

## OFFICE OF MANAGEMENT AND BUDGET

### 5 CFR Part 1320

#### Controlling Paperwork Burdens on the Public; Regulatory Changes Reflecting Recodification of the Paperwork Reduction Act

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The recently enacted Paperwork Reduction Act of 1995 replaces the Paperwork Reduction Act of 1980, as amended by the Paperwork Reduction Reauthorization Act of 1986. The new Act redefines "collection of information" explicitly to include third-party and public disclosures, requires agencies to seek public comment concerning proposed collections of information through 60-day notice to the public before submission for clearance by the Office of Management and Budget (OMB) and thereafter to certify to OMB, e.g., that the proposed collection reduces to the extent practicable and appropriate the burden on respondents for small business, local government, and other small entities, and indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified. The new Act also makes more explicit the responsibilities of agencies in developing proposed collections of information and submitting them for OMB review and approval, and changes a number of definitions and other provisions. OMB is proposing to amend its existing paperwork clearance rules to reflect these and the other legislative changes made by the Paperwork Reduction Act of 1995.

**DATES:** Comments must be received on or before August 7, 1995.

**ADDRESSES:** Please address all written comments to Jefferson B. Hill, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503. Comments may be submitted via facsimile to 202/395-7285. Electronic mail comments may be submitted via SMTP to Hill\_J@a1.eop.gov or via X.400 to G=Jefferson, S=Hill, PRMD=gov+eop, ADMD+telemail, C=us. Comments submitted via electronic mail should include the commenter's name, affiliation, postal address, and e-mail address in the text of the message.

**FOR FURTHER INFORMATION CONTACT:** Jefferson B. Hill, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503 (202/395-7340). Inquiries may be submitted via

facsimile to 202/395-7285. Electronic mail comments may be submitted via SMTP to Hill\_J@a1.eop.gov or via X.400 to G=Jefferson, S=Hill, PRMD=gov+eop, ADMD+telemail, C=us. Inquiries submitted via electronic mail should include the commenter's name, affiliation, postal address, and e-mail address in the text of the message.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

On May 10, 1988, the Office of Management and Budget (OMB) issued 5 CFR Part 1320—Controlling Paperwork Burden on the Public [53 FR 16618]. The 1988 rule implemented the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. Chapter 35), as amended by the Paperwork Reduction Reauthorization Act of 1986 (Pub. L. 99-500 (October 18, 1986) and 99-591 (October 30, 1986), section 101(m)), concerning agency responsibilities for obtaining OMB approval of their collection of information, and other paperwork control functions.

The Paperwork Reduction Act of 1995 (Pub. L. 104-13 (May 22, 1995)) replaces the Paperwork Reduction Act of 1980, as amended in 1986. The Paperwork Reduction Act of 1995 takes effect on October 1, 1995. The procedural requirements of the Paperwork Reduction Act of 1980, as amended in 1986, will continue to apply to collections of information approved by OMB on or before September 30, 1995, and which have a valid OMB control number expiring after that date.

OMB is proposing to amend 5 CFR Part 1320 in order to reflect the legislative recodification of the Paperwork Reduction Act. In proposing these amendments, OMB is fully cognizant of the legislative intent of the draftsmen: "To the extent the revision is a restatement of the Paperwork Reduction Act of 1980, as amended in 1986, the legislation is a reaffirmation of the law's scope, underlying purposes, requirements, and legislative history. It is the intent of the [Senate] Committee that the Act's prior legislative history remain unchanged and continue to be viewed an important explanation of the Congressional intent underpinning the Act's provisions" (S. Rpt. 104-8, p. 35; see H. Rpt. 104-37, p. 35; H. Rpt. 104-99, pp. 27-28).

These proposed amendments change the order and structure of the existing rules in order to clarify agency and OMB responsibilities, and to elaborate upon the various requirements of the Paperwork Reduction Act of 1995. The scope of these proposed changes, their

legislative basis, and their relation to the existing rule are described below. The rationale supporting the existing rules is set forth at 53 FR 16618 (May 10, 1988), 52 FR 27768 (July 23, 1987), 48 FR 13666 (March 31, 1983), and 47 FR 39515 (September 8, 1982). References to "44 U.S.C. [section number]" are references to the Paperwork Reduction Act of 1995, Pub. L. 104-13, unless explicitly stated otherwise.

##### B. Proposed Section 1320.1—Purpose

Proposed § 1320.1 is equivalent to existing § 1320.1. Added to the proposed § 1320.1 is a statement that the new rule is designed to maximize the practical utility and public benefit of the collection of information, an addition reflecting the legislative changes in 44 U.S.C. 3501(2) and 44 U.S.C. 3504(c)(4). Deleted from the proposed § 1320.1 is a reference to inter-agency reporting, a deletion reflecting the proposed deletion of existing § 1320.17.

##### C. Proposed Section 1320.2—Effect

Proposed § 1320.2 serves the same function as existing § 1320.2. The proposed § states the effective date of the new rule, and is derived from section 4 of Pub. L. 104-13.

##### D. Proposed Section 1320.3—Definitions

Proposed § 1320.3 is equivalent to existing § 1320.7. While proposed § 1320.3 serves the same function, OMB is proposing a number of changes.

Proposed § 1320.3(a) defining "agency" is substantively identical to existing § 1320.7(a).

Proposed § 1320.3(b): This paragraph defining "burden" is equivalent to existing § 1320.7(b), except that it is amended to reflect the legislative changes in 44 U.S.C. 3502(2). The detail added by 44 U.S.C. 3502(2) clarifies the scope of this definition by codifying OMB practice and understanding. As the floor manager for the Paperwork Reduction Act of 1995, Senator Sam Nunn, stated at final Senate passage, this bill "modifies the Act's definition of burden to capture the full range of regulatory paperwork compliance costs" (141 Cong. Rec. S5399 (April 6, 1995)).

Proposed § 1320.3(c): This paragraph defining "collection of information" serves the same function as existing § 1320.7(c), but has been amended in one respect. Paragraph (c)(4) is equivalent to and a combination of existing § 1320.7(s) ("Ten or more persons") and the last two sentences in existing § 1320.7(n) ("Person"), but is moved to become a part of proposed § 1320.3(c) in order to make it clear that the limitations in paragraph (c)(4) apply