for work performed.

The Senate recedes.

The conferees note that the Prompt Payment Act Amendments of 1988 specifically encourage the use of electronic fund transfers for the payment of contractors. More recently, the Federal Acquisition Streamlining Act of 1994 (FASA) continues this emphasis on increasing the use of electronic fund transfers by designating electronic payment of contractors as one of the benchmarks for determining the full capability of FACNET. Finally, the conferees note that simplified procedures for solicitation and award of contracts below the Simplified Acquisition Threshold (SAT), \$100,000, being proposed as amendments to the Government-wide Federal Acquisition Regulation (FAR), should include authority for equally expedited contract payment procedures for work performed.

11. Authority and functions of Director—Special small business size standard for Paperwork Reduction Act.

The House amendment modified the OMB's Director's responsibilities under section 3504(c) by adding a new paragraph (6) which placed a special emphasis on minimizing the burden on small businesses with 50 or fewer employees. New section 3504(c)(6) was added as a floor amendment to the reported House bill, H.R. 830.

The Senate bill contains no similar provision.

The House recedes.

The conferees note that the section 3 of the Small Business Act provides Government-wide authority for the Small Business Administration (SBA) to establish by regulation numerical size standards under which a business concern will be recognized as a small business concern. SBA has established specific size standards for various types of business concerns in consonance with the system of standard industrial classification (SIC) codes, used to categorize business activity. Size standards are generally established by number of employees for firms engaged in manufacturing. Size standards for firms providing services are established on the basis of annual gross receipts averaged over a three-year period.

Statutorily-established small business size standards have generally been avoided by the Congress because of their rigidity. If enacted, such a statutory size standard has generally been used to establish with certainty a "small business" exception to the statute's general applicability or a threshold for a phased-in application.

12. Assignment of tasks and deadlines—Government-wide paperwork burden reduction goals.

The Senate bill amends section 3505(a) to provide for a 5 percent Government-wide goal for the reduction of paperwork burdens imposed by the Government on the public.

The House amendment contains a 10 percent Government-wide paperwork burden reduction goal.

The Senate recedes with an amendment. The conference agreement provides for a 10 percent goal for each of the fiscal years 1996 and 1997 and a 5 percent goal for each of the fiscal years 1998 through 2001.

The conferees note that the Government-wide paperwork reduction goal is calculated on the basis of a "baseline" which is the aggregate paperwork burden imposed during the prior fiscal year. The conferees also note that individual agency goals negotiated with OIRA may differ depending on the agency's potential to reduce the paperwork burden such agency imposes on the public. Goals negotiated with some agencies may substantially exceed the Government-wide goal, while those negotiated with other agencies may be substantially less.

13. Assignment of tasks and deadlines—Pilot projects to test alternative practices to minimize paperwork burdens.

The Senate bill amends Section 3505 to provide statutory authority for the OMB Director to establish voluntary pilot programs to test alternative policies, practices, regulations and procedures to minimize the information collection burden imposed on particular segments of the public.

The House amendment included a new subsection (b) to Section 3505, which specifically authorized the OMB Director to waive the application of any regulation or administrative directive needed to undertake a burden reduction pilot project. Notice of such waiver was required to the public and the Congress.

The Senate recedes with an amendment. The conference agreement does not provide any authority for the OMB Director to unilaterally waive any regulation in support of a burden reduction pilot project. If a regulation must be waived in support of such a pilot project, such regulatory waiver must be: (1) permissible under the statutory authority underpinning the regulation; and (2) implementation through a formal regulatory change, meeting the same Administrative Procedure Act standards as used to promulgate the regulation proposed for waiver.

14. Federal agency responsibilities—DOD and Military departments authorized to designate multiple "senior officials".

The Senate bill preserves existing law in section 3506(a)(2)(B) which permits the Secretary of Defense and the Secretary of a Military Department to designate multiple "senior officials" responsible for the Act's implementation within the Office of the Secretary of Defense or that Military Department. The Senate bill amends existing law to require that the respective duties of each such "senior official" be clearly delineated if either the Secretary of Defense or a Service Secretary should choose to designate more than one such "senior official". Under current law, only the Secretary of a Military Department has a statutory obligation to delineate the respective duties of multiple "senior officials" designated by such officer.

The House amendment uses the terminology of "a senior official", under the legislative drafting convention that the singular provides for the plural, unless expressly prohibited. The House amendment preserved the statutory anomaly exempting the Secretary of Defense from the requirement to delineate the respective duties of multiple "senior officials" within the Office of the Sec-

retary of Defense, (although three such “senior officials” are currently designated and their respective duties are delineated).

The House recedes.

15. Federal agency responsibilities—Cross-reference to “Fast Track” Procedures under Section 3507(j).

The House amendment to section 3506(c)(2)(A) qualifies the general requirement to provide a 60-day period for public comment on a proposed collection of information with the phrase “except for good cause” to provide broad authority to the OMB Director to waive the public participation requirement when necessary.

The Senate bill amends section 3507(j), which authorizes the so-called “Fast Track” review procedures (that is, the very expedited review of a proposed collection of information without any opportunity for public comment prior to approval), to obtain the same statutory objective sought by the House amendment.

The House recedes with an amendment. The conference agreement provides for adding to section 3506(c)(2)(A) a cross-reference to the “Fast Track” authority provided in section 3507(j).

16. Federal agency responsibilities—Record retention period to be specified for any recordkeeping requirement.

The House amendment adds a provision to Section 3506(c)(3) which would require that any recordkeeping requirement specify the length of time such records must be maintained.

The Senate bill does not contain a similar provision.

The Senate recedes.

17. Federal agency responsibilities—Special small business size standard for Paperwork Reduction Act.

The House amendment adds a provision to Section 3506(c) relating to agency responsibilities regarding minimizing paperwork burdens imposed on the public by requiring that a special emphasis be placed on minimizing the burden on small businesses with 50 or fewer employees. New Section 3506(c)(4) was added as a floor amendment to the reported House bill, H.R. 830.

The Senate bill contains no similar provision.

The House recedes.

The conferees note that section 3 of the Small Business Act provides Government-wide authority for the Small Business Administration (SBA) to establish by regulation numerical size standards under which a business concern will be recognized as a “small business concern.” SBA has established specific size standards for various types of business concerns in consonance with the system of standard industrial classification (SIC) codes, used to categorize business activity. Size standards are generally established by number of employees for firms engaged in manufacturing. Size standards for firms providing services are established on the basis of annual gross receipts averaged over a three year period.

Statutorily-established small business size standards have generally been avoided by the Congress because of their rigidity. If enacted, such a statutory size standard has generally been used to establish with certainty a “small business” exception to a statute’s general applicability or to define a threshold for a phased-in application.

18. Federal agency responsibilities—Information dissemination standards.

The Senate bill adds a new Section 3506(d) which establishes information dissemination standards for the various Federal agencies.

The House amendment contains essentially similar provisions, except that the House provision requires that: (a) the public have “equal” as well as “timely” and “equitable” access to the information collected by the agency; and (b) access be made available to the “underlying data”, if an agency provides information to the public in an electronic format.

The Senate recedes with an amendment. The conference agreement adopts the provision of the House amendment assuring public access to “underlying data” if a agency chooses to furnish information in an electronic format.

The conferees concluded that the word “equal” was unnecessary in the agreed-upon text of section 3506(d)(1), given that the statutory obligation for an agency ensure that the public has “timely” and “equitable” access to information in the possession of the agency includes the obligation to make such information available on a non-discriminatory and non-exclusive basis to any public or private entity for any lawful purpose. This obligation is sufficient to prevent agencies from discriminating against or otherwise disadvantaging any class of users, particularly commercial users.

19. Federal agency responsibilities—Notice of Changes Regarding Information Dissemination Products.

The House amendment adding a new section 3506(d), which establishes information dissemination standards for Federal agencies, includes a provision requiring an agency to provide adequate public notice when initiating, substantially modifying, or terminating a significant information dissemination product.

The Senate bill does not contain a similar provision.

The Senate recedes.

20. Federal agency responsibilities—User Fees.

The House amendment adding a new section 3506(d), which establishes information dissemination standards for Federal agencies, includes a provision specifying procedures under which an agency head can petition the OMB Director to authorize user fees in excess of the cost of dissemination, the general rule established by section 3506(d)(4)(D).

The Senate bill does not contain a similar provision.

The House recedes.

21. Federal agency responsibilities—Information Technology Management.

The Senate bill requires that each Federal agency take certain actions to “ensure” responsibility for effective management of its information technology resources.

The House amendment requires each Federal agency to “assume” responsibility for an identical set of management actions.

The Senate recedes.

22. Public Information collection activities; submission to Director; approval and delegation—Unspecified “Fast Track” Alternative.

The Senate bill amends section 3507(j) of existing law to provide additional flexibility in the so-called “Fast Track” review process, under which a proposed collection of information can be re-

viewed on a very expedited schedule without any opportunity for public notice or comment prior to approval by the OMB Director.

The House amendment sought to provide the same additional flexibility by amending section 3507(b) to include any additional waiver of the normal review process “for good cause”.

The House recedes.

23. Public information collection activities; submission to Director; approval and delegation—Duration of “Default” Approval.

The Senate bill requires the assignment of a valid control number permitting an agency to use a collection of information for a period of not more than two years, if the OMB Director fails to take action regarding a proposed collection of information (not contained in a rule) within a specified 60-day period.

The House amendment contained an identical provision, except that the control number remained valid for not more than one year.

The Senate recedes.

24. Public information collection activities; submission to Director; approval and delegation—Standard for disapproval of a collection of information contained in a final agency rule.

The House amendment to new section 3507(d), which specifies procedures for the review of a proposed collection of information contained in a proposed rule, includes a modification to section 3507(d)(4)(C), to make more explicit the standard of review to be used by the OMB Director.

The Senate bill makes use of the language found in existing law.

The House recedes.

25. Public information collection activities; submission to Director; approval and delegation—Disclosure of written communications.

The Senate bill expands the Act’s current requirement to disclose any written communication regarding a proposed collection of information between a person not employed by the Federal Government and the OIRA Administrator or any OIRA employee to include the “Office of the Director” of OMB.

The House amendment maintains current law.

The Senate recedes.

26. Public information collection activities; submission to Director; approval and delegation—“Whistleblower” Protection.

The Senate bill includes a new provision at section 3507(e)(3)(B), which provides anonymity to a communication received by OIRA from a private sector “whistleblower”, regarding an unapproved (or so-called “bootleg”) collection of information.

The House amendment contained a whistleblower protection provision that was not restricted to “bootleg” collections of information.

The House recedes with an amendment. The conference agreement provides the “whistleblower” protection to a communication regarding a collection of information that does not display a control number that is currently in effect. Thus, the provision now provides protection regarding communications relating collections of information that were never approved as well as those for which an approval has expired.

27. Public Information collection activities; submission to Director; approval and delegation—Improved “Fast Track” Procedures.

The Senate bill amends section 3507(j) of existing law to provide additional flexibility in the so-called “Fast Track” review process, under a proposed collection of information can be reviewed on a very expedited schedule without any opportunity for public notice or comment prior to approval by the OMB Director.

The House amendment reflects existing law.

The House recedes.

The conferees note that no instance has been identified in the 15 years of experience under the Act in which its “Fast Track” review procedures have not been made available to an agency under the current version of section 3507(j), or the proposed collection of information has not been cleared on a schedule that completely accommodated the agency’s exigent circumstances.

28. Determination of necessity for information; hearing.

The Senate bill modifies section 3508 of the Act, which establishes the fundamental standard used by the Director in determining whether to approve a collection of information being proposed by an agency.

The House amendment reflects existing law.

The Senate recedes.

29. Establishment and operation of Government Information Locator Service—Specific exclusion for CIA “operational files”.

The Senate bill includes a provision which provides for the establishment and operation of the Government Information Locator Service (GILS). The Senate provisions includes an explicit exclusion from GILS for “operational files” as defined in the Central Intelligence Agency Information Act.

The House amendment contains an identical provision regarding GILS, but does not include the specific exclusion for the CIA’s “operational files”.

The House recedes.

30. Public Protection.

The Senate bill contains a provision which changes the Act’s current “public protection” provision by requiring a collection of information subject to the Act display a notice that a person is not required to respond to the collection of information unless it displays a control number which is valid.

The House amendment contains a provision which clarifies and strengthens the Act’s current “public protection” provision by enabling a person to assert this protection at any time during an agency administrative process or any subsequent judicial review of an agency action involving a penalty.

The Senate recedes with an amendment. The conference agreement clarifies and strengthens the Act’s “public protection” provision by explicitly providing that the protection provided by the section may be asserted or raised by a person in the form of a complete defense, bar or other manner, at any time during a agency administrative process or any subsequent judicial review. The protection provided by the section applies if the agency fails to display a valid control number, or inform the person that they are not re-

quired to respond to a collection of information unless it displays a valid control number.

For collections of information contained in a rule, agencies must provide the required information in a manner reasonably calculated to inform the public. Notice may be provided in the preamble to a final rule containing the collection of information, or in a general notice in the volume of the Code of Federal Regulation in which the agency's regulations appear.

The conference agreement also provides for the inclusion of a definition of "penalty", a term used in section 3512. The new statutory definition of "penalty" is substantially identical to the definition of "penalty" found in the Act's implementing regulations, at 5 C.F.R. 1320.7(m).

The conference agreement further provides for an additional modification to section 3506(c)(1)(B), which specifies the information to be provided to the public with respect to an agency collection of information. Agencies are now required to inform recipients of a collection of information that: (a) section 3507(a) prohibits an agency from conducting or sponsoring an unapproved collection of information; and (b) section 3512 requires an agency to inform a person who is to respond to a collection of information they are not required to do so unless it displays a valid control number.

31. Responsiveness to Congress—Annual Report and Remedial Program Regarding Agencies Failing to Attain Paperwork Burden Reduction Goals.

The Senate bill amended section 3514(a)(1) of the Act regarding the content of the report submitted annually to Congress by the OMB Director relating to agency compliance with the Act.

The House amendment contains a substantially identical provision which includes an additional requirement to identify those agencies that have failed to attain their assigned paperwork burden reduction goals during the fiscal year covered by the report, the reasons for their failure to attain such goals; and the agency's proposed remedial program, if any.

The Senate recedes with a clarifying amendment.

32. Consultation with other agencies and the public.

The Senate bill contains a provision permitting any person to request the OMB Director to determine whether a collection of information is in compliance with the Act's requirements, specifying response times to such requests; and empowering the Director to seek any appropriate remedial action.

The House amendment contains a substantively identical provision, but unlike the Senate bill requires that the person making the request must be a recipient of the collection of information at issue.

The House recedes.

33. Effect on existing laws and regulations.

The Senate bill includes a provision, section 3818(c), substantially identical to existing law which specifies certain classes of collections of information that are exempt from the Act's coverage.

The House amendment makes a number of additional modifications to this provision of existing law.

The House recedes.

34. Authorization of Appropriations.

The Senate bill amends section 3520 providing a five-year authorization of appropriations for OIRA for the Fiscal Years 1996 through 2000, at the rate of \$8 million per year.

The House amendment provides a permanent authorization of appropriations, specifying “such sums as may be necessary” rather than a fixed amount.

The House recedes an amendment. The conference agreement provides for a six-year authorization of appropriations for OIRA, for fiscal years 1996 through 2001, at \$8 million for each fiscal year.

Burden reduction regarding the Quarterly Financial Report Program at the Bureau of the Census (Sec. 3)

The Senate bill contained a provision (sec. 103) that would require the Bureau of the Census within the Department of Commerce to undertake a demonstration program to reduce the burden imposed on firms, especially small businesses, required to participate in the survey used to prepare the Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations.

The House amendment contained no similar provision.

The House recedes with an amendment.

The conference agreement amends section 91 of title 13, United States Code, the statutory authorization for the survey, to:

(a) exempt firms from participation for specified periods, after they have fully participated in the survey for a complete cycle (eight consecutive quarters of reporting;

(b) expand the use of statistical sampling techniques to select for survey participation; and

(c) assure small businesses selected to participate easy access to advise and similar assistance, including the establishment of a toll-free telephone number.

Effective date (Sec. 4)

The Senate bill contains a provision (sec. 106) which establishes the effective date of the Paperwork Reduction Act of 1995 as June 30, 1995.

The House amendment contains a provision (sec. 3) which establishes the Act's effective date as October 1, 1995.

The Senate recedes with a clarifying amendment.

The conference agreement provides that: (a) except as otherwise provided, the Paperwork Reduction Act of 1995 shall take effect on October 1, 1995; (b) section 3520, as amended, providing authorization for OIRA's appropriation, shall become effective on the date of enactment; (c) for each collection of information for which there is a valid OMB control number in effect on September 30, 1995, the amendments to chapter 35 of title 44, shall take effect on the date of the first renewal or modification to that collection of information or on the date of the expiration of its OMB control number; and (d) prior to such renewal, modification, or expiration of its OMB control number, such collection of information shall be subject to the provisions of chapter 35 of title 44, United States Code, as in effect on September 30, 1995.

PROVISIONS NOT ADOPTED

Oregon Option proposal

The Senate bill contains a provision (sec. 104), added as an amendment to the bill as reported, which would express a series findings and a statement of support on the part of the Senate regarding continuation of an on-going demonstration program of intergovernmental cooperation between the Federal Government and State of Oregon and its local governments, referred to as the "Oregon Option".

The House amendment contains no similar provision.
The Senate recedes.

Termination of reporting requirements

The Senate bill contains a provision (sec. 105), added as an amendment to the bill as reported, which would terminate all statutorily-mandated reports by the Executive Branch to the Congress, except those required by the Inspector General Act of 1978 and the Chief Financial Officers Act of 1990, five years after the date of enactment of the provision.

The House amendment contains no similar provision.
The Senate recedes.

Federal Report Elimination and Modification Act of 1995

The Senate bill contains a Title II, the "Federal Report Elimination and Modification Act of 1995", added as an amendment to the bill as reported, which would eliminate or reduce the burden of 212 statutorily-mandated reports by the Executive Branch to the Congress.

The House bill contains no similar provisions.
The Senate recedes.

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