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TITLE 44--PUBLIC PRINTING AND DOCUMENTS

CHAPTER 35--COORDINATION OF FEDERAL INFORMATION POLICY

SUBCHAPTER I--FEDERAL INFORMATION POLICY

Sec. 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 subchapter, 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 subchapter.

(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 subchapter.

(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 subchapter; and

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

(B) the agency cannot reasonably comply with the provisions of this subchapter 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 subchapter for a maximum of 180 days after the date on which the Director received the request to authorize such collection.

(Added Pub. L. 104-13, Sec. 2, May 22, 1995, 109 Stat. 176; amended Pub. L. 104-106, div. E, title LVI, Sec. 5605(d), Feb. 10, 1996, 110 Stat. 700; Pub. L. 106-398, Sec. 1 [[div. A], title X, Sec. 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275.)

Prior Provisions

A prior section 3507, added Pub. L. 96-511, Sec. 2(a), Dec. 11, 1980, 94 Stat. 2819; amended Pub. L. 99-500, Sec. 101(m) [title VIII, Sec. 817], Oct. 18, 1986, 100 Stat. 1783-308, 1783-338, and Pub. L. 99-591, Sec. 101(m) [title VIII, Sec. 817], Oct. 30, 1986, 100 Stat. 3341-308, 3341-338, related to submission to Director of public information collection request for an approval or delegation to a senior official of an agency prior to the general amendment of this chapter by Pub. L. 104-13.

Another prior section 3507, Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1304, provided for cooperation of agencies in making information available, prior to the general amendment of this chapter by Pub. L. 96-511. See section 3510(a) of this title.

Amendments

2000--Subsecs. (e) (3) (B), (h), (j). Pub. L. 106-398 substituted ``subchapter'' for ``chapter'' wherever appearing.

1996--Subsec. (j) (2). Pub. L. 104-106 substituted ``180 days'' for ``90 days''.

Effective Date of 2000 Amendment

Amendment by Pub. L. 106-398 effective 30 days after Oct. 30, 2000, see section 1 [[div. A], title X, Sec. 1065] of Pub. L. 106-398, set out as an Effective Date note under section 3531 of this title.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

Section Referred to in Other Sections

This section is referred to in sections 3506, 3509 of this title; title 42 sections 242k, 14953.