

§ 3301. Definition of records

(a) RECORDS DEFINED.—

(1) IN GENERAL.—As used in this chapter, the term “records”—

(A) includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them; and

(B) does not include—

(i) library and museum material made or acquired and preserved solely for reference or exhibition purposes; or

(ii) duplicate copies of records preserved only for convenience.

(2) RECORDED INFORMATION DEFINED.—For purposes of paragraph (1), the term “recorded information” includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form.

(b) DETERMINATION OF DEFINITION.—The Archivist’s determination whether recorded information, regardless of whether it exists in physical, digital, or electronic form, is a record as defined in subsection (a) shall be binding on all Federal agencies.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1299; Pub. L. 94–575, §4(c)(2), Oct. 21, 1976, 90 Stat. 2727; Pub. L. 113–187, §5(a), Nov. 26, 2014, 128 Stat. 2009.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §366 (July 7, 1943, ch. 192, §1, 57 Stat. 380).

AMENDMENTS

2014—Pub. L. 113–187 amended section generally. Prior to amendment, text read as follows: “As used in this chapter, ‘records’ includes all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included.”

1976—Pub. L. 94–575 expanded “records” to include “machine readable materials”.

§ 3302. Regulations covering lists of records for disposal, procedure for disposal, and standards for reproduction

The Archivist shall promulgate regulations, not inconsistent with this chapter, establishing—

(1) procedures for the compiling and submitting to the Archivist of lists and schedules of records proposed for disposal,

(2) procedures for the disposal of records authorized for disposal, and

(3) standards for the reproduction of records by photographic, microphotographic, or digital processes with a view to the disposal of the original records.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1299; Pub. L. 94–575, §4(c)(1), Oct. 21, 1976, 90 Stat. 2727; Pub. L. 98–497, title I, §107(b)(23), Oct. 19, 1984, 98 Stat. 2290; Pub. L. 113–187, §§5(b), 8(12), Nov. 26, 2014, 128 Stat. 2010, 2012.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §367 (July 7, 1943, ch. 192, §2, 57 Stat. 381; June 30, 1949, ch. 288, title I, §104, 63 Stat. 381).

AMENDMENTS

2014—Par. (1). Pub. L. 113–187, §8(12), substituted “the Archivist” for “him”.

Par. (3). Pub. L. 113–187, §5(b), substituted “photographic, microphotographic, or digital processes” for “photographic or microphotographic processes”.

1984—Pub. L. 98–497 substituted “Archivist” for “Administrator of General Services”.

1976—Pub. L. 94–575 struck out “; approval by President” after “standards for reproduction” in section catchline.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–497 effective Apr. 1, 1985, see section 301 of Pub. L. 98–497, set out as a note under section 2102 of this title.

§ 3303. Lists and schedules of records to be submitted to the Archivist by head of each Government agency

The head of each agency of the United States Government shall submit to the Archivist, under regulations promulgated as provided by section 3302 of this title—

(1) lists of any records in the custody of the agency that have been photographed, microphotographed, or digitized under the regulations and that, as a consequence, do not appear to have sufficient value to warrant their further preservation by the Government;

(2) lists of other records in the custody of the agency not needed by it in the transaction of its current business and that do not appear to have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government; and

(3) schedules proposing the disposal after the lapse of specified periods of time of records of a specified form or character that either have accumulated in the custody of the agency or may accumulate after the submission of the schedules and apparently will not after the lapse of the period specified have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1299; Pub. L. 98–497, title I, §107(b)(23), (25)(A), Oct. 19, 1984, 98 Stat. 2290; Pub. L. 113–187, §5(c), Nov. 26, 2014, 128 Stat. 2010.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §368 (July 7, 1943, ch. 192, §3, 57 Stat. 381; June 30, 1949, ch. 288, title I, §104(a), 63 Stat. 381).

AMENDMENTS

2014—Par. (1). Pub. L. 113-187 substituted “photographed, microphotographed, or digitized” for “photographed or microphotographed”.

1984—Pub. L. 98-497 substituted “the Archivist” for “Administrator of General Services” in section catchline, and “Archivist” for “Administrator of General Services” in text.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

§ 3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records

(a) The Archivist shall examine the lists and schedules submitted to the Archivist under section 3303 of this title. If the Archivist determines that any of the records listed in a list or schedule submitted to the Archivist do not, or will not after the lapse of the period specified, have sufficient administrative, legal, research, or other value to warrant their continued preservation by the Government, the Archivist may, after publication of notice in the Federal Register and an opportunity for interested persons to submit comment thereon—

(1) notify the agency to that effect; and

(2) empower the agency to dispose of those records in accordance with regulations promulgated under section 3302 of this title.

(b) Authorizations granted under lists and schedules submitted to the Archivist under section 3303 of this title, and schedules promulgated by the Archivist under subsection (d) of this section, shall be mandatory, subject to section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Archivist under section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to section 2909 of this title.

(c) The Archivist may request advice and counsel from the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate with respect to the disposal of any particular records under this chapter whenever the Archivist considers that—

(1) those particular records may be of special interest to the Congress; or

(2) consultation with the Congress regarding the disposal of those particular records is in the public interest.

However, this subsection does not require the Archivist to request such advice and counsel as a regular procedure in the general disposal of records under this chapter.

(d) The Archivist shall promulgate schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government.

(e) The Archivist may approve and effect the disposal of records that are in the Archivist’s legal custody, provided that records that had been in the custody of another existing agency may not be disposed of without the written consent of the head of the agency.

(f) The Archivist shall make an annual report to the Congress concerning the disposal of records under this chapter, including general descriptions of the types of records disposed of and such other information as the Archivist considers appropriate to keep the Congress fully informed regarding the disposal of records under this chapter.

(Added Pub. L. 91-287, §1, June 23, 1970, 84 Stat. 320; amended Pub. L. 95-440, §1, Oct. 10, 1978, 92 Stat. 1063; Pub. L. 98-497, title I, §107(b)(24), (25)(B), title II, §204, Oct. 19, 1984, 98 Stat. 2290, 2294; Pub. L. 104-186, title II, §223(10), Aug. 20, 1996, 110 Stat. 1752; Pub. L. 108-383, §2(b), Oct. 30, 2004, 118 Stat. 2218; Pub. L. 113-187, §§5(d), 8(13), Nov. 26, 2014, 128 Stat. 2010, 2012.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-187, §8(13)(A), in introductory provisions, substituted “submitted to the Archivist” for “submitted to him” in two places and “the Archivist may” for “he may”.

Subsec. (c). Pub. L. 113-187, §8(13)(B), substituted “the Archivist considers” for “he considers” in introductory provisions.

Pub. L. 113-187, §5(d), substituted “the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate” for “the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives” in introductory provisions.

Subsec. (e). Pub. L. 113-187, §8(13)(C), substituted “the Archivist’s” for “his”.

Subsec. (f). Pub. L. 113-187, §8(13)(D), substituted “the Archivist considers” for “he considers”.

2004—Subsec. (d). Pub. L. 108-383 struck out at end “A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.”

1996—Subsec. (c). Pub. L. 104-186 substituted “House Oversight” for “House Administration”.

1984—Pub. L. 98-497, §107(b)(25)(B), substituted “Archivist” for “Administrator of General Services” in section catchline.

Subsec. (a). Pub. L. 98-497, §107(b)(24), substituted “Archivist” for “Administrator of General Services” and “Archivist” for “Administrator”.

Pub. L. 98-497, §204, inserted “, after publication of notice in the Federal Register and an opportunity for interested persons to submit comment thereon” after “may” in second sentence.

Subsecs. (b) to (f). Pub. L. 98-497, §107(b)(24)(B), substituted “Archivist” for “Administrator” wherever appearing.

1978—Subsec. (b). Pub. L. 95-440, §1(a), made schedules promulgated by Administrator under subsec. (d) of this section mandatory; inserted provision for application of authorization providing for shorter retention period as between an authorization granted under lists and schedules submitted under section 3303 of this title and an authorization in a schedule promulgated under subsec. (d) of this section; and struck out provision making permissive authorizations granted under subsec. (d) schedules.

Subsec. (d). Pub. L. 95-440, §1(b), (c), substituted “shall” for “may” in first sentence and authorized Federal agencies to request changes in disposal schedules for its records pursuant to section 2909 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.