

103^D CONGRESS
1ST SESSION

S. 681

To amend chapter 35 of title 44, United States Code, relating to Government paperwork reduction, to modify the Federal regulatory review process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 31 (legislative day, MARCH 3), 1993

Mr. GLENN (for himself, Mr. LEVIN, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend chapter 35 of title 44, United States Code, relating to Government paperwork reduction, to modify the Federal regulatory review process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paperwork Reduction
5 Reauthorization Act of 1993”.

1 **TITLE I—PAPERWORK REDUC-**
2 **TION AND INFORMATION RE-**
3 **SOURCES MANAGEMENT BY**
4 **FEDERAL DEPARTMENTS AND**
5 **AGENCIES**

6 **SEC. 101. PURPOSE.**

7 Section 3501 of title 44, United States Code, is
8 amended to read as follows:

9 **“§ 3501. Purpose**

10 “The purpose of this chapter is to—

11 “(1) ensure the greatest possible public benefit
12 from information collected, maintained, used, dis-
13 seminated, and retained by the Federal Government;

14 “(2) eliminate any unnecessary Federal paper-
15 work burden for individuals, small businesses, edu-
16 cational institutions, nonprofit organizations, State
17 and local governments, and other persons;

18 “(3) minimize the cost to the Federal Govern-
19 ment of collecting, maintaining, using, retaining,
20 and disseminating information;

21 “(4) emphasize Federal information resources
22 management as a comprehensive and integrated
23 process for improving the productivity, efficiency,
24 and effectiveness of Government programs, including
25 service delivery to the public;

1 “(5) improve the quality and use of Federal in-
2 formation to strengthen decisionmaking, accountabil-
3 ity, and openness in Government and society;

4 “(6) ensure that information technology is ac-
5 quired, used, and managed consistent with the pur-
6 poses of chapter 35 of title 44, United States Code,
7 to improve performance of agency missions;

8 “(7) coordinate, integrate, and to the extent
9 practicable and appropriate, make uniform Federal
10 information policies and practices;

11 “(8) improve the accountability of the Office of
12 Management and Budget and all Federal agencies to
13 Congress and to the public for the effective imple-
14 mentation of this chapter;

15 “(9) ensure that the collection, maintenance,
16 use, dissemination, and retention of information by
17 the Federal Government is consistent with applicable
18 laws, including laws relating to—

19 “(A) confidentiality of information, includ-
20 ing section 552a of title 5, United States Code;

21 “(B) security of information, including the
22 Computer Security Act of 1987 (Public Law
23 100–235); and

24 “(C) access to information, including sec-
25 tion 552 of title 5, United States Code;

1 “(10) encourage dissemination of public infor-
2 mation through a diversity of public and private pro-
3 viders, consistent with the Government’s obligation
4 to disseminate public information;

5 “(11) provide for the dissemination of public in-
6 formation on a timely basis, on equitable terms, and
7 in a manner that promotes the usefulness of the in-
8 formation to the public and makes effective use of
9 information technology; and

10 “(12) strengthen the partnership between the
11 Federal Government and State and local govern-
12 ments in the collection and sharing of government
13 information.”.

14 **SEC. 102. DEFINITIONS.**

15 Section 3502 of title 44, United States Code, is
16 amended—

17 (1) by striking out paragraphs (2), (5), (6), (7),
18 (9), (12), and (17);

19 (2) by redesignating paragraphs (3), (4), (8),
20 (10), (11), (13), (14), (15), and (16) as paragraphs
21 (2), (3), (4), (5), (6), (7), (8), (10), and (11),
22 respectively;

23 (3) by amending paragraph (2) (as redesign-
24 ated by paragraph (2) of this section) by inserting
25 before the semicolon a comma and “including the re-

1 sources expended for reviewing instructions, search-
2 ing data sources, obtaining, compiling, and main-
3 taining the necessary data, completing and reviewing
4 the collection of information, and transmitting or
5 otherwise disclosing the information involved”;

6 (4) by amending paragraph (3) (as redesign-
7 nated by paragraph (2) of this section) by substitut-
8 ing “regardless of form or format” for “through the
9 use of written report forms, application forms,
10 schedules, questionnaires, reporting or recordkeeping
11 requirements, or other similar methods”;

12 (5) by amending paragraph (6) (as redesign-
13 nated by paragraph (2) of this section) by inserting
14 “regardless of form or format” after “method”;

15 (6) by amending paragraph (7) (as redesign-
16 nated by paragraph (2) of this section) to read as
17 follows:

18 “(7) the term ‘information resources manage-
19 ment’ means the process of systematically defining
20 and meeting information needs to accomplish agency
21 missions in the context of the information life cycle,
22 which includes the stages of information from cre-
23 ation or collection through final disposition;”;

1 (7) by amending paragraph (8) (as redesignig-
2 nated by paragraph (2) of this section) to read as
3 follows:

4 “(8) the term ‘information system’ means an
5 organized and distinct set of processes and tech-
6 nology, automated or manual, that collect, process,
7 distribute or store information;”;

8 (8) by inserting after paragraph (8) (as redesignig-
9 nated by paragraph (2) of this section) the following
10 new paragraph:

11 “(9) the term ‘information technology’ has the
12 same meaning as the term ‘automatic data process-
13 ing equipment’ as defined under section 111(a)(2) of
14 the Federal Property and Administrative Services
15 Act of 1949 (40 U.S.C. 759(a)(2)), but does not in-
16 clude any system or equipment, the function, oper-
17 ation or use of which—

18 “(A) involves intelligence activities;

19 “(B) involves cryptologic activities related
20 to national security;

21 “(C) involves the direct command and con-
22 trol of military forces;

23 “(D) involves equipment which is an inte-
24 gral part of a weapon or weapons system; or

1 “(E) is critical to the direct fulfillment of
2 military or intelligence missions, provided that
3 this exclusion shall not include information
4 technology used for routine administrative and
5 business applications such as payroll, finance,
6 logistics, and personnel management;” and

7 (9) by inserting after paragraph (11) (as reded-
8 ignated by paragraph (2) of this section) the follow-
9 ing new paragraph:

10 “(12) the term ‘public information’ means any
11 information, regardless of form or format, that an
12 agency discloses, disseminates, or makes available to
13 the public pursuant to law, rule, regulation, policy,
14 or practice, and any part of that information;”.

15 **SEC. 103. OFFICE OF INFORMATION AND REGULATORY AF-**
16 **FAIRS.**

17 Section 3503 of title 44, United States Code, is
18 amended—

19 (1) in subsection (b), in the last sentence by in-
20 serting “and information resources management”
21 after “policy”; and

22 (2) by adding at the end thereof the following
23 new subsection:

24 “(c) The Administrator and employees of the Office
25 of Information and Regulatory Affairs shall be appointed

1 with special attention to professional qualifications re-
2 quired to administer the functions of the Office described
3 under this chapter. Such qualifications shall include rel-
4 evant education, work experience, or related professional
5 activities.”.

6 **SEC. 104. AUTHORITY AND FUNCTIONS OF THE DIRECTOR.**

7 (a) IN GENERAL.—Section 3504(a) of title 44, Unit-
8 ed States Code, is amended in the first sentence:

9 (1) by striking out “and implement” and insert-
10 ing in lieu thereof a comma and “implement, and co-
11 ordinate”;

12 (2) by inserting “, public access to informa-
13 tion,” after “dissemination of information”; and

14 (3) by striking out “automatic data processing,
15 telecommunications, and other”.

16 (b) GENERAL INFORMATION POLICY FUNCTIONS.—
17 Section 3504(b) of title 44, United States Code, is
18 amended:

19 (1) in the first sentence by inserting “be to
20 oversee the use of information and information tech-
21 nology to improve the efficiency and effectiveness of
22 Government operations to serve agency missions, in-
23 cluding service delivery to the public, and shall”
24 after “the Director shall”;

1 (2) by amending paragraph (1) to read as
2 follows:

3 “(1) developing, implementing and updating
4 uniform information resources management policies
5 and overseeing the development of information re-
6 sources management principles, standards, guide-
7 lines, and goals and the achievement of those
8 goals;”;

9 (3) by amending paragraph (4) to read as
10 follows:

11 “(4) promoting greater sharing of information
12 within and between agencies, and dissemination of
13 and access to public information, including through
14 the use of the Federal Information Locator System,
15 the review of budget proposals, and requiring the
16 utilization of common standards for information col-
17 lection, storage, processing and communication, in-
18 cluding for network interconnectivity and interoper-
19 ability;”;

20 (4) in paragraph (5) by striking out “informa-
21 tion management practices to determine their ade-
22 quacy and efficiency” and inserting in lieu thereof
23 “information resources management practices to de-
24 termine the adequacy, efficiency, and effectiveness in
25 serving agency mission goals”;

1 (5) by amending paragraph (6) to read as
2 follows:

3 “(6) overseeing planning for, and conduct of,
4 research and training with respect to Federal infor-
5 mation resources management; and”;

6 (6) by adding at the end thereof the following
7 new paragraph:

8 “(7) coordinating the integration of all manage-
9 ment of information functions and program func-
10 tions through the approach of information resources
11 management.”.

12 (c) INFORMATION COLLECTION FUNCTIONS.—Sec-
13 tion 3504(c) of title 44, United States Code, is amended—

14 (1) in paragraph (3)(C), by inserting “to the
15 extent practicable, an estimate of its burden,” after
16 “to be used,”;

17 (2) by striking out paragraphs (5), (6), and (7)
18 and inserting in lieu thereof the following new para-
19 graphs:

20 “(5) promoting the elimination of unnecessary
21 burdens imposed through the collection of Federal
22 information, with particular emphasis on those per-
23 sons most heavily burdened, including small busi-
24 nesses, educational institutions, nonprofit organiza-
25 tions, and State and local governments, especially in

1 the areas of Federal procurement, grant programs,
2 Federal-State cooperative programs, Federal tax-
3 ation, and United States international competitive-
4 ness; and

5 “(6) coordination with the Office of Federal
6 Procurement Policy to address unnecessary paper-
7 work burdens associated with Federal procure-
8 ment.”.

9 (d) STATISTICAL POLICY AND COORDINATION FUNC-
10 TIONS.—Section 3504(d) of title 44, United States Code,
11 is amended:

12 (1) by striking out paragraphs (2) and (6);

13 (2) by redesignating paragraphs (1) and (7) as
14 paragraphs (2) and (6), respectively;

15 (3) by inserting before paragraph (2) (as reded-
16 igned by paragraph (2) of this subsection) the fol-
17 lowing new paragraph:

18 “(1) coordinating the activities of the Federal
19 statistical system in order to ensure its efficiency
20 and effectiveness, and the integrity, objectivity, im-
21 partiality, usefulness, and confidentiality of Federal
22 statistics;”;

23 (4) in paragraph (4) by inserting “timely re-
24 lease of statistical data,” after “dissemination,”;

1 (5) in paragraph (6) (as redesignated under
2 paragraph (2) of this subsection) by striking out the
3 period and inserting in lieu thereof a semicolon and
4 “and”; and

5 (6) by inserting at the end thereof the following
6 new paragraph:

7 “(7) coordinating the participation of the Unit-
8 ed States in international statistical activities, in-
9 cluding the development of comparable statistics.”.

10 (e) RECORDS MANAGEMENT FUNCTIONS.—Section
11 3504(e)(3) of title 44, United States Code, is amended
12 to read as follows:

13 “(3) overseeing the application of records man-
14 agement policies, principles, standards, and guide-
15 lines, including requirements for archiving informa-
16 tion maintained in electronic format, in the planning
17 and design of information systems.”.

18 (f) INFORMATION TECHNOLOGY FUNCTIONS.—Sec-
19 tion 3504(g) of title 44, United States Code, is amended
20 to read as follows:

21 “(g) The Federal information technology functions of
22 the Director shall include—

23 “(1) developing and implementing, in consulta-
24 tion with the Director of the National Institute of
25 Standards and Technology and the Administrator of

1 General Services, policies, principles, standards, and
2 guidelines for information technology functions and
3 activities of the Federal Government, including peri-
4 odic audits of major information systems, and
5 overseeing the development and implementation of
6 standards under section 111(d) of the Federal Prop-
7 erty and Administrative Services Act of 1949;

8 “(2) monitoring the effectiveness of, and com-
9 pliance with, directives issued under sections 110
10 and 111 of the Federal Property and Administrative
11 Services Act of 1949 and reviewing proposed deter-
12 minations under section 111(e) of such Act;

13 “(3) providing advice and guidance on the ac-
14 quisition and use of information technology, and co-
15 ordinating, through the review of budget proposals
16 and other methods, agency proposals for acquisition
17 and use of such equipment;

18 “(4) promoting the use of information tech-
19 nology by the Federal Government to improve the
20 productivity, efficiency, and effectiveness of Federal
21 programs, including dissemination of public informa-
22 tion;

23 “(5) initiating and reviewing proposals for
24 changes in legislation, regulations, and agency proce-
25 dures to improve information technology practices,

1 and informing the President and the Congress of the
2 progress made therein; and

3 “(6) in cooperation with the Administrator of
4 General Services, issue policy guidance for the estab-
5 lishment and oversight of the system by which each
6 Federal agency shall initiate, approve, implement,
7 and evaluate plans for major information system ini-
8 tiatives, including policy guidance for—

9 “(A) the establishment by each Federal
10 agency having an annual information tech-
11 nology budget in excess of \$50,000,000, a re-
12 view committee on major information system
13 initiatives, chaired by the agency head;

14 “(B) the required evaluative techniques
15 and criteria to be used by such committees to—

16 “(i) estimate life cycle costs for that
17 system;

18 “(ii) assess the economy, efficiency,
19 effectiveness, risks and priority of proposed
20 major system initiatives in relation to mis-
21 sion needs and alternative strategies; and

22 “(iii) assess the privacy, security, re-
23 tention and disposition, and dissemination
24 and access capabilities of that system;

1 “(C) the required independent cost evalua-
2 tions, as appropriate, of data developed under
3 subparagraph (B);

4 “(D) requiring that information (other
5 than classified information) which is developed
6 under subparagraph (B) and which pertains to
7 any major information system initiative shall be
8 included with the agency’s annual budget re-
9 quest if any funds included in that request shall
10 be used for the planning, acquisition, operation,
11 or support of such system, except that such in-
12 formation shall be withheld from public disclo-
13 sure if it would adversely affect the integrity of
14 any related procurement through the release of
15 proprietary or procurement sensitive informa-
16 tion; and

17 “(E) the establishment of criteria and
18 mechanisms for periodic evaluation of informa-
19 tion systems to assess compatibility with as-
20 sumptions and findings made under subpara-
21 graph (B) which relate to that system, includ-
22 ing whether projected benefits have been
23 achieved.”.

1 (g) INFORMATION DISSEMINATION FUNCTIONS.—
2 Section 3504 of title 44, United States Code, is amend-
3 ed—

4 (1) by redesignating subsection (h) as sub-
5 section (i) of section 3507, and adding such redesign-
6 dated subsection (i) at the end of section 3507 (as
7 amended by section 107 of this Act);

8 (2) by striking such redesignated subsection (i)
9 from the end of such section 3504; and

10 (3) by adding after subsection (g) of section
11 3504 the following new subsection:

12 “(h) The information dissemination functions of the
13 Director shall include issuing policy guidance, after notice
14 and receipt of public comment, that shall—

15 “(1) be applied by Federal agencies disseminat-
16 ing public information;

17 “(2) be consistent with and promote the pur-
18 poses of this chapter, including the effective use of
19 information technology to further public access to
20 public information;

21 “(3) apply to all significant public information,
22 regardless of the form or format in which public in-
23 formation is disseminated; and

24 “(4) supplement and not supersede the provi-
25 sions of section 552 of title 5, or other laws specifi-

1 cally relating to the disclosure or dissemination of
2 Government information.”.

3 **SEC. 105. ASSIGNMENT OF TASKS AND DEADLINES.**

4 Section 3505 of title 44, United States Code, is
5 amended to read as follows: “In carrying out the functions
6 under this chapter, the Director shall—

7 “(1) in consultation with agency heads, set an-
8 nual goals—

9 “(A) to improve planning for the collection
10 of information in order to reduce burdens im-
11 posed on the public, including the elimination of
12 duplication in information collection requests;
13 and

14 “(B) for improving information resources
15 management in ways that increase the produc-
16 tivity, efficiency, and effectiveness of Federal
17 programs, including service delivery to the
18 public;

19 “(2) conduct pilot projects to test alternative
20 information practices to fulfill the purposes of this
21 chapter, including testing the feasibility and value of
22 changes in Federal policies, rules and procedures to
23 improve information practices and related activities;

24 “(3) establish an Interagency Council on Statis-
25 tical Policy headed by the Administrator of the Of-

1 fice of Information and Regulatory Affairs and con-
2 sisting of the heads of the major statistical pro-
3 grams and, under rotating membership, representa-
4 tives of other statistical agencies, to advise and as-
5 sist the Director in carrying out the functions under
6 section 3504(d);

7 “(4) develop and annually revise, in consulta-
8 tion with the Administrator of General Services, the
9 Director of the National Institute of Standards and
10 Technology, the Director of the Office of Science
11 and Technology Policy, and the Archivist of the
12 United States, a five-year Governmentwide plan for
13 information resources management, which shall in-
14 clude—

15 “(A) plans, arrived at after consultation
16 with the advisory committee established under
17 section 3517(b), for reducing information bur-
18 dens on the public and for increasing productiv-
19 ity, efficiency and effectiveness of Federal pro-
20 grams, including service delivery to the public,
21 through improved information resources man-
22 agement;

23 “(B) plans, arrived at after consultation
24 with the advisory committee established under
25 section 3517(b), for enhancing public access,

1 using electronic and other formats, to Govern-
2 ment information, including by dissemination of
3 public information;

4 “(C) plans for meeting the information
5 technology needs of the Federal Government in
6 accordance with the requirements of sections
7 110 and 111 of the Federal Property and Ad-
8 ministrative Services Act of 1949 (40 U.S.C.
9 757 and 759), and the purposes of this chapter;

10 “(D) a description of management controls
11 to—

12 “(i) integrate the management of spe-
13 cific information functions into a com-
14 prehensive process of information resources
15 management; and

16 “(ii) coordinate information resources
17 management functions with other agency
18 program and management functions to im-
19 prove efficiency and effectiveness of oper-
20 ations to serve agency missions, including
21 service delivery to the public; and

22 “(E) a description of progress on the im-
23 plementation of the plan or applicable revised
24 plan; and

1 “(5) oversee agency audits of all major informa-
2 tion systems and assign responsibility for conducting
3 Governmentwide or multiagency audits, except the
4 Director shall not assign such responsibility for the
5 audit of major information systems used for the con-
6 duct of criminal investigations or intelligence activi-
7 ties as defined in section 4-206 of Executive Order
8 No. 12036, issued January 24, 1978, or successor
9 orders, or for cryptologic activities that are commu-
10 nications security activities.”.

11 **SEC. 106. FEDERAL AGENCY RESPONSIBILITIES.**

12 Section 3506 of title 44, United States Code, is
13 amended to read as follows:

14 **“§ 3506. Federal agency responsibilities**

15 “(a) The head of each agency shall be responsible for
16 carrying out the agency’s information resources manage-
17 ment activities in a way that improves agency productivity,
18 efficiency, and effectiveness, including service delivery to
19 the public, and for complying with the information poli-
20 cies, principles, standards, and guidelines prescribed by
21 the Director.

22 “(b) The head of each agency shall designate a senior
23 official or, in the case of military departments, and the
24 Office of the Secretary of Defense, officials who shall re-
25 port directly to such agency head to carry out the respon-

1 sibilities of the agency under this chapter. If more than
2 one official is appointed for the military departments the
3 respective duties of the officials shall be clearly delineated.
4 In making these appointments, the agency head shall give
5 due regard to the professional qualifications and skills
6 needed to efficiently and effectively carry out the respon-
7 sibilities of the agency under this chapter.

8 “(c) Each agency’s information resources manage-
9 ment responsibility shall include—

10 “(1) developing information systems, processes
11 and procedures that—

12 “(A) reduce information burdens on the
13 public and increase program efficiency and ef-
14 fectiveness;

15 “(B) maximize the utility and timely re-
16 lease of information to all users within and out-
17 side the agency, including the public where ap-
18 propriate; and

19 “(C) enhance the efficient sharing of infor-
20 mation, including in electronic format, within
21 and between agencies consistent with law;

22 “(2) developing and annually revising a five-
23 year information resources management plan, in ac-
24 cordance with guidance by the Director, that shall
25 reflect an ongoing process to—

1 “(A) ensure that information resources
2 management operations and decisions are inte-
3 grated with organizational planning, budget, fi-
4 nancial management, human resources manage-
5 ment and program decisions;

6 “(B) develop and maintain an integrated
7 and controlled process of information systems
8 design, development, operations, and evaluation,
9 including the coordination of specific informa-
10 tion functions;

11 “(C) develop, in cooperation with the agen-
12 cy Chief Financial Officer or comparable offi-
13 cial, a full and accurate accounting for informa-
14 tion technology expenditures and related ex-
15 penses; and

16 “(D) establish goals for improving infor-
17 mation resources management’s contribution to
18 program productivity, efficiency, and effective-
19 ness, methods for measuring progress toward
20 those goals, and clear roles and responsibilities
21 for achieving those goals;

22 “(3) maintaining a current and complete inven-
23 tory of the agency’s information resources, including
24 its major information systems and related tech-
25 nology for use in supporting agency information ac-

1 activities and developing directories of resources avail-
2 able to the Government and the public consistent
3 with the requirements of section 3511 of this chap-
4 ter;

5 “(4) establishing an agencywide program of in-
6 formation resources management and implementing
7 applicable Governmentwide and agency information
8 policies and requirements issued pursuant to author-
9 ity under this chapter and any other relevant laws;

10 “(5) periodically evaluating and, as needed,
11 eliminating duplicative or unnecessary information
12 and information systems, and improving the integ-
13 rity, quality, and utility of information and informa-
14 tion systems maintained by the agency, including ca-
15 pabilities for ensuring dissemination of public infor-
16 mation, public access to Government information,
17 and protections for privacy, confidentiality and secu-
18 rity; and

19 “(6) in consultation with the Director and the
20 Director of the Office of Personnel Management,
21 conducting formalized training programs to educate
22 agency program and management officials about in-
23 formation resources management.

24 “(d) Each agency’s paperwork control responsibility
25 shall include—

1 “(1) developing procedures for assessing the pa-
2 perwork and reporting burden of proposed legislation
3 affecting such agency;

4 “(2) ensuring that information collection re-
5 quests required by law or to obtain a benefit, and
6 submitted to nine or fewer persons, contain a state-
7 ment to inform the person receiving the request that
8 the request is not subject to the requirements of sec-
9 tion 3507; and

10 “(3) establishing a process for the review of
11 each collection of information before it is submitted
12 to the Director for review and approval under this
13 chapter, that is sufficiently independent of program
14 responsibilities to evaluate fairly whether each collec-
15 tion of information is necessary for the proper per-
16 formance of the agency’s mission, including whether
17 it has practical utility.

18 “(e) Each agency’s records management responsibil-
19 ity shall include applying records management policies,
20 principles, standards, and guidelines, including require-
21 ments for archiving information maintained in electronic
22 format, in the planning, design, and operation of informa-
23 tion systems.

24 “(f) Each agency’s information technology respon-
25 sibility shall include the assignment to the official des-

1 igned under subsection (b) the responsibility for the con-
2 duct of and accountability for any acquisitions made pur-
3 suant to a delegation of authority under section 111 of
4 the Federal Property and Administrative Services Act of
5 1949 (40 U.S.C. 759).

6 “(g) Each agency’s information dissemination re-
7 sponsibility shall include promoting public access to public
8 information by establishing and maintaining systems for
9 dissemination of information that shall—

10 “(1) ensure that the public has timely and equi-
11 table access to the agency’s public information and
12 that the agency disseminates public information in
13 an efficient, effective, and economical manner;

14 “(2) plan and budget for information dissemi-
15 nation at the time information is created or col-
16 lected, and at other appropriate steps during the in-
17 formation life cycle; and

18 “(3) provide to the Superintendent of Docu-
19 ments for distribution to the Federal Depository Li-
20 brary Program all publications regardless of format
21 required by chapter 19 of this title to be made avail-
22 able.

23 “(h) When providing for the dissemination of signifi-
24 cant public information, an agency—

1 “(1) to the greatest extent practicable, shall
2 disseminate in usable electronic formats (in whole
3 and in part, and along with available software, indi-
4 ces, and documentation) public information main-
5 tained in electronic formats;

6 “(2) shall utilize the Government Printing Of-
7 fice for the production and dissemination of informa-
8 tion, to the extent provided by chapters 5, 17, and
9 19 of this title;

10 “(3) before taking any action to initiate, termi-
11 nate, or significantly modify the dissemination of
12 public information, shall—

13 “(A) solicit and consider public comments
14 on the proposed action; and

15 “(B) provide notice to the Superintendent
16 of Documents and otherwise comply with the
17 requirements of section 1710 of this title;

18 “(4) may reduce or waive any user fees for dis-
19 seminating public information if the agency deter-
20 mines that the dissemination may enhance an
21 agency mission;

22 “(5) except where specifically authorized by
23 statute, shall not—

24 “(A) establish an exclusive, restricted, or
25 other distribution arrangement that interferes

1 with timely and equitable availability of public
2 information to the public;

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

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

8 “(D) establish user fees for public informa-
9 tion that exceed the cost of dissemination; or

10 “(E) establish a new information sales and
11 dissemination program without providing ad-
12 vance notice to the Public Printer; and

13 “(6) in determining how to fulfill its public in-
14 formation dissemination functions, shall consider—

15 “(A) whether dissemination is required by
16 law;

17 “(B) whether dissemination is necessary
18 for the proper performance of the functions of
19 the agency;

20 “(C) whether disseminating public infor-
21 mation would assist in public oversight of agen-
22 cy operations or would promote the general so-
23 cial or economic welfare of the United States;

24 “(D) if information available from other
25 public or private sources is equivalent to the

1 agency public information and reasonably
2 achieves the dissemination objectives of the
3 agency;

4 “(E) dissemination methods that will maxi-
5 mize the utility of the information to the public;
6 and

7 “(F) the economy and efficiency of Gov-
8 ernment operations.”.

9 **SEC. 107. PUBLIC INFORMATION COLLECTION ACTIVITIES—**
10 **SUBMISSION TO DIRECTOR; APPROVAL AND**
11 **DELEGATION.**

12 Section 3507 of title 44, United States Code, is
13 amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1) by inserting “review
16 under the process established by section
17 3506(d) and” after “actions, including”;

18 (B) in paragraph (2)(B) by—

19 (i) by inserting “a summary of the re-
20 quest,” after “title for the information col-
21 lection request,”; and

22 (ii) by striking out “; and” and insert-
23 ing in lieu thereof “, and notice that com-
24 ments may be submitted to the agency and
25 the Director;”; and

1 (C) by redesignating paragraph (3) as
2 paragraph (4) and inserting after paragraph
3 (2) the following:

4 “(3) the agency provides, except as provided
5 under subsection (g), at least 30 days for public
6 comment to the agency and the Director after publi-
7 cation of notice in the Federal Register, and the
8 agency and the Director consider comments received
9 regarding the proposed collection of information;
10 and”;

11 (2) in subsection (b) in the first sentence by
12 striking out “notify the agency involved of the deci-
13 sion to approve or disapprove the request and shall
14 make such decisions, including an explanation there-
15 of” and inserting in lieu thereof “but not, except as
16 provided under subsection (g), before the 30-day
17 public comment period has concluded, notify the
18 agency involved of any decision regarding that re-
19 quest and shall make such decisions, including a de-
20 tailed explanation thereof”;

21 (3) in subsection (c)—

22 (A) in the first sentence by striking out
23 “3504(h)” and inserting in lieu thereof
24 “3507(i)”; and

1 (B) in the second sentence by striking out
2 “, shall explain” and inserting in lieu thereof
3 “and shall explain”; and

4 (4) by amending subsection (h) to read as
5 follows:

6 “(h)(1) In carrying out reviews of information collec-
7 tion requests under this chapter, the Director shall—

8 “(A) maintain a public file for each information
9 collection request under review, which shall in-
10 clude—

11 “(i) copies of any written communication
12 to the Director or to any employee of the Office
13 of Management and Budget from any person
14 not employed by the Federal Government or
15 from any agency concerning a proposed infor-
16 mation collection request, and any written com-
17 munication from the Director or employee of
18 the Office to such person or agency concerning
19 such proposal; and

20 “(ii) information about any written sub-
21 mission received by the Director or any em-
22 ployee of the Office of Management and Budget
23 from an agency, including—

24 “(I) the name of the agency;

1 “(II) the title or name of the submis-
2 sion;

3 “(III) the date of receipt by the
4 Office;

5 “(IV) the name of the principal desk
6 officer within the Office who reviews the
7 submission;

8 “(V) copies of all agency submissions
9 to the Office, and a detailed written expla-
10 nation of the reasons for any disapprovals
11 or approvals with substantive changes
12 made by the Office with respect to a sub-
13 mission, as required by this section; and

14 “(VI) any decision made by the Office
15 with respect to the submission, including
16 the date of any action taken by the Office;

17 “(B) notify the head of the appropriate agency
18 of all meetings involving employees of the Office of
19 Management and Budget and any person who is not
20 an employee of the Federal Government, and provide
21 the agency head, or the designee of the agency head,
22 a reasonable opportunity to attend such meetings;
23 and

24 “(C) consider public comments and other rel-
25 evant material.

1 “(2) This subsection shall not require the public dis-
2 closure of any information which is protected at all times
3 by procedures established for—

4 “(A) information which has been specifically
5 authorized under criteria established by an Execu-
6 tive order or an Act of Congress to be kept secret
7 in the interest of national security or foreign policy,
8 or

9 “(B) any communication between a person in
10 the employ of the Office of Management and Budget
11 and any other person in the employ of the Executive
12 Office of the President.”.

13 **SEC. 108. DETERMINATION OF NECESSITY FOR INFORMA-**
14 **TION; HEARING.**

15 Section 3508 of title 44, United States Code, is
16 amended—

17 (1) by striking out the second sentence and in-
18 serting in lieu thereof “Before making a determina-
19 tion the Director shall give interested persons at
20 least thirty days in which to submit comments, as
21 required under section 3507, and may give the agen-
22 cy and other interested persons an opportunity to be
23 heard.”; and

24 (2) in the third sentence by striking out “un-
25 necessary” through the period and inserting in lieu

1 thereof “unnecessary for the proper performance of
2 the functions of the agency, including whether the
3 information will have practical utility, the agency
4 may not engage in the collection of the informa-
5 tion.”.

6 **SEC. 109. FEDERAL INFORMATION LOCATOR SYSTEM.**

7 Section 3511 of title 44, United States Code, is
8 amended to read as follows:

9 **“§ 3511. Establishment and operation of Federal In-**
10 **formation Locator System**

11 “(a) The Director shall maintain a publicly accessible
12 comprehensive inventory of all Federal agency information
13 collection requests.

14 “(b) The Director shall cause to be established and
15 maintained an electronic Federal Information Locator
16 System (hereafter in this section referred to as the ‘sys-
17 tem’), which shall identify the major information resources
18 of each Federal agency, including significant internal and
19 public information holdings, in order to assist agencies
20 and the public in locating information.

21 “(c) In designing the system, the Director shall—

22 “(1) establish an interagency committee, in co-
23 operation with the Director of the National Institute
24 of Standards and Technology, to develop standards
25 for agency locator systems to ensure compatability,

1 promote information sharing, and uniform access by
2 the public;

3 “(2) in consultation with the advisory commit-
4 tee established under section 3517(b), consider pub-
5 lic access and other user needs;

6 “(3) designate one or more agencies to operate
7 gateways or other access points to the system;

8 “(4) require the head of each agency to estab-
9 lish an agency information locator system; and

10 “(5) ensure that no information which is not
11 public information is disclosed to the public.

12 “(d) The Director shall on an ongoing basis review
13 the development and effectiveness of the system and make
14 recommendations for improving the system, including
15 mechanisms for improving public access to Federal agency
16 public information.

17 “(e) The head of each agency shall take such action
18 as is necessary to ensure the compliance of the agency
19 with the directions of the Director under this section.”.

20 **SEC. 110. DIRECTOR REVIEW OF AGENCY ACTIVITIES; RE-**
21 **PORTING; AGENCY RESPONSE.**

22 Section 3513(a) of title 44, United States Code, is
23 amended in the first sentence by striking out “information
24 management” through the period and inserting in lieu
25 thereof “the information resources management activities

1 of each agency to ascertain their efficiency and effective-
2 ness in helping to achieve program goals.”.

3 **SEC. 111. RESPONSIVENESS TO CONGRESS.**

4 Section 3514(a) of title 44, United States Code, is
5 amended—

6 (1) in paragraph (1) by striking out “manage-
7 ment” and inserting in lieu thereof “resources man-
8 agement’s contribution to improving agency produc-
9 tivity, efficiency, and effectiveness”; and

10 (2) by striking out paragraphs (2) through (10)
11 and inserting in lieu thereof the following:

12 “(2) a summary of accomplishments and
13 planned initiatives to improve Federal programs
14 through information resources management, includ-
15 ing specific actions to carry out any pilot projects
16 described under section 3505(2) and each function
17 described under section 3504, including—

18 “(A) with respect to information collec-
19 tion—

20 “(i) an analysis by agency, and by
21 categories the Director finds useful and
22 practicable, describing the estimated re-
23 porting hours required of persons by infor-
24 mation collection requests, including to the
25 extent practicable the direct budgetary

1 costs of the agencies and identification of
2 statutes and regulations which impose the
3 greatest number of reporting hours;

4 “(ii) a tabulation of areas of duplica-
5 tion in agency information collection re-
6 quests identified during the preceding year
7 and efforts made to preclude the collection
8 of duplicate information, including des-
9 ignations of central collection agencies;

10 “(iii) a list of each instance in which
11 an agency engaged in the collection of in-
12 formation under the authority of section
13 3507(g) and an identification of each agen-
14 cy involved; and

15 “(iv) a description of initiatives to
16 eliminate any unnecessary burden of Fed-
17 eral collections of information associated
18 with individuals, small business, edu-
19 cational institutions, nonprofit organiza-
20 tions, and State and local governments,
21 particularly with respect to any unneces-
22 sary burden associated with Federal pro-
23 curement, grant programs, Federal tax-
24 ation and United States international com-
25 petitiveness;

1 “(B) with respect to the statistical policy
2 and coordination functions—

3 “(i) a description of the specific ac-
4 tions taken, or planned to be taken, to
5 carry out each such function;

6 “(ii) a description of the status of
7 each major statistical program, including
8 information on—

9 “(I) any improvements in each
10 such program;

11 “(II) any program which has
12 been reduced or eliminated; and

13 “(III) the budget for each such
14 program for the previous fiscal year
15 and the fiscal year in progress and
16 the budget proposed for each such
17 program for the next fiscal year; and

18 “(iii) a description and summary of
19 the long range plans in effect for the major
20 Federal statistical activities and programs;

21 “(C) with respect to privacy, disclosure,
22 confidentiality, and security, any reports re-
23 quired under section 552a of title 5, United
24 States Code, and a detailed statement on ac-

1 tions taken to fulfill the purposes of the
2 Computer Security Act of 1987;

3 “(D) with respect to records management,
4 a description of agency compliance with regula-
5 tions issued by the Archivist of the United
6 States, including efforts to archive information
7 maintained in electronic format;

8 “(E) with respect to information tech-
9 nology, a detailed statement with respect to
10 each agency of new initiatives to acquire infor-
11 mation technology to improve information re-
12 sources management, and a summary of actions
13 taken and planned to be taken to improve co-
14 ordination with the General Services Adminis-
15 tration; and

16 “(F) with respect to information dissemi-
17 nation and access, a description of the feasibil-
18 ity and means of enhancing, using electronic
19 and other formats, agency sharing of and public
20 access to Government information, including by
21 dissemination of public information and use of
22 the Federal Information Locator System;

23 “(3) a list of all violations of provisions of this
24 chapter and rules, regulations, guidelines, policies,
25 and procedures issued under this chapter; and

1 “(4) such other information that demonstrates
2 faithful administration of this chapter and that may
3 be necessary or useful to the Congress in reviewing
4 the effectiveness of and, when required, in reauthor-
5 izing appropriations for this chapter.”.

6 **SEC. 112. CONSULTATION WITH OTHER AGENCIES AND THE**
7 **PUBLIC.**

8 Section 3517 of title 44, United States Code, is
9 amended—

10 (1) by inserting “(a)” before “In development”;

11 and

12 (2) by adding at the end thereof the following
13 new subsection—

14 “(b) The Director shall establish an Advisory Com-
15 mittee on Information Policy to advise in carrying out the
16 functions assigned under this chapter that shall—

17 “(1) be composed of seventeen members, which
18 shall include—

19 “(A) the Director;

20 “(B) the Administrator of General Serv-
21 ices;

22 “(C) the Director of the National Institute
23 of Standards and Technology;

24 “(D) the Archivist of the United States;

25 and

1 “(E) thirteen members appointed by the
2 Director, of whom—

3 “(i) three shall be representatives of
4 three different Federal agencies with sig-
5 nificant public information activities;

6 “(ii) seven shall be public members
7 appointed to represent parties of interests
8 other than the United States and shall be
9 broadly representative of interested or af-
10 fected groups, including private informa-
11 tion providers, libraries, educational insti-
12 tutions, nonprofit organizations, consumer
13 organizations, and businesses; and

14 “(iii) three shall be representatives of
15 State and local governments;

16 “(2) provide for a two-year term for members
17 appointed by the Director, except that one-half of
18 the initial appointments shall be made for a term of
19 three years;

20 “(3) provide that an individual may be
21 reappointed to the committee for any number of
22 terms;

23 “(4) provide that appointments shall be made
24 without regard to political affiliation; and

1 “(5) comply with the provisions of the Federal
2 Advisory Committee Act (5 U.S.C. App.).

3 “(c) No later than one hundred and eighty days after
4 the date of the enactment of this subsection, the Director
5 shall complete the initial appointment of members of the
6 Advisory Committee on Information Policy.

7 “(d) The Director shall provide necessary support
8 services for the Advisory Committee, and shall maintain
9 the records of the Advisory Committee in a publicly acces-
10 sible location which shall be identified in the charter of
11 the Advisory Committee. Any record, or portion thereof,
12 that is to be discussed or acted upon at a public meeting
13 of the Advisory Committee shall be made available for
14 public inspection and copying at least forty-eight hours in
15 advance of such meeting.

16 “(e) The Advisory Committee on Information Policy
17 shall terminate on September 30, 1996.

18 “(f) There are authorized to be appropriated
19 \$150,000 for each of the fiscal years 1993, 1994, 1995,
20 and 1996, to carry out the functions of the Advisory Com-
21 mittee on Information Policy.”.

22 **SEC. 113. ACCESS TO INFORMATION.**

23 Section 3519 of title 44, United States Code, is
24 amended in the second sentence by inserting “regardless
25 of form or format” after “paper and records”.

1 **SEC. 114. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 3520(a) of title 44, United States Code, is
3 amended by striking out “\$5,500,000 for each of the fiscal
4 years 1987, 1988, and 1989.” and inserting in lieu thereof
5 “\$8,000,000 for each of the fiscal years 1993, 1994, 1995
6 and 1996.”.

7 **TITLE II—REVIEW OF FEDERAL**
8 **REGULATIONS**

9 **SEC. 201. SHORT TITLE.**

10 This title may be cited as the “Regulatory Review
11 Sunshine Act of 1993”.

12 **SEC. 202. DEFINITIONS.**

13 For purposes of this title, the term—

14 (1) “agency” means an agency as defined under
15 section 551(1) of title 5, United States Code, and
16 section 552(f) of title 5, United States Code;

17 (2) “regulatory review” means the evaluation,
18 review, oversight, supervision, or coordination of
19 agency rulemaking activity by a reviewing entity di-
20 rected by the President or the designee of the Presi-
21 dent to conduct such review on an ongoing basis;

22 (3) “reviewing entity” means any agency, or
23 other establishment in the executive branch of the
24 Federal Government established by the President,
25 which engages, in whole or in part in regulatory
26 review;

1 (4) “review action” means any action, including
2 but not limited to a recommendation or direction, re-
3 garding an agency rulemaking activity taken by a re-
4 viewing entity; and

5 (5) “rulemaking activity” means any activity
6 involving a rulemaking as defined under section
7 551(5) of title 5, United States Code, and includes
8 activity involving a schedule or plan for rulemaking,
9 strategy statements, guidelines, policy manuals,
10 grant and loan procedures, advance notices of pro-
11 posed rulemaking, press releases and other docu-
12 ments announcing or implementing regulatory policy
13 that affects the public.

14 **SEC. 203. DISCLOSURE BY A REVIEWING ENTITY.**

15 (a) PUBLIC ACCESS.—A reviewing entity shall
16 establish procedures, consistent with subsection (b), to
17 provide public access to information concerning each agen-
18 cy rulemaking activity under its review. Such information
19 shall include a copy of—

20 (1) all written communications, regardless of
21 format, including drafts of all proposals and associ-
22 ated analyses, between the reviewing entity and the
23 rulemaking agency;

24 (2) all written communications, regardless of
25 format, between the reviewing entity and any person

1 not employed by the Federal Government relating to
2 the substance of an agency rulemaking activity;

3 (3) a record, including the date, participants,
4 and substance, of all oral communications relating to
5 the substance of an agency rulemaking activity, in-
6 cluding meetings, between the reviewing entity and
7 any person not employed by the Federal Govern-
8 ment;

9 (4) a written explanation as required by section
10 204(c) and the date of any significant review action;
11 and

12 (5) any notice of any extensions of review under
13 section 206.

14 (b) PROCEDURES.—Information described under sub-
15 section (a) shall be made available to the public upon re-
16 quest—

17 (1) within 14 days of conclusion of review;

18 (2) in a manner consistent with the require-
19 ments of section 552(a) of title 5, United States
20 Code; and

21 (3) for review, and copying, in a publicly acces-
22 sible reading room during normal business hours.

1 **SEC. 204. DISCLOSURE TO A RULEMAKING AGENCY BY A**
2 **REVIEWING ENTITY.**

3 (a) WRITTEN COMMUNICATIONS.—A reviewing entity
4 shall transmit to the rulemaking agency, on a timely basis,
5 copies of any written communications between the review-
6 ing entity and any person not employed by the Federal
7 Government concerning the substance of a rulemaking
8 activity of that agency.

9 (b) ORAL COMMUNICATIONS.—A reviewing entity
10 shall disclose to the rulemaking agency, on a timely basis,
11 all oral communications, including meetings, between any
12 person not employed by the Federal Government and the
13 reviewing entity concerning the substance of a rulemaking
14 activity of that agency. The reviewing entity shall—

15 (1) advise the rulemaking agency of the date,
16 participants, and substance of such communications;
17 and

18 (2) invite the rulemaking agency head or des-
19 ignee to all scheduled meetings involving such com-
20 munications.

21 (c) EXPLANATION OF SIGNIFICANT REVIEW AC-
22 TION.—A reviewing entity shall, in a timely manner, pro-
23 vide the rulemaking agency with a written explanation of
24 any significant review action taken by the reviewing entity
25 concerning an agency rulemaking activity.

1 **SEC. 205. PUBLIC DISCLOSURE BY A RULEMAKING AGENCY.**

2 (a) STATUS OF REVIEW.—A rulemaking agency shall
3 upon request identify a rulemaking activity, the date upon
4 which it was submitted to a reviewing entity for review,
5 and any notice of any extensions of review under section
6 206.

7 (b) EXPLANATIONS.—For each proposed and final
8 rule, a rulemaking agency shall explain in its rulemaking
9 notice any significant changes made to such rule as a con-
10 sequence of regulatory review.

11 (c) RECORD.—A rulemaking agency shall place in the
12 appropriate rulemaking record all of the documents re-
13 ceived from a reviewing entity as required under section
14 204.

15 **SEC. 206. TIME LIMITS FOR REVIEW.**

16 (a) TIME LIMITS.—Within 60 days after the receipt
17 of a rulemaking activity submitted to a reviewing entity
18 for review, the reviewing entity shall conclude review of
19 the rulemaking activity. The reviewing entity may, for
20 good cause explained to the rulemaking agency extend the
21 time for review for 30 days.

22 (b) RESOLUTION OF OUTSTANDING ISSUES.—If the
23 President, or such other person or entity as the President
24 may designate, reviews for resolution an issue arising out
25 of a regulatory review—

1 (1) the applicable time limits described under
2 subsection (a) may be extended, although any such
3 issue shall be resolved as promptly as practicable;
4 and

5 (2) any such review shall be subject to the re-
6 quirements of this title, except for section 206(a).

7 (c) EXTENSIONS.—A reviewing entity shall notify the
8 rulemaking agency of an extension beyond 60 days and
9 provide public notice, pursuant to sections 203 and 207.
10 The rulemaking agency shall promptly publish a notice of
11 any such extension in the Federal Register, and shall give
12 public notice pursuant to section 205.

13 **SEC. 207. PUBLIC ACCOUNTING OF REGULATORY REVIEW.**

14 (a) PUBLICATION OF ACCOUNTING.—The Office of
15 Management and Budget shall prepare and make available
16 to the public a monthly and an annual accounting of regu-
17 latory review conducted by any and all reviewing entities.
18 Such accounting shall include a list of all rulemaking ac-
19 tivities submitted to a reviewing entity for review, under
20 review by a reviewing entity, or for which a review action
21 was taken by a reviewing entity during the reporting
22 period.

23 (b) INFORMATION INCLUDED IN ACCOUNTING.—The
24 monthly accounting required under subsection (a) shall be
25 prepared and made available to the public within 10 work-

1 ing days of the end of each month and shall include the
2 name and type of each rulemaking activity reviewed, the
3 reviewing entity, the rulemaking agency, the date of sub-
4 mission, the status of review, notice of any extensions of
5 review under section 206, any review action, the date of
6 such action, and the authority for review.

7 (c) FEDERAL REGISTER PUBLICATION.—Each rule-
8 making agency shall publish in the Federal Register with-
9 in 10 working days of the end of each month a list of
10 all rulemaking activities undergoing regulatory review dur-
11 ing the preceding month. Such list shall include the name
12 and type of each rulemaking activity, the reviewing entity,
13 the date of submission, any review action taken during the
14 reporting period, and the date of any such action.

15 **SEC. 208. EXCLUSIONS.**

16 Oral communications with the President, the Vice
17 President, the Administrator of the Environmental Pro-
18 tection Agency, the Director of the Office of Management
19 and Budget, and the heads of executive departments as
20 defined under section 101 of title 5, United States Code,
21 are not covered by this title.

22 **SEC. 209. RULES OF CONSTRUCTION.**

23 (a) AUTHORIZATION.—Nothing in this title author-
24 izes a reviewing entity to—

25 (1) review a rulemaking activity; or

1 (2) direct an agency to make a decision with re-
2 gard to a rulemaking activity unless specifically
3 authorized by law.

4 (b) ALTERATIONS.—Nothing in this title alters in any
5 manner—

6 (1) rulemaking authority vested by law in the
7 head of an agency;

8 (2) any legally mandated criteria for rule-
9 making; or

10 (3) the application of any statutory or judicial
11 deadline or the authority of an agency to undertake
12 rulemaking activity in an emergency situation.

○

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S 681 IS—3

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