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United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 3501. Purpose

The purposes of this subchapter [[44 USCS §§ 3501](#) et seq.] 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 section 11332 of title 40; 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 subchapter [[44 USCS §§ 3501](#) et seq.].

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; Aug. 21, 2002, *P.L. 107-217*, § 3(l)(3), *116 Stat. 1301*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3501 (Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-335*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as a note to this section. The prior section provided for the purpose of the chapter.

Another prior § 3501 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1302*), which provided for information needed by Federal agencies, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on Oct. 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as a note to this section.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever occurring.

2002 . Act Aug. 21, 2002, in para. (8)(B), substituted "section 11332 of title 40" for "the Computer Security Act of 1987 ([Public Law 100-235](#))".

Short titles:

This chapter ([42 USCS §§ 3501](#) et seq), is popularly known as the "Paperwork Reduction Act".

Other provisions:

Waiver of paperwork reduction, etc. Act Nov. 5, 1990, *P.L. 101-508*, Title IV, Part 2, Subpart B, § 4711(f), *104 Stat. 1388-187*, provides: "Chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], and Executive Order 12291 [*5 USCS § 601* note] shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act [for full classification, consult USCS Tables volumes].".

Effective date of Paper Work Reduction Act of 1995. Act May 22, 1995, *P.L. 104-13*, § 4, *109 Stat. 195*, provides:

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"(a) In general. Except as otherwise provided in this section, this Act and the amendments made by this Act [generally amending 13 USCS § 91 and [44 USCS §§ 3501](#) et seq.; for full classification, consult USCS Tables volumes] 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 [[44 USCS §§ 3501](#) et seq.]--

"(1) the amendments made by this Act [amending 13 USCS § 91 and [44 USCS §§ 3501](#) et seq.] 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 [[44 USCS §§ 3501](#) et seq.], as in effect on September 30, 1995."

Federal management and promotion of electronic government services. Act Dec. 17, 2002, *P.L. 107-347*, Title II, *116 Stat. 2910* (effective 120 days after enactment, with certain exceptions, as provided by § 402(a) of such Act, which appears as [44 USCS § 3601](#) note); Aug. 2, 2004, *P.L. 108-281*, § 1, *118 Stat. 889*, provides:

"Sec. 201. Definitions.

"Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

"Sec. 202. Federal agency responsibilities.

"(a) In general. The head of each agency shall be responsible for--

"(1) complying with the requirements of this Act [for full classification, consult USCS Tables volumes] (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

"(2) ensuring that the information resource management policies and guidance established under this Act [for full classification, consult USCS Tables volumes] by the Director, and the related information technology standards promulgated by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

"(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

"(b) Performance integration.

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

"(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

"(3) Areas of performance measurement that agencies should consider include--

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"(A) customer service;

"(B) agency productivity; and

"(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

"(4) Agencies shall link their performance goals, as appropriate, to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

"(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

"(c) Avoiding diminished access. When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable--

"(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

"(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

"(d) Accessibility to people with disabilities. All actions taken by Federal departments and agencies under this Act [for full classification, consult USCS Tables volumes] shall be in compliance with section 508 of the Rehabilitation Act of 1973 ([29 U.S.C. 794d](#)).

"(e) Sponsored activities. Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

"(f) Chief Information Officers. The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code [[44 USCS §§ 3601](#) et seq.] (as added by this Act) shall be responsible for--

"(1) participating in the functions of the Chief Information Officers Council; and

"(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

"(g) E-Government Status Report.

(1) In general. Each agency shall compile and submit to the Director an annual E-Government Status Report on--

"(A) the status of the implementation by the agency of electronic government initiatives;

"(B) compliance by the agency with this Act [for full classification, consult USCS Tables volumes]; and

"(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

"(2) Submission. Each agency shall submit an annual report under this subsection--

"(A) to the Director at such time and in such manner as the Director requires;

"(B) consistent with related reporting requirements; and

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"(C) which addresses any section in this title relevant to that agency.

"(h) Use of technology. Nothing in this Act [for full classification, consult USCS Tables volumes] supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

"(i) National security systems.

(1) Inapplicability. Except as provided under paragraph (2), this title does not apply to national security systems as defined in [section 11103 of title 40, United States Code](#).

"(2) Applicability. This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

"Sec. 203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.

"(a) Purpose. The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

"(b) Electronic signatures. In order to fulfill the objectives of the Government Paperwork Elimination Act (*Public Law 105-277*; 112 Stat. 2681-749 through 2681-751) [[44 USCS § 3504](#) note], each Executive agency (as defined under [section 105 of title 5, United States Code](#)) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

"(c) Authority for electronic signatures. The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

"(d) Authorization of appropriations. There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, and for other activities consistent with this section, \$ 8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

"Sec. 204. Federal Internet portal.

"(a) In general.

(1) Public access. The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

"(2) Criteria. To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

"(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

"(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

"(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

"(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

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"(b) Authorization of appropriations. There are authorized to be appropriated to the General Services Administration \$ 15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

"Sec. 205. Federal courts.

"(a) Individual court websites. The Chief Justice of the United States, the chief judge of each circuit and district and of the Court of Federal Claims, and the chief bankruptcy judge of each district shall cause to be established and maintained, for the court of which the judge is chief justice or judge, a website that contains the following information or links to websites with the following information:

"(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

"(2) Local rules and standing or general orders of the court.

"(3) Individual rules, if in existence, of each justice or judge in that court.

"(4) Access to docket information for each case.

"(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

"(6) Access to documents filed with the courthouse in electronic form, to the extent provided under subsection (c).

"(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

"(b) Maintenance of data online.

(1) Update of information. The information and rules on each website shall be updated regularly and kept reasonably current.

"(2) Closed cases. Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

"(c) Electronic filings.

(1) In general. Except as provided under paragraph (2) or in the rules prescribed under paragraph (3), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

"(2) Exceptions. Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

"(3) Privacy and security concerns.

(A)

(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically or converted to electronic form.

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"(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

"(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

"(iv) Except as provided in clause (v), to the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such protected information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code [[28 USCS §§ 2071](#) et seq.], shall be either in lieu of, or in addition to, a redacted copy in the public file.

"(v) Such rules may require the use of appropriate redacted identifiers in lieu of protected information described in clause (iv) in any pleading, motion, or other paper filed with the court (except with respect to a paper that is an exhibit or other evidentiary matter, or with respect to a reference list described in this subclause), or in any written discovery response--

"(I) by authorizing the filing under seal, and permitting the amendment as of right under seal, of a reference list that--

"(aa) identifies each item of unredacted protected information that the attorney or, if there is no attorney, the party, certifies is relevant to the case; and

"(bb) specifies an appropriate redacted identifier that uniquely corresponds to each item of unredacted protected information listed; and

"(II) by providing that all references in the case to the redacted identifiers in such reference list shall be construed, without more, to refer to the corresponding unredacted item of protected information.

"(B)

(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

"(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns arising from electronic filing or electronic conversion shall comply with, and be construed in conformity with, subparagraph (A)(iv).

"(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.

"(d) Dockets with links to documents. The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

"(e) [Omitted--This subsection amended § 303(a) of Act Oct. 28, 1991, *P.L. 102-140* ([28 USCS § 1913](#) note).]

"(f) Time requirements. Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

"(g) Deferral.

(1) In general.

(A) Election.

(i) Notification. The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

"(ii) Contents. A notification submitted under this subparagraph shall state--

"(I) the reasons for the deferral; and

"(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

"(B) Exception. To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

"(2) Report. Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that--

"(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

"(B) summarizes and evaluates all notifications.

"Sec. 206. Regulatory agencies.

"(a) Purposes. The purposes of this section are to--

"(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

"(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code [5 USCS §§ 551 et seq.], (commonly referred to as the 'Administrative Procedures Act').

"(b) Information provided by agencies online. To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under *section 551 of title 5, United States Code*) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under paragraphs (1) and (2) of *section 552(a) of title 5, United States Code*.

"(c) Submissions by electronic means. To the extent practicable, agencies shall accept submissions under *section 553(c) of title 5, United States Code*, by electronic means.

"(d) Electronic docketing.

(1) In general. To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under *section 553 of title 5, United States Code*.

"(2) Information available. Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director

"(A) all submissions under *section 553(c) of title 5, United States Code*; and

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"(B) other materials that by agency rule or practice are included in the rulemaking docket under *section 553(c) of title 5, United States Code*, whether or not submitted electronically.

"(e) Time limitation. Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3606 of title 44 (as added by this Act).

"Sec. 207. Accessibility, usability, and preservation of Government information.

"(a) Purpose. The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

"(b) Definitions. In this section, the term--

"(1) 'Committee' means the Interagency Committee on Government Information established under subsection (c); and

"(2) 'directory' means a taxonomy of subjects linked to websites that--

"(A) organizes Government information on the Internet according to subject matter; and

"(B) may be created with the participation of human editors.

"(c) Interagency Committee.

(1) Establishment. Not later than 180 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

"(2) Membership. The Committee shall be chaired by the Director or the designee of the Director and--

"(A) shall include representatives from--

"(i) the National Archives and Records Administration;

"(ii) the offices of the Chief Information Officers from Federal agencies; and

"(iii) other relevant officers from the executive branch; and

"(B) may include representatives from the Federal legislative and judicial branches.

"(3) Functions. The Committee shall--

"(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

"(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

"(C) share effective practices for access to, dissemination of, and retention of Federal information.

"(4) Termination. The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

"(d) Categorizing of information.

(1) Committee functions. Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director on--

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"(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information--

"(i) in a way that is searchable electronically, including by searchable identifiers; and

"(ii) in ways that are interoperable across agencies;

"(B) the definition of categories of Government information which should be classified under the standards; and

"(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

"(2) Functions of the Director. Not later than 1 year after the submission of recommendations under paragraph (1), the Director shall issue policies--

"(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information--

"(i) in a way that is searchable electronically, including by searchable identifiers;

"(ii) in ways that are interoperable across agencies; and

"(iii) that are, as appropriate, consistent with the provisions under [section 3602\(f\)\(8\) of title 44, United States Code](#);

"(B) defining categories of Government information which shall be required to be classified under the standards; and

"(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

"(3) Modification of policies. After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

"(4) Agency functions. Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

"(e) Public access to electronic information.

(1) Committee functions. Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on--

"(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code [[44 USCS §§ 2101](#) et seq., [2501](#) et seq., [2701](#) et seq., [2901](#) et seq., [3101](#) et seq.], are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

"(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

"(2) Functions of the Archivist. Not later than 1 year after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies--

"(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code [[44 USCS §§ 2101](#) et seq., [2501](#) et seq., [2701](#) et seq., [2901](#) et seq., [3101](#) et seq.], are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

"(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

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"(3) Modification of policies. After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

"(4) Agency functions. Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

"(f) Agency websites.

(1) Standards for agency websites. Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes--

"(A) requirements that websites include direct links to--

"(i) descriptions of the mission and statutory authority of the agency;

"(ii) information made available to the public under subsections (a)(1) and (b) of *section 552 of title 5, United States Code* (commonly referred to as the 'Freedom of Information Act'); and

"(iii) information about the organizational structure of the agency; and

"(iv) the strategic plan of the agency developed under *section 306 of title 5, United States Code*; and

"(B) minimum agency goals to assist public users to navigate agency websites, including--

"(i) speed of retrieval of search results;

"(ii) the relevance of the results;

"(iii) tools to aggregate and disaggregate data; and

"(iv) security protocols to protect information.

"(2) Agency requirements.

(A) Not later than 2 years after the date of enactment of this Act, each agency shall--

"(i) consult with the Committee and solicit public comment;

"(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

"(iii) develop priorities and schedules for making Government information available and accessible;

"(iv) make such final determinations, priorities, and schedules available for public comment;

"(v) post such final determinations, priorities, and schedules on the Internet; and

"(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

"(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

"(3) Public domain directory of public Federal Government websites.

(A) Establishment. Not later than 2 years after the effective date of this title, the Director and each agency shall--

"(i) develop and establish a public domain directory of public Federal Government websites; and

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"(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

"(B) Development. With the assistance of each agency, the Director shall--

"(i) direct the development of the directory through a collaborative effort, including input from--

"(I) agency librarians;

"(II) information technology managers;

"(III) program managers;

"(IV) records managers;

"(V) Federal depository librarians; and

"(VI) other interested parties; and

"(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

"(C) Update. With the assistance of each agency, the Administrator of the Office of Electronic Government shall--

"(i) update the directory as necessary, but not less than every 6 months; and

"(ii) solicit interested persons for improvements to the directory.

"(g) Access to federally funded research and development.

(1) Development and maintenance of Governmentwide repository and website.

(A) Repository and website. The Director of the Office of Management and Budget (or the Director's delegate), in consultation with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of--

"(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall--

"(I) include information about research and development funded by the Federal Government, consistent with any relevant protections for the information under *section 552 of title 5, United States Code*, and performed by--

"(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development centers; and private individuals; and

"(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

"(II) integrate information about each separate research and development task or award, including--

"(aa) the dates upon which the task or award is expected to start and end;

"(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

"(cc) the entity or institution performing the task or award and its contact information;

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"(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

"(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

"(ff) such other information as may be determined to be appropriate; and

"(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate--

"(I) the coordination of Federal research and development activities;

"(II) collaboration among those conducting Federal research and development;

"(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

"(IV) access by policymakers and the public to information concerning Federal research and development activities.

"(B) Oversight. The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

"(2) Agency functions. Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

"(3) Committee functions. Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on--

"(A) policies to improve agency reporting of information for the repository established under this subsection; and

"(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

"(4) Functions of the Director. After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3606 of title 44 (as added by this Act).

"(5) Authorization of appropriations. There are authorized to be appropriated for the development, maintenance, and operation of the Governmentwide repository and website under this subsection--

"(A) \$ 2,000,000 in each of the fiscal years 2003 through 2005; and

"(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

"Sec. 208. Privacy provisions.

"(a) Purpose. The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

"(b) Privacy impact assessments.

(1) Responsibilities of agencies.

(A) In general. An agency shall take actions described under subparagraph (B) before--

"(i) developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form; or

"(ii) initiating a new collection of information that--

"(I) will be collected, maintained, or disseminated using information technology; and

"(II) includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government.

"(B) Agency activities. To the extent required under subparagraph (A), each agency shall--

"(i) conduct a privacy impact assessment;

"(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

"(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

"(C) Sensitive information. Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

"(D) Copy to Director. Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

"(2) Contents of a privacy impact assessment.

(A) In general. The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

"(B) Guidance. The guidance shall--

"(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of information that is in an identifiable form in that system, and the risk of harm from unauthorized release of that information; and

"(ii) require that a privacy impact assessment address--

"(I) what information is to be collected;

"(II) why the information is being collected;

"(III) the intended use of the agency of the information;

"(IV) with whom the information will be shared;

"(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

"(VI) how the information will be secured; and

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"(VII) whether a system of records is being created under *section 552a of title 5, United States Code*, (commonly referred to as the 'Privacy Act').

"(3) Responsibilities of the Director. The Director shall--

"(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

"(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

"(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of information that is in an identifiable form as the Director determines appropriate.

"(c) Privacy protections on agency websites.

(1) Privacy policies on websites.

(A) Guidelines for notices. The Director shall develop guidance for privacy notices on agency websites used by the public.

"(B) Contents. The guidance shall require that a privacy notice address, consistent with *section 552a of title 5, United States Code*--

"(i) what information is to be collected;

"(ii) why the information is being collected;

"(iii) the intended use of the agency of the information;

"(iv) with whom the information will be shared;

"(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

"(vi) how the information will be secured; and

"(vii) the rights of the individual under *section 552a of title 5, United States Code* (commonly referred to as the 'Privacy Act'), and other laws relevant to the protection of the privacy of an individual.

"(2) Privacy policies in machine-readable formats. The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

"(d) Definition. In this section, the term 'identifiable form' means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

"Sec. 209. Federal information technology workforce development.

"(a) Purpose. The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

"(b) Workforce development.

(1) In general. In consultation with the Director of the Office of Management and Budget, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall--

"(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

"(B) identify where current information technology and information resource management training do not satisfy the personnel needs described in subparagraph (A);

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"(C) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

"(D) assess the training of Federal employees in information technology disciplines in order to ensure that the information resource management needs of the Federal Government are addressed.

"(2) Information technology training programs. The head of each Executive agency, after consultation with the Director of the Office of Personnel Management, the Chief Information Officers Council, and the Administrator of General Services, shall establish and operate information technology training programs consistent with the requirements of this subsection. Such programs shall--

"(A) have curricula covering a broad range of information technology disciplines corresponding to the specific information technology and information resource management needs of the agency involved;

"(B) be developed and applied according to rigorous standards; and

"(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively impacting academic standards.

"(3) Governmentwide policies and evaluation. The Director of the Office of Personnel Management, in coordination with the Director of the Office of Management and Budget, shall issue policies to promote the development of performance standards for training and uniform implementation of this subsection by Executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Director of the Office of Personnel Management shall evaluate the implementation of the provisions of this subsection by Executive agencies.

"(4) Chief information officer authorities and responsibilities. Subject to the authority, direction, and control of the head of an Executive agency, the chief information officer of such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The chief information officer shall ensure that the policies of the agency head established in accordance with this subsection are implemented throughout the agency.

"(5) Information technology training reporting. The Director of the Office of Management and Budget shall ensure that the heads of Executive agencies collect and maintain standardized information on the information technology and information resources management workforce related to the implementation of this subsection.

"(6) Authority to detail employees to non-Federal employers. In carrying out the preceding provisions of this subsection, the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

"(7) Coordination provision. An assignment described in [section 3703 of title 5, United States Code](#), may not be made unless a program under paragraph (6) is established, and the assignment is made in accordance with the requirements of such program.

"(8) Employee participation. Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

"(9) Authorization of appropriations. There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, \$ 15,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

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"(10) Executive agency defined. For purposes of this subsection, the term 'Executive agency' has the meaning given the term 'agency' under [section 3701 of title 5, United States Code](#) (as added by subsection (c)).

"(c) Information technology exchange program.

(1) [Omitted--This paragraph enacted [5 USCS §§ 3701](#) et seq.]

"(2) Report. Not later than 4 years after the date of the enactment of this Act, the General Accounting Office [Government Accountability Office] shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code [[5 USCS §§ 3701](#) et seq.] (as added by this subsection). Such report shall include--

"(A) an evaluation of the effectiveness of the program established by such chapter; and

"(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

"(3) [Omitted--This paragraph amended the part analysis preceding [5 USCS § 2101](#).]

"(d) [Omitted--This subsection amended [18 USCS §§ 207](#) and [1905](#) and [41 USCS § 423](#).]

"(e) Report on existing exchange programs.

(1) Exchange program defined. For purposes of this subsection, the term 'exchange program' means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code [[5 USCS §§ 3371](#) et seq.], and any other program which allows for--

"(A) the assignment of employees of the Federal Government to non-Federal employers;

"(B) the assignment of employees of non-Federal employers to the Federal Government; or

"(C) both.

"(2) Reporting requirement. Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

"(3) Specific information. The report shall, for each such program, include--

"(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

"(B) specific citation to the law or other authority under which the program is established;

"(C) the names of persons to contact for more information, and how they may be reached; and

"(D) any other information which the Office considers appropriate.

"(f) Report on the establishment of a Governmentwide information technology training program.

(1) In general. Not later January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

"(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

"(B)

(i) If one or more such programs already exist, recommendations as to how they might be improved.

"(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

"(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code [[5 USCS §§ 3701](#) et seq.], might be used to help carry them out.

"(2) Cost estimate. The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

"(g) [Omitted--This subsection amended [5 USCS §§ 3111](#), [4108](#), [7353](#), and [8432](#) note, and [18 USCS § 209](#).]

"Sec. 210. Share-in-savings initiatives.

"(a), (b) [Omitted--These subsections enacted [10 USCS § 2332](#) and 41 USCS § 266a and amended the chapter analysis preceding [10 USCS § 2301](#).]

"(c) Development of incentives. The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

"(d) Regulations. Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall--

"(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to--

"(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

"(B) otherwise yield greatest value to the government; and

"(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

"(e) Additional guidance. The Administrator of General Services shall--

"(1) identify potential opportunities for the use of share-in-savings contracts; and

"(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

"(f) OMB report to Congress. In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing--

"(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified--

"(A) the information technology acquired;

"(B) the total amount of payments made to the contractor; and

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"(C) the total amount of savings or other measurable benefits realized;

"(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

"(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

"(g) GAO report to Congress. The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing--

"(1) the results of the review;

"(2) an independent assessment by the Comptroller General of the effectiveness of the use of share-in-savings contracts in improving the mission-related and administrative processes of the executive agencies and the achievement of agency missions; and

"(3) a recommendation on whether the authority to enter into share-in-savings contracts should be continued.

"(h) [Omitted--This subsection repealed [40 USCS § 11521](#) and amended [40 USCS §§ 11501-11505](#), the chapter and subchapter headings preceding [40 USCS §§ 11501](#) and [11521](#), the table of sections preceding [40 USCS § 11501](#), and the table of chapters preceding [40 USCS § 11101](#).]

"(i) Definitions. In this section, the terms 'contractor', 'savings', and 'share-in-savings contract' have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 [41 USCS § 266a] (as added by subsection (b)).

"Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.

"(a) [Omitted--This subsection added [40 USCS § 502\(c\)](#).]

"(b) Procedures. Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement [section 501\(c\) of title 40, United States Code](#) (as added by subsection (a)).

"(c) Report. Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

"Sec. 212. Integrated reporting study and pilot projects.

"(a) Purposes. The purposes of this section are to--

"(1) enhance the interoperability of Federal information systems;

"(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

"(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

"(b) Definitions. In this section, the term--

"(1) 'agency' means an Executive agency as defined under [section 105 of title 5, United States Code](#); and

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"(2) 'person' means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

"(c) Report.

(1) In general. Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

"(2) Contents. The report under this section shall--

"(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

"(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

"(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that--

"(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, without requiring public users to know which agency holds the information; and

"(ii) allows the integration of public information held by the participating agencies;

"(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

"(E) make any recommendations that the Director deems appropriate on the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

"(d) Pilot projects to encourage integrated collection and management of data and interoperability of Federal information systems.

(1) In general. In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

"(2) Goals of pilot projects.

(A) In general. Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

"(B) Goals. The goals under this paragraph are to--

"(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

"(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

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"(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

"(3) Input. Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

"(e) Protections. The activities authorized under this section shall afford protections for

"(1) confidential business information consistent with *section 552(b)(4) of title 5, United States Code*, and other relevant law;

"(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law;

"(3) other information consistent with *section 552(b)(3) of title 5, United States Code*, and other relevant law; and

"(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

"Sec. 213. Community technology centers.

"(a) Purposes. The purposes of this section are to--

"(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

"(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

"(b) Study and report. Not later than 2 years after the effective date of this title, the Administrator shall--

"(1) ensure that a study is conducted to evaluate the best practices of community technology centers that have received Federal funds; and

"(2) submit a report on the study to--

"(A) the Committee on Governmental Affairs of the Senate;

"(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

"(C) the Committee on Government Reform of the House of Representatives; and

"(D) the Committee on Education and the Workforce of the House of Representatives.

"(c) Contents. The report under subsection (b) may consider--

"(1) an evaluation of the best practices being used by successful community technology centers;

"(2) a strategy for--

"(A) continuing the evaluation of best practices used by community technology centers; and

"(B) establishing a network to share information and resources as community technology centers evolve;

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"(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

"(4) a database of all community technology centers that have received Federal funds, including--

"(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

"(B) other relevant information;

"(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

"(6) recommendations of how to--

"(A) enhance the development of community technology centers; and

"(B) establish a network to share information and resources.

"(d) Cooperation. All agencies that fund community technology centers shall provide to the Administrator any information and assistance necessary for the completion of the study and the report under this section.

"(e) Assistance.

(1) In general. The Administrator, in consultation with the Secretary of Education, shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to--

"(A) assist in the implementation of recommendations; and

"(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

"(2) Types of assistance. Assistance under this subsection may include--

"(A) contribution of funds;

"(B) donations of equipment, and training in the use and maintenance of the equipment; and

"(C) the provision of basic instruction or training material in computer skills and Internet usage.

"(f) Online tutorial.

(1) In general. The Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, other relevant agencies, and the public, shall develop an online tutorial that--

"(A) explains how to access Government information and services on the Internet; and

"(B) provides a guide to available online resources.

"(2) Distribution. The Administrator, with assistance from the Secretary of Education, shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

"(g) Promotion of community technology centers. The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

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"(h) Authorization of appropriations. There are authorized to be appropriated for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section--

"(1) \$ 2,000,000 in fiscal year 2003;

"(2) \$ 2,000,000 in fiscal year 2004; and

"(3) such sums as are necessary in fiscal years 2005 through 2007.

"Sec. 214. Enhancing crisis management through advanced information technology.

"(a) Purpose. The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

"(b) In general.

(1) Study on enhancement of crisis response. Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Federal Emergency Management Agency, shall ensure that a study is conducted on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

"(2) Contents. The study under this subsection shall address--

"(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of--

"(i) the Federal Emergency Management Agency; and

"(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

"(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

"(3) Report. Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Administrator shall submit a report on the study, including findings and recommendations to--

"(A) the Committee on Governmental Affairs of the Senate; and

"(B) the Committee on Government Reform of the House of Representatives.

"(4) Interagency cooperation. Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Administrator in carrying out this section.

"(5) Authorization of appropriations. There are authorized to be appropriated for research under this subsection, such sums as are necessary for fiscal year 2003.

"(c) Pilot projects. Based on the results of the research conducted under subsection (b), the Administrator, in consultation with the Federal Emergency Management Agency, shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

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"Sec. 215. Disparities in access to the Internet.

"(a) Study and report.

(1) Study. Not later than 90 days after the date of enactment of this Act, the Administrator of General Services shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

"(2) Report. Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

"(b) Contents. The report under subsection (a) shall include a study of--

"(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of--

"(A) the nature of disparities in Internet access;

"(B) the affordability of Internet service;

"(C) the incidence of disparities among different groups within the population; and

"(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

"(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

"(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

"(c) Recommendations. The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

"(d) Authorization of appropriations. There are authorized to be appropriated \$ 950,000 in fiscal year 2003 to carry out this section.

"Sec. 216. Common protocols for geographic information systems.

"(a) Purposes. The purposes of this section are to--

"(1) reduce redundant data collection and information; and

"(2) promote collaboration and use of standards for government geographic information.

"(b) Definition. In this section, the term 'geographic information' means information systems that involve locational data, such as maps or other geospatial information resources.

"(c) In general.

(1) Common protocols. The Administrator, in consultation with the Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of

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geographic information. If practicable, the Administrator shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

"(2) Interagency group. The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

"(d) Director. The Director shall oversee--

"(1) the interagency initiative to develop common protocols;

"(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

"(3) the adoption of common standards relating to the protocols.

"(e) Common protocols. The common protocols shall be designed to--

"(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

"(2) promote the development of interoperable geographic information systems technologies that shall--

"(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

"(B) enable the enhancement of services using geographic data.

"(f) Authorization of appropriations. There are authorized to be appropriated such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007."

E-Government Act of 2002; National security responsibilities. Act Dec. 17, 2002, *P.L. 107-347*, Title III, § 301(c)(1)(A), *116 Stat. 2955* (effective on enactment, as provided by § 402(b) of such Act, which appears as [44 USCS § 3541](#) note), provides: "Nothing in this Act (including any amendment made by this Act) [for full classification, consult USCS Tables volumes] shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by [section 3542\(b\)\(2\) of title 44, United States Code](#)."

E-Government Act of 2002; requirements under Atomic Energy Act of 1954. Act Dec. 17, 2002, *P.L. 107-347*, Title III, § 301(c)(2), *116 Stat. 2955* (effective on enactment, as provided by § 402(b) of such Act, which appears as [44 USCS § 3541](#) note), provides: "Nothing in this Act [for full classification, consult USCS Tables volumes] shall supersede any requirement made by or under the Atomic Energy Act of 1954 ([42 U.S.C. 2011](#) et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 ([42 U.S.C. 2011](#) et seq.)."

Confidential Information Protection and Statistical Efficiency Act of 2002. Act Dec. 17, 2002, *P.L. 107-347*, Title V, *116 Stat. 2962*, provides:

"Sec. 501. Short title.

"This title may be cited as the 'Confidential Information Protection and Statistical Efficiency Act of 2002'.

"Sec. 502. Definitions.

"As used in this title:

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"(1) The term 'agency' means any entity that falls within the definition of the term 'executive agency' as defined in [section 102 of title 31, United States Code](#), or 'agency', as defined in [section 3502 of title 44, United States Code](#).

"(2) The term 'agent' means an individual--

"(A)

(i) who is an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under [section 23\(c\) of title 13, United States Code](#)), and with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency;

"(ii) who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency;

"(iii) who is a self-employed researcher, a consultant, a contractor, or an employee of a contractor, and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

"(iv) who is a contractor or an employee of a contractor, and who is engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

"(B) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

"(3) The term 'business data' means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

"(4) The term 'identifiable form' means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

"(5) The term 'nonstatistical purpose'--

"(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

"(B) includes the disclosure under [section 552 of title 5, United States Code](#) (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

"(6) The term 'respondent' means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

"(7) The term 'statistical activities'--

"(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

"(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

"(8) The term 'statistical agency or unit' means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

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"(9) The term 'statistical purpose'--

"(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

"(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

"Sec. 503. Coordination and oversight of policies.

"(a) In general. The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

"(b) Agency rules. Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

"(c) Review and approval of rules. The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], and such rules shall be subject to the approval of the Director.

"(d) Reports.

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

"(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

"(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under [section 3504\(e\)\(2\) of title 44, United States Code](#).

"Sec. 504. Effect on other laws.

"(a) Title 44, United States Code. This title, including amendments made by this title, does not diminish the authority under [section 3510 of title 44, United States Code](#), of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

"(b) Title 13 and Title 44, United States Code. This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13, United States Code, and [section 2108 of title 44, United States Code](#).

"(c) Title 13, United States Code. This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to [section 9 of title 13, United States Code](#).

"(d) Various energy statutes. Data or information acquired by the Energy Information Administration under a pledge of confidentiality and designated by the Energy Information Administration to be used for exclusively statistical purposes shall not be disclosed in identifiable form for nonstatistical purposes under--

"(1) section 12, 20, or 59 of the Federal Energy Administration Act of 1974 ([15 U.S.C. 771](#), [779](#), [790h](#));

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"(2) section 11 of the Energy Supply and Environmental Coordination Act of 1974 ([15 U.S.C. 796](#)); or

"(3) section 205 or 407 of the Department of the Energy Organization Act of 1977 ([42 U.S.C. 7135](#), [7177](#)).

"(e) Section 201 of Congressional Budget Act of 1974 [[2 USCS § 601](#)]. This title, including amendments made by this title, shall not be construed to limit any authorities of the Congressional Budget Office to work (consistent with laws governing the confidentiality of information the disclosure of which would be a violation of law) with databases of Designated Statistical Agencies (as defined in section 522), either separately or, for data that may be shared pursuant to section 524 of this title or other authority, jointly in order to improve the general utility of these databases for the statistical purpose of analyzing pension and health care financing issues.

"(f) Preemption of State law. Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

"(g) Statutes regarding false statements. Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as [section 221 of title 13, United States Code](#)) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

"(h) Construction. Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, [section 6103 of the Internal Revenue Code of 1986 \(26 U.S.C. 6103\)](#).

"(i) Authority of Congress. Nothing in this title shall be construed to affect the authority of the Congress, including its committees, members, or agents, to obtain data or information for a statistical purpose, including for oversight of an agency's statistical activities.

"Subtitle A--Confidential Information Protection

"Sec. 511. Findings and purposes.

"(a) Findings. The Congress finds the following:

"(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the agencies for strictly statistical purposes.

"(2) Pledges of confidentiality by agencies provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any agency action.

"(3) Protecting the confidentiality interests of individuals or organizations who provide information under a pledge of confidentiality for Federal statistical programs serves both the interests of the public and the needs of society.

"(4) Declining trust of the public in the protection of information provided under a pledge of confidentiality to the agencies adversely affects both the accuracy and completeness of statistical analyses.

"(5) Ensuring that information provided under a pledge of confidentiality for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

"(b) Purposes. The purposes of this subtitle are the following:

"(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

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"(2) To ensure that individuals or organizations who supply information under a pledge of confidentiality to agencies for statistical purposes will neither have that information disclosed in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

"(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

"Sec. 512. Limitations on use and disclosure of data and information.

"(a) Use of statistical data or information. Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

"(b) Disclosure of statistical data or information.

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

"(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

"(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

"(c) Rule for use of data or information for nonstatistical purposes. A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) and provide notice to the public, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

"(d) Designation of agents. A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required under section 502(2) for treatment as an agent under that section, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

"Sec. 513. Fines and penalties.

"Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$ 250,000, or both.

"Subtitle B--Statistical Efficiency

"Sec. 521. Findings and purposes.

"(a) Findings. The Congress finds the following:

"(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

"(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

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"(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

"(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

"(5) The Congress enacted the International Investment and Trade in Services Act of 1990 [International Investment and Trade in Services Survey Act ([22 USCS §§ 3101](#) et seq.)] that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

"(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

"(b) Purposes. The purposes of this subtitle are the following:

"(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

"(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

"(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

"(4) To increase understanding of the United States economy, especially for key industry and regional statistics, to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

"Sec. 522. Designation of statistical agencies.

"For purposes of this subtitle, the term "Designated Statistical Agency" means each of the following:

"(1) The Bureau of the Census of the Department of Commerce.

"(2) The Bureau of Economic Analysis of the Department of Commerce.

"(3) The Bureau of Labor Statistics of the Department of Labor.

"Sec. 523. Responsibilities of Designated Statistical Agencies.

"The head of each of the Designated Statistical Agencies shall--

"(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;

"(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and

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"(3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including--

"(A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;

"(B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;

"(C) implementing appropriate measures to assure the physical and electronic security of confidential data;

"(D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and

"(E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

"Sec. 524. Sharing of business data among Designated Statistical Agencies.

"(a) In general. A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies--

"(1) the business data to be shared;

"(2) the statistical purposes for which the business data are to be used;

"(3) the officers, employees, and agents authorized to examine the business data to be shared; and

"(4) appropriate security procedures to safeguard the confidentiality of the business data.

"(b) Responsibilities of agencies under other laws. The provision of business data by an agency to a Designated Statistical Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including *section 552 of title 5, United States Code* (popularly known as the Freedom of Information Act), and [*section 552b of title 5, United States Code*](#) (popularly known as the Privacy Act of 1974)) with respect to the provision or withholding of such information by the agency providing the data.

"(c) Responsibilities of officers, employees, and agents. Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate--

"(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

"(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

"(d) Notice. Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

"Sec. 525. Limitations on use of business data provided by Designated Statistical Agencies.

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"(a) Use, generally. Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

"(b) Publication. Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

"Sec. 526. [Omitted-This section added [13 USCS § 402](#) and amended [15 USCS § 176a](#) and the chapter analysis preceding [13 USCS § 401](#).]".

[Repeal of Title V of Act Dec. 7, 2002, P.L. 107-347(note above). Act Jan. 14, 2019, [P.L. 115-435](#), Title III, § 302(c)(1), [132 Stat. 5552](#) (effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, [P.L. 115-435](#), which appears as 5 USCS § 306 note) provides that Act Dec. 17, 2002, P.L. 107-347, Title V, 116 Stat. 2962 (note above), is repealed.]

Controlled Unclassified Information. Ex. Or. 13556 of November 4, 2010, [75 Fed. Reg. 68675](#), provides:

"By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

"Section 1. Purpose. This order establishes an open and uniform program for managing information that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Government-wide policies, excluding information that is classified under Executive Order 13526 of December 29, 2009 [[50 USCS § 435](#) note], or the Atomic Energy Act, as amended [[42 USCS §§ 2011](#) et seq.].

"At present, executive departments and agencies (agencies) employ ad hoc, agency-specific policies, procedures, and markings to safeguard and control this information, such as information that involves privacy, security, proprietary business interests, and law enforcement investigations. This inefficient, confusing patchwork has resulted in inconsistent marking and safeguarding of documents, led to unclear or unnecessarily restrictive dissemination policies, and created impediments to authorized information sharing. The fact that these agency-specific policies are often hidden from public view has only aggravated these issues.

"To address these problems, this order establishes a program for managing this information, hereinafter described as Controlled Unclassified Information, that emphasizes the openness and uniformity of Government-wide practice.

"Sec. 2. Controlled Unclassified Information (CUI).

"(a) The CUI categories and subcategories shall serve as exclusive designations for identifying unclassified information throughout the executive branch that requires safeguarding or dissemination controls, pursuant to and consistent with applicable law, regulations, and Government-wide policies.

"(b) The mere fact that information is designated as CUI shall not have a bearing on determinations pursuant to any law requiring the disclosure of information or permitting disclosure as a matter of discretion, including disclosures to the legislative or judicial branches.

"(c) The National Archives and Records Administration shall serve as the Executive Agent to implement this order and oversee agency actions to ensure compliance with this order.

"Sec. 3. Review of Current Designations.

"(a) Each agency head shall, within 180 days of the date of this order:

"(1) review all categories, subcategories, and markings used by the agency to designate unclassified information for safeguarding or dissemination controls; and

"(2) submit to the Executive Agent a catalogue of proposed categories and subcategories of CUI, and proposed associated markings for information designated as CUI under section 2(a) of this order. This submission shall

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provide definitions for each proposed category and subcategory and identify the basis in law, regulation, or Government-wide policy for safeguarding or dissemination controls.

"(b) If there is significant doubt about whether information should be designated as CUI, it shall not be so designated.

"Sec. 4. Development of CUI Categories and Policies.

"(a) On the basis of the submissions under section 3 of this order or future proposals, and in consultation with affected agencies, the Executive Agent shall, in a timely manner, approve categories and subcategories of CUI and associated markings to be applied uniformly throughout the executive branch and to become effective upon publication in the registry established under subsection (d) of this section. No unclassified information meeting the requirements of section 2(a) of this order shall be disapproved for inclusion as CUI, but the Executive Agent may resolve conflicts among categories and subcategories of CUI to achieve uniformity and may determine the markings to be used.

"(b) The Executive Agent, in consultation with affected agencies, shall develop and issue such directives as are necessary to implement this order. Such directives shall be made available to the public and shall provide policies and procedures concerning marking, safeguarding, dissemination, and decontrol of CUI that, to the extent practicable and permitted by law, regulation, and Government-wide policies, shall remain consistent across categories and subcategories of CUI and throughout the executive branch. In developing such directives, appropriate consideration should be given to the report of the interagency Task Force on Controlled Unclassified Information published in August 2009. The Executive Agent shall issue initial directives for the implementation of this order within 180 days of the date of this order.

"(c) The Executive Agent shall convene and chair interagency meetings to discuss matters pertaining to the program established by this order.

"(d) Within 1 year of the date of this order, the Executive Agent shall establish and maintain a public CUI registry reflecting authorized CUI categories and subcategories, associated markings, and applicable safeguarding, dissemination, and decontrol procedures.

"(e) If the Executive Agent and an agency cannot reach agreement on an issue related to the implementation of this order, that issue may be appealed to the President through the Director of the Office of Management and Budget.

"(f) In performing its functions under this order, the Executive Agent, in accordance with applicable law, shall consult with representatives of the public and State, local, tribal, and private sector partners on matters related to approving categories and subcategories of CUI and developing implementing directives issued by the Executive Agent pursuant to this order.

"Sec. 5. Implementation.

"(a) Within 180 days of the issuance of initial policies and procedures by the Executive Agent in accordance with section 4(b) of this order, each agency that originates or handles CUI shall provide the Executive Agent with a proposed plan for compliance with the requirements of this order, including the establishment of interim target dates.

"(b) After a review of agency plans, and in consultation with affected agencies and the Office of Management and Budget, the Executive Agent shall establish deadlines for phased implementation by agencies.

"(c) In each of the first 5 years following the date of this order and biennially thereafter, the Executive Agent shall publish a report on the status of agency implementation of this order.

"Sec. 6. General Provisions.

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"(a) This order shall be implemented in a manner consistent with:

"(1) applicable law, including protections of confidentiality and privacy rights;

"(2) the statutory authority of the heads of agencies, including authorities related to the protection of information provided by the private sector to the Federal Government; and

"(3) applicable Government-wide standards and guidelines issued by the National Institute of Standards and Technology, and applicable policies established by the Office of Management and Budget.

"(b) The Director of National Intelligence (Director), with respect to the Intelligence Community and after consultation with the heads of affected agencies, may issue such policy directives and guidelines as the Director deems necessary to implement this order with respect to intelligence and intelligence-related information. Procedures or other guidance issued by Intelligence Community element heads shall be in accordance with such policy directives or guidelines issued by the Director. Any such policy directives or guidelines issued by the Director shall be in accordance with this order and directives issued by the Executive Agent.

"(c) This order shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, and legislative proposals.

"(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

"(e) This order shall be implemented subject to the availability of appropriations.

"(f) The Attorney General, upon request by the head of an agency or the Executive Agent, shall render an interpretation of this order with respect to any question arising in the course of its administration.

"(g) The Presidential Memorandum of May 7, 2008, entitled 'Designation and Sharing of Controlled Unclassified Information (CUI)' is hereby rescinded."

Making it easier for America's small businesses and America's exporters to access Government services to help them grow and hire. Pres. Mem. of Oct. 28, 2011, [76 Fed. Reg. 68049](#), provides:

"Memorandum for the heads of executive departments and agencies

"As I outlined in my State of the Union address to the Congress on January 25, 2011, winning the future in the global economy will require a Government that wisely allocates its scarce resources to maximize efficiency and effectiveness so that it can best support American competitiveness, innovation, and job growth. If we are to thrive in the global economy, and make America the best place on Earth to do business, we need to equip our Government with the tools necessary to support innovation and job growth in the 21st century.

"Accordingly, we must make it easier for businesses to access the full range of Government programs and services without having to waste effort navigating their way through the Federal bureaucracy. At the same time, we must further streamline and coordinate Federal programs to reduce costs and provide customer-oriented service.

"Businesses looking for assistance from the Federal Government should feel like they are interacting with one entity, rather than a number of separate, albeit linked, components. This means adopting a 'No Wrong Door' policy that uses technology to quickly connect businesses to the services and information relevant to them, regardless of which agency's website, call center, or office they go to for help.

"In addition, a business's interactions with the Federal Government should be individualized and efficient. If the private sector can allow consumers to customize interactions so that they receive only the information they want, in the form they want it, so can the Federal Government.

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"Today, I am directing a first wave of changes focused on both small businesses and businesses of all sizes that want to begin or increase exporting (exporters), because those businesses help drive economic growth and have the most to gain from Federal assistance. We plan to use the resulting improvements as a model for future reforms so that, in time, all businesses and all citizens receive the highest level of customer service when they interact with the Federal Government.

"Accordingly, I direct the following:

"(1) All executive departments and agencies (agencies) shall work with a Steering Committee co-chaired by the Federal Chief Information Officer, Assistant to the President and Chief Technology Officer, and Chief Performance Officer (the Co-Chairs) to carry out the directives in this memorandum within 90 days of the date of this memorandum, unless a provision of this memorandum expressly states otherwise. The Steering Committee shall include senior policy and technical representatives, appointed by the heads of their respective agencies, from the Departments of State, Defense, Agriculture, Commerce, and Veterans Affairs, the Small Business Administration (SBA), the General Services Administration (GSA), the Export-Import Bank, and other agencies designated by the Co-Chairs. The Co-Chairs and representatives from the Department of Commerce and SBA shall serve as the Executive Committee of the Steering Committee, which shall coordinate the strategy, design, development, launch, and operation of BusinessUSA, a common, open, online platform and web service with dedicated resources that will, as a first step, disseminate core information regarding the Federal Government's programs and services relevant to small businesses and exporters.

"(2) Agencies shall work with the Steering Committee to develop and launch an introductory version of BusinessUSA. BusinessUSA shall be designed, tested, and built with the active feedback of U.S. businesses and relevant online communities. To the extent appropriate, practicable, and permitted by law, the BusinessUSA platform shall integrate related State and local government services as well as those of private sector partners.

"(3) Agencies shall make information regarding their small business and export programs and services accessible through BusinessUSA. To accomplish this in a uniform fashion, the Steering Committee shall develop a common set of standards for content available through BusinessUSA, which shall identify the types of programs and services to be included initially on BusinessUSA and a structure for organizing and presenting such information. These standards shall be used by all agencies in the creation, presentation, and delivery of information regarding their programs and services, to the extent practicable and permitted by law.

"(4) Agencies shall also work with the Steering Committee to develop new content for BusinessUSA that synthesizes information available across agencies to better serve small businesses and exporters. Among other things, agencies shall work together to aggregate on the BusinessUSA platform statistical, demographic, and other raw Government datasets of particular interest to small businesses and exporters, making Government data more easily accessible and spurring innovative uses of the data through business-oriented web or mobile applications.

"(5) Agencies shall integrate BusinessUSA, including ready access to the BusinessUSA website, into their current websites, call centers, and field offices to ensure that small businesses and exporters have access to the wide range of Government programs and services at each entry point into the Federal Government. During the year following the date of this memorandum, agencies shall work with GSA and the Office of Management and Budget to enhance the centralized call center for responding to public questions about Federal programs and services (1-800-FED-INFO) to add expertise with Government programs and services for small businesses and exporters.

"(6)

(a) Nothing in this memorandum shall be construed to impair or otherwise affect:

"(i) authority granted by law or Executive Order to an agency, or the head thereof; or

"(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

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"(b) BusinessUSA shall be operated by a single hosting agency under the Executive Committee's coordination. To the extent permitted by law, agencies shall reimburse the hosting agency for the cost of establishing, maintaining, and operating BusinessUSA.

"(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

"(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

"(7) The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register."

21st Century Integrated Digital Experience Act. Act Dec. 20, 2018, [P.L. 115-336](#), [132 Stat. 5025](#), provides:

"Section 1. Short title.

"This Act may be cited as the '21st Century Integrated Digital Experience Act' or the '21st Century IDEA'.

"Sec.2. Definitions

"In this Act:

"(1) Director. The term 'Director' means the Director of the Office of Management and Budget.

"(2) Executive agency. The term 'executive agency' has the meaning given the term 'Executive agency' in [section 105 of title 5, United States Code](#).

"Sec. 3. Website modernization.

"(a) Requirements for new websites and digital services. Not later than 180 days after the date of enactment of this Act, an executive agency that creates a website or digital service that is intended for use by the public, or conducts a redesign of an existing legacy website or digital service that is intended for use by the public, shall ensure to the greatest extent practicable that any new or redesigned website, web-based form, web-based application, or digital service--

"(1) is accessible to individuals with disabilities in accordance with section 508 of the Rehabilitation Act of 1973 ([29 U.S.C. 794d](#));

"(2) has a consistent appearance;

"(3) does not overlap with or duplicate any legacy websites and, if applicable, ensure that legacy websites are regularly reviewed, eliminated, and consolidated;

"(4) contains a search function that allows users to easily search content intended for public use;

"(5) is provided through an industry standard secure connection;

"(6) is designed around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continually test the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

"(7) provides users of the new or redesigned website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

"(8) is fully functional and usable on common mobile devices.

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"(b) Requirements for existing executive agency websites and digital services. Not later than 1 year after the date of enactment of this Act, the head of each executive agency that maintains a website or digital service that is made available to the public shall--

"(1) review each website or digital service; and

"(2) submit to Congress a report that includes--

"(A) a list of the websites and digital services maintained by the executive agency that are most viewed or utilized by the public or are otherwise important for public engagement;

"(B) from among the websites and digital services listed under subparagraph (A), a prioritization of websites and digital services that require modernization to meet the requirements under subsection (a); and

"(C) an estimation of the cost and schedule of modernizing the websites and digital services prioritized under subparagraph (B).

"(c) Internal digital services. The head of each executive agency shall ensure, to the greatest extent practicable, that any Intranet established after the date of enactment of this Act conforms to the requirements described in subsection (a).

"(d) Public reporting. Not later than 1 year after the date of enactment of this Act and every year thereafter for 4 years, the head of each executive agency shall--

"(1) report annually to the Director on the progress of the executive agency in implementing the requirements described in this section for the previous year; and

"(2) include the information described in paragraph (1) in a publicly available report that is required under another provision of law.

"(e) Compliance with United States website standards. Any website of an executive agency that is made available to the public after the date of enactment of this Act shall be in compliance with the website standards of the Technology Transformation Services of the General Services Administration.

"Sec. 4. Digitization of Government services and forms.

"(a) Non-Digital services. Not later than 180 days after the date of enactment of this Act, the Director shall issue guidance to the head of each executive agency that establishes a process for the executive agency to--

"(1) identify public non-digital, paper-based, or in-person Government services; and

"(2) include in the budget request of the executive agency--

"(A) a list of non-digital services with the greatest impact that could be made available to the public through an online, mobile-friendly, digital service option in a manner that decreases cost, increases digital conversion rates, and improves customer experience; and

"(B) an estimation of the cost and schedule associated with carrying out the modernization described in subparagraph (A).

"(b) Services required to be digital. The head of each executive agency shall regularly review public-facing applications and services to ensure that those applications and services are, to the greatest extent practicable, made available to the public in a digital format.

"(c) Forms required to be digital. Not later than 2 years after the enactment of this Act, the head of each executive agency shall ensure that any paper based form that is related to serving the public is made available in a digital format that meets the requirements described in section 3(a).

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"(d) Non-Digitizable processes. If the head of an executive agency cannot make available in a digital format under this section an in-person Government service, form, or paper-based process, the head of the executive agency shall document--

"(1) the title of the in-person Government service, form, or paper-based process;

"(2) a description of the in-person Government service, form, or paper-based process;

"(3) each unit responsible for the in-person Government service, form, or paper-based process and the location of each unit in the organizational hierarchy of the executive agency;

"(4) any reasons why the in-person Government service, form, or paper-based process cannot be made available under this section; and

"(5) any potential solutions that could allow the in-person Government service, form, or paper-based process to be made available under this section, including the implementation of existing technologies, procedural changes, regulatory changes, and legislative changes.

"(e) Physical availability. Each executive agency shall maintain an accessible method of completing digital services through in-person, paper-based, or other means, such that individuals without the ability to use digital services are not deprived of or impeded in access to those digital services.

Sec. 5. Electronic signatures.

"Not later than 180 days after the date of the enactment of this Act, the head of each executive agency shall submit to the Director and the appropriate congressional committees a plan to accelerate the use of electronic signatures standards established under the Electronic Signatures in Global and National Commerce Act ([15 U.S.C. 7001](#) et seq.).

Sec. 6. Customer experience and digital service delivery.

"The Chief Information Officer of each executive agency, or a designee, shall--

"(1) coordinate and ensure alignment of the internal and external customer experience programs and strategy of the executive agency;

"(2) coordinate with the management leaders of the executive agency, including the head of the executive agency, the Chief Financial Officer, and any program manager, to ensure proper funding to support the implementation of this Act;

"(3) continually examine the digital service delivery strategy of the executive agency to the public and submit recommendations to the head of the executive agency providing guidance and best practices suitable to the mission of the executive agency;

"(4) using qualitative and quantitative data obtained from across the executive agency relating to the experience and satisfaction of customers, identify areas of concern that need improvement and improve the delivery of customer service;

"(5) coordinate and ensure, with the approval of the head of the executive agency, compliance by the executive agency with [section 3559 of title 44, United States Code](#); and

"(6) to the extent practicable, coordinate with other agencies and seek to maintain as much standardization and commonality with other agencies as practicable in implementing the requirements of this Act, to best enable future transitions to centralized shared services.

"Sec. 7. Standardization.

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"(a) Design and implementation. Each executive agency shall, to the extent practicable, seek to maintain as much standardization and commonality with other executive agencies as practicable in implementing the requirements of this Act to best enable future transitions to centralized shared services.

"(b) Coordination. The Chief Information Officer of each executive agency, or a designee, shall coordinate the implementation of the requirements of this Act, including the development of standards and commonalities.

"(c) Federal supply schedule.

(1) In general. The General Services Administration shall make available under a Federal Supply Schedule the systems and services necessary to fulfill the requirements of this Act.

"(2) Requirements. The Federal Supply Schedule described in paragraph (1) shall, to the extent practicable, ensure interoperability between executive agencies, compliance with industry standards, and adherence to best practices for design, accessibility, and information security."

Case Notes

1. Generally
2. Construction
3. Application
4. --Particular documents

1. Generally

PRA does not give Office of Management and Budget authority to review and countermand agency regulations mandating disclosure by regulated entities directly to third parties, such as 3 hazardous communication requirements proposed for employees by Labor Department under OSHA as to labeling and employee training and as to accessible data sheets concerning health and safety information. [*Dole v United Steelworkers of America* \(1990\) 494 US 26, 110 S Ct 929, 108 L Ed 2d 23, 14 BNA OSHC 1425, 1990 CCH OSHD P 28820, 20 ELR 20447.](#)

Federal Reports Act ([44 USCS §§ 3501](#) et seq.) is concerned with costs and efficiency of government paper work and is not intended to create rights in persons having interest in information. [*Pierce v Apple Valley, Inc.* \(1984, SD Ohio\) 597 F Supp 1480.](#)

Paperwork Reduction Act ([44 USCS §§ 3501](#) et seq.) does not authorize private right of action. [*Teledyne, Inc. v United States* \(2001\) 50 Fed Cl 155](#), affd (2003, CA FC) [316 F3d 1366, 30 EBC 1753](#), reh den, reh, en banc, den (2003, CA FC) [2003 US App LEXIS 8875](#) and cert den (2003) 540 US 1068, 157 L Ed 2d 732, 124 S Ct 804, 31 EBC 2760.

2. Construction

Provisions of Federal Reports Act ([44 USCS §§ 3501](#) et seq.) are to be read with eye towards encouraging interagency co-operation and discouraging duplicative reporting requirements. [*Emerson Electric Co. v Schlesinger* \(1979, CA8 Mo\) 609 F2d 898, 21 BNA FEP Cas 475, 21 CCH EPD P 30390.](#)

In case in which taxpayer sued several IRS officers in their individual capacities, IRC did not contemplate actions directly against IRS employees, Federal Tort Claims Act expressly excluded tort actions against federal employees when their actions were undertaken within scope of their employment, Administrative Procedure Act prohibited any claim seeking monetary relief and barred cases concerning assessment or collection of federal taxes, The Fair Debt Collection Practices Act expressly excluded any officer or employee of United States to extent that collecting or

attempting to collect any debt is in performance of his official duties, and Paperwork Reduction Act did not create private right of action for alleged violations of statute. [*Perry v Wright* \(2013, SD NY\) 111 AFTR 2d 1209.](#)

Chapter 13 debtor's claims alleging that creditor violated 11 USCS § 107(c), Gramm-Leach-Bliley Act, [15 USCS §§ 6801](#) et seq., E-Government Act of 2002, [44 USCS §§ 3501](#) et seq., and committed invasion of privacy and intentional and negligent infliction of emotional distress when it filed documents with its proof of claim that contained debtor's full social security number and date of birth were dismissed because neither 11 USCS § 107(c), Gramm-Leach-Bliley Act, nor E-Government Act of 2002 created private right of action and debtor failed to show that creditor committed invasion of privacy or intentional or negligent infliction of emotional distress; however, [Fed. R. Bankr. P. 9037](#) directed creditor to include only last four digits of debtor's social security number and year of birth in documents it filed with court, and court had power under 11 USCS § 105(a) to hold creditor in contempt for violating Rule 9037. *French v Am. Gen. Fin. Servs. (In re French)* (2009, BC ED Tenn) 401 BR 295.

3. Application

Paperwork Reduction Act, [44 USCS §§ 3501](#) et seq., indicates that it does not apply to collection of information during conduct of administrative investigation of specific entities and that it is not intended to interfere with civil rights enforcement. [Shell Oil Co. v United States EEOC](#) (1981, ED Mo) 523 F Supp 79, 27 BNA FEP Cas 230, remanded (1982, CA8) 676 F2d 322, 28 BNA FEP Cas 1087, 29 BNA FEP Cas 1519, 28 CCH EPD P 32669, *reh den* (1982, CA8) 689 F2d 757 and *revd* on other grounds, remanded (1984) 466 US 54, 104 S Ct 1621, 80 L Ed 2d 41, 34 BNA FEP Cas 709, 33 CCH EPD P 34245.

Where IRS and several revenue officers moved to dismiss taxpayer's complaint in federal district court for lack of subject matter jurisdiction, taxpayer asserted violation of Paperwork Reduction Act (PRA), but PRA contained no explicit language which granted waiver of sovereign immunity in tax collection case. [*Perry v Wright* \(2013, SD NY\) 111 AFTR 2d 1209.](#)

Though taxpayers sometimes argue that, because tax regulations and instructions do not contain control numbers as required by Paperwork Reduction Act, [44 USCS §§ 3501](#) et seq., it protects them from failure to file prosecutions and penalties for failure to file tax returns, those arguments consistently have been rejected by federal courts; that is, Act is not defense to addition to tax under [26 USCS § 6651\(a\)\(1\)](#), nor does it otherwise create loophole in [Internal Revenue Code](#). [Wheeler v Comm'r](#) (2006) 127 TC 200, *affd*, sanctions disallowed (2008, CA10) 521 F3d 1289, 2008-1 USTC P 50284, 101 AFTR 2d 1696.

Taxpayer's willful failure to file or pay his taxes was not excused by any argument of technical violation of Paperwork Reduction Act, [44 USCS §§ 3501-3520](#); nor did Ex Post Facto Clause apply to non-penal tax deficiency; because his arguments had been rejected several times, taxpayer was also penalized under [I.R.C. § 6673\(a\)\(1\)](#). *Saxon v Comm'r* (2006) [TC Memo 2006-52](#), 91 CCH TCM 914.

4. --Particular documents

Criminal conviction for mail fraud, mail fraud conspiracy, and making false statements on Medicare and Medicaid forms was not barred by Act on grounds that Medicare carrier's manual was published in violation of Act. [United States v Weiss](#) (1991, CA2 NY) 930 F2d 185, 32 Fed Rules Evid Serv 877, *cert den* (1991) 502 US 842, 116 L Ed 2d 100, 112 S Ct 133.

Paperwork Reduction Act does not apply to collection of information during audits pursuant to Federal Oil and Gas Royalty Management Act ([30 USCS §§ 1701](#) et seq.). [Shell Oil Co. v Babbitt](#) (1997, CA3 Del) 125 F3d 172, 28 ELR 20134, 138 OGR 41.

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Finality of regulations to implement statutory amendments to improve accountability and integrity of institutions participating in federally funded student financial aid programs was not affected by fact that Secretary had not received OMB approval at time of promulgation since OMB's own rules specify that its action under PRA cannot rescind or amend rule. [*Career College Ass'n v Riley* \(1996, App DC\) 316 US App DC 4, 74 F3d 1265](#), reh den (1996, App DC) [317 US App DC 232, 82 F3d 476](#) and (criticized in *California Cosmetology Coalition v Riley* (1997, CA9 Cal) 110 F3d 1454, 97 CDOS 2659, 97 Daily Journal DAR 4763).

Final Rule regarding plaintiff union's reporting requirements did not become binding until it received final approval from Office of Management and Budget pursuant to Paperwork Reduction Act, [44 USCS §§ 3501](#) et seq. [*AFL-CIO v Chao* \(2004, DC Dist Col\) 298 F Supp 2d 104, 174 BNA LRRM 2097, 149 CCH LC P 10289](#), affd in part and revd in part on other grounds (2005, App DC) [366 US App DC 107, 409 F3d 377, 177 BNA LRRM 2385, 151 CCH LC P 10489, reh den \(2005, App DC\) 2005 US App LEXIS 21283](#) and reh, en banc, den (2005, App DC) [2005 US App LEXIS 21286](#).

Defendant's motion to dismiss indictment charging him with tax evasion was denied because his argument that I.R.S. Form 1040 was invalid based on IRS' failure to issue new Office of Management and Budget control numbers on IRS forms was frivolous and Paperwork Reduction Act, [44 USCS §§ 3501](#) et seq., did not nullify his statutory obligations to file tax returns and to pay taxes due. [*United States v Barker* \(2006, DC Minn\) 98 AFTR 2d 8021, 98 AFTR 2d 8104](#).

Defendant's motion to dismiss charge under [33 USCS § 1908\(a\)](#) on ground that Paperwork Reduction Act, barred prosecution for failing to comply with request for its oil record book was denied where requirement to keep oil record book originated with Congress under Act to Prevent Pollution from Ships. *United States v Ionia Mgmt. S.A.* (2007, DC Conn) 498 F Supp 2d 477, 2007 AMC 2794.

E-Government Act of 2002, *Pub. L. No. 107-347*, § 205, does not impose time frame for when redaction of information must begin; Act is better viewed as enabling statute, not substantive provision from which necessity for redaction of account number on debtor's proof of claim account would arise as matter of course with Act's enactment; assuming without deciding that violation of § 205 of E-Government Act of 2002 would require complete disallowance of creditor's claim, creditor did not violate act; creditor used required form when it filed its proof of claim, and that form required creditor to list debtor's full account number. [*In re Haefner* \(2006, BC ND Ohio\) 345 BR 588](#).

Taxpayer who failed to file income tax return and thereafter conceded liability for deficiency that had been calculated by IRS was held liable for additions to tax imposed by IRS pursuant to [I.R.C. §§ 6651\(a\)\(1\)](#) and [6654\(a\)](#) because taxpayer's sole defense, which was that IRS Form 1040 did not comply with Paperwork Reduction Act, [44 USCS § 3501-3520](#), lacked any merit; among reasons for rejection of defense was that requirement to file federal income tax returns represents legislative command, not administrative request, with result that IRS forms do not violate Act, notwithstanding absence of Office of Management and Budget form number. *Dodge v Comm'r* (2007) [TC Memo 2007-236, 94 CCH TCM 192](#), affd (2009, CA8) [317 Fed Appx 581, 103 AFTR 2d 1450](#).

Questionnaire sent by Environmental Protection Agency to establishment engaged in timber products processing sent as result of court order requiring EPA to conduct extensive studies which would provide bases for later publication of effluent limitations and guidelines which rest upon application of best available technology should not be subjected to clearance under Federal Reports Act ([44 USCS §§ 3501](#) et seq.). USEPA GCO 76-33.

Unpublished Opinions

Unpublished: Tax court properly dismissed taxpayer's petition for redetermination of tax deficiency and additions to tax assessed by Commissioner of Internal Revenue and imposed penalty under [26 USCS § 6673\(a\)\(1\)](#) because (1) Paperwork Reduction Act of 1995, did not alter statutory requirement to file income tax return; (2) taxpayer failed to allege any error in his deficiency, even when given second chance to do so; and (3) petition for redetermination was not proper forum to raise challenge to IRS' use of forms under U.S. Tax Ct. R. 34(b), and further, Commissioner's motion for sanctions against taxpayer in amount of \$ 8,000 for filing frivolous appeal was granted under [26 USCS §](#)

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[7482\(c\)\(4\)](#) and *Fed. R. App. P. 38* because taxpayer was repeat offender. [Hilvety v Comm'r \(2007, CA7\) 216 Fed Appx 582, 2007-1 USTC P 50373, 99 AFTR 2d 1089](#), reh den, reh, en banc, den (2007, CA7) [2007 US App LEXIS 14444](#) and cert den (2007) 552 US 1063, 128 S Ct 724, 169 L Ed 2d 555.

Unpublished: Internal Revenue Service Form 1040 tax returns satisfy requirements of Paperwork Reduction Act (PRA), [44 USCS §§ 3501-3531](#); in any event, tax protestor's claim that Form 1040 did not comply with PRA did not preclude Commissioner of Internal Revenue from assessing income tax deficiency and penalties against protestor for failing to file returns or pay taxes. [Miller-Wagenknecht v Comm'r \(2008, CA3\) 285 Fed Appx 956, 2008-2 USTC P 50453, 102 AFTR 2d 5303](#), cert den (2009) 556 US 1184, 129 S Ct 2014, 173 L Ed 2d 1088.

Unpublished: Sanctions were properly imposed on taxpayer by tax court under [26 USCS § 6673](#) because taxpayer's argument that tax form did not comply with Paperwork Reduction Act, [44 USCS §§ 3501](#) and [3507](#), was groundless in that requirement to file tax return was mandated by [26 USCS § 6012](#), not by IRS, and statutory obligations were not affected by Act. [Vence v Comm'r \(2008, CA11\) 297 Fed Appx 827, 2008-2 USTC P 50608, 102 AFTR 2d 6668](#).

Unpublished: United States Tax Court properly dismissed petition filed by pro se taxpayers seeking to set aside IRS notice of determination that was based on taxpayers' failure to file tax return; taxpayers did not meet their pleading obligation under U.S. Tax. Ct. R. 331(b) to set forth clear and concise assignments of error, and they advanced frivolous arguments based on their claim that Form 1040 did not comply with Paperwork Reduction Act, [44 USCS §§ 3501-3520](#). [Turner v Comm'r \(2008, CA6\) 103 AFTR 2d 1294, 2007 FED App 1753P](#).

Unpublished: Regulations and instructions concerning filing of income tax returns do not constitute information requests within meaning of Paperwork Reduction Act of 1995, [44 USCS §§ 3501-3520](#). [Turner v Comm'r \(2008, CA6\) 103 AFTR 2d 1294, 2007 FED App 1753P](#).

Unpublished: Vaccine Act claimant was denied redaction of her full name, her disease and fact that she had been awarded \$ 260,000 on claim that she contracted transverse myelitis as result of flu vaccine because claimant failed to carry her burden to show that disclosure thereof, by its inclusion in decision of U.S. Court of Federal Claims, would constitute "clearly unwarranted invasion of privacy" within meaning of [42 USCS § 300aa-12\(d\)\(4\)\(B\)\(ii\)](#) and U.S. Ct. Fed. Cl. app. B, R. 18(b) or was otherwise proper under U.S. Ct. Fed. Cl. R. 5.2 given preference reflected by federal law including [44 USCS § 3501](#) in favor of preserving public's right of access. [Eisler v Sec'y of HHS \(2013, Ct Fed Cl\) 2013 US Claims LEXIS 17](#).

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Annotations:

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End of Document

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Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 3502. Definitions

As used in this subchapter [[44 USCS §§ 3501](#) et seq.]--

(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 [Government Accountability 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;

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(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 Agency, 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 Regulatory Commission, the Securities and Exchange Commission, the Bureau of Consumer Financial Protection, the Office of Financial Research, Office of the Comptroller of the Currency, 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 meaning given that term in section 11101 of title 40 but does not include national security systems as defined in section 11103 of title 40;

(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;

(14) **[Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]** 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;

(15) **[Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]**the term "comprehensive data inventory" means the inventory created under section 3511(a) [5 USCS § 3511(a)], but does not include any underlying data asset listed on the inventory;

(16) **[Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]**the term "data" means recorded information, regardless of form or the media on which the data is recorded;

(17) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "data asset" means a collection of data elements or data sets that may be grouped together;

(18) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "machine-readable", when used with respect to data, means data in a format that can be easily processed by a computer without human intervention while ensuring no semantic meaning is lost;

(19) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "metadata" means structural or descriptive information about data such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection, and other descriptions;

(20) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "open Government data asset" means a public data asset that is--

(A)machine-readable;

(B)available (or could be made available) in an open format;

(C)not encumbered by restrictions, other than intellectual property rights, including under titles 17 and 35, that would impede the use or reuse of such asset; and

(D)based on an underlying open standard that is maintained by a standards organization;

(21) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "open license" means a legal guarantee that a data asset is made available--

(A)at no cost to the public; and

(B)with no restrictions on copying, publishing, distributing, transmitting, citing, or adapting such asset;

(22) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "public data asset" means a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under section 552 of title 5; and

(23) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]the term "statistical laws" means subchapter III of this chapter [[44 USCS §§ 3561](#) et seq.] and other laws pertaining to the protection of information collected for statistical purposes as designated by the Director.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 164*; Feb. 10, 1996, *P.L. 104-106*, Div E, Title LVI, § 5605(a), *110 Stat. 700*; Nov. 18, 1997, *P.L. 105-85*, Div A, Title X, Subtitle G, § 1073(h)(5)(A), *111 Stat. 1907*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; Aug. 21, 2002, *P.L. 107-217*, § 3(l)(4), *116 Stat. 1301*; Dec. 20, 2006, *P.L. 109-435*, Title VI, § 604(e), *120 Stat. 3242*; July 30, 2008, *P.L. 110-289*, Div A, Title II, § 1216(e), *122 Stat. 2792*; July 21, 2010, *P.L. 111-203*, Title III, Subtitle A, § 315, Title X, Subtitle H, § 1100D(a), *124 Stat. 1524*, 2111.)

(As amended Jan. 14, 2019, *P.L. 115-435*, Title II, § 202(a), *132 Stat. 5534*.)

Notes

Explanatory notes:

"Government Accountability Office" has been inserted in brackets in para. (1)(A) on the authority of § 8 of Act July 7, 2004, *P.L. 108-271* (31 USCS § 702 note), which redesignated the General Accounting Office as the Government Accountability Office, and provided that any reference to the General Accounting Office in any law in force on July 7, 2004, shall be considered to refer and apply to the Government Accountability Office.

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (114 Stat. 1654A-275), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3502 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2813*; Oct. 4, 1984, *P.L. 98-443*, § 9(h), *98 Stat. 1708*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-335*; Aug. 9, 1989, *P.L. 101-73*, Title VII, Subtitle C, § 744(e), *103 Stat. 438*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided definitions.

Another prior § 3502 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1302*; Nov. 16, 1973, *P.L. 93-153*, Title IV, § 409(a), *87 Stat. 593*), which provided for definitions, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

1996 . Act Feb. 10, 1996 (effective 180 days after enactment, as provided by § 5701 of such Act, and subject to savings provisions and rules of construction set out in §§ 5702 and 5703 of such Act) substituted para. (9) for one which read: "(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));".

1997 . Act Nov. 18, 1997 (applicable as provided by § 1073(i) of such Act, which appears as *10 USCS § 101* note), in para. (9), substituted "the Clinger-Cohen Act of 1996 ([40 U.S.C. 1401](#))" for "the Information Technology Management Reform Act of 1996", and inserted "[40 U.S.C. 1452](#)".

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), in the introductory matter, substituted "subchapter" for "chapter".

2002 . Act Aug. 21, 2002, in para. (9), substituted "section 11101 of title 40" for "section 5002 of the Clinger-Cohen Act of 1996 ([40 U.S.C. 1401](#))", and substituted "section 11103 of title 40" for "section 5142 of that Act ([40 U.S.C. 1452](#))".

2006 . Act Dec. 20, 2006, in para. (5), substituted "Postal Regulatory Commission" for "Postal Rate Commission".

2008 . Act July 30, 2008, in para. (5), substituted "Federal Housing Finance Agency" for "Federal Housing Finance Board".

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2010 . Act July 21, 2010 (effective 1 day after enactment, as provided by § 4 of such Act, which appears as [12 USCS § 5301](#) note), in para. (5), inserted "Office of the Comptroller of the Currency,".

Such Act further (effective on 7/21/2011, pursuant to § 1100H of such Act, which appears as [5 USCS § 552a](#) note), in para. (5), inserted "the ureau of Consumer Financial Protection, the Office of Financial Research,".

2019 . Act Jan. 14, 2019 (effective 180 days after enactment, as provided by § 403 of such Act, which appears as [5 USCS § 306](#) note), in para. (13), substituted a concluding semicolon for "; and", in para. (14), substituted a semicolon for a concluding period, and added paras. (15) to (23).

Transfer of functions:

The Interstate Commerce Commission was abolished and functions of Commission transferred, except as otherwise provided in Act Dec. 29, 1995, *P.L. 104-88*, to the Surface Transportation Board, effective Jan. 1, 1996, by [49 USCS § 702](#), and [§ 101](#) of Act Dec. 29, 1995, *P.L. 104-88*, which appears [49 USCS § 701](#) note. References to Interstate Commerce Commission are deemed to refer to the Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, as provided by § 205 of Act Dec. 29, 1995, *P.L. 104-88*, which appears as [49 USCS § 701](#) note.

Case Notes

1. Information collection requests
2. Recordkeeping requirements
3. Miscellaneous

1. Information collection requests

Agency subpoenas are not requests for "information" as that term is used in [44 USCS § 3502](#). [FTC v Carter \(1979, DC Dist Col\) 464 F Supp 633, 4 Media L R 2269, 1979-1 CCH Trade Cases P 62440, affd \(1980, App DC\) 205 US App DC 73, 636 F2d 781, 1980-81 CCH Trade Cases P 63656, 31 FR Serv 2d 392.](#)

Alleged tax evader is not entitled to acquittal due to 1040 form instruction booklets' lack of OMB control numbers, where [44 USCS § 3512](#) precludes penalties for failing to provide information if agency information collection request does not display OMB control number, because only actual tax forms and schedules, which contain control numbers, and not instruction booklets, constitute "information collection requests" under [44 USCS § 3502\(11\)](#). [United States v Crocker \(1991, DC Del\) 753 F Supp 1209, 67 AFTR 2d 857.](#)

2. Recordkeeping requirements

Tax form preparation instructions are not "record-keeping requirements" and thus not information collection requests subject to PRA since requirement simply to maintain or store documents already assembled or which logically ought to be assembled for completion of Form 1040 does not impose any extra paperwork burden on taxpayer. [United States v Dawes \(1991, CA10 Kan\) 951 F2d 1189, 92-2 USTC P 50493, 69 AFTR 2d 1412.](#)

3. Miscellaneous

PRA does not give Office of Management and Budget authority to review and countermand agency regulations mandating disclosure by regulated entities directly to third parties, such as 3 hazardous communication requirements proposed for employees by Labor Department under OSHA as to labeling and employee training and as to accessible data sheets concerning health and safety information. [Dole v United Steelworkers of America \(1990\) 494 US 26, 110 S Ct 929, 108 L Ed 2d 23, 14 BNA OSHC 1425, 1990 CCH OSHD P 28820, 20 ELR 20447.](#)

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Where taxpayer alleged that [44 USCS § 3512](#) of Paperwork Reduction Act provided him with complete defense to at least part of his tax liabilities, his challenge failed because it was undisputed that taxpayer received notices of deficiency for each of tax years in question which he unsuccessfully challenged in tax court, and interest imposed under [26 USCS § 6673](#) did not fall within Paperwork Reduction Act's statutory definition of term "penalty" in [44 USCS § 3502\(14\)](#). *Springer v Comm'r (2009, CA10) 580 F3d 1142, 2009-2 USTC ¶ 50619, 104 AFTR 2d 6195, cert den (2010, US) 130 S Ct 1907, 176 L Ed 2d 383.*

Algorithm which FCC used to determine applications for common carrier paging and private carrier paging licenses was not "collection of information" under Paperwork Reduction Act for which OMB approval was required, since algorithm imposed no reporting requirement on applicants but simply blocked applications that meet specific criteria for mutual exclusivity. *Benkelman Tel. Co. v FCC (2000, App DC) 343 US App DC 17, 220 F3d 601.*

Research References & Practice Aids

Related Statutes & Rules:

This section is referred to in [15 USCS § 278g-3](#); [20 USCS § 1221-3](#); [31 USCS §§ 1344, 3811](#); [42 USCS § 1320b-9](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Corporate and Business Law:

4 Antitrust Counseling and Litigation Techniques (Matthew Bender), ch 48, Federal Trade Commission Investigations § 48.08.

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Texts:

2 [Environmental Law Practice Guide \(Matthew Bender\), ch 11A](#), Practice Before the EPA § 11A.09.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

Karmel. An Orderly Liquidation Authority is Not the Solution to Too-Big-To-Fail. 6 Brook J Corp Fin & Com L 1, Fall 2011.

Joo. A Comparison of Liquidation Regimes: Dodd-Frank's Orderly Liquidation Authority and the Securities Investor Protection Act. 6 Brook J Corp Fin & Com L 47, Fall 2011.

Rapp. Mutiny by the Bounties? The Attempt to Reform Wall Street by the New Whistleblower Provisions of the Dodd-Frank Act. [2012 BYUL Rev 73, 2012.](#)

Widman; Cox. State Attorneys General's Use of Concurrent Public Enforcement Authority in Federal Consumer Protection Laws. [33 Cardozo L Rev 53](#), October 2011.

Murphy. Assuring Responsible Risk Management in Banking: The Corporate Governance Dimension. [36 Del J Corp L 121, 2011.](#)

Gerrard; Herz. Harnessing Information Technology to Improve the Environmental Impact Review Process. [12 NYU Env'tl LJ 18, 2003](#).

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Miller; Rein. "Gatekeeping" Agency Reliance on Scientific and Technical Materials After Daubert: Ensuring Relevance and Reliability in the Administrative Process. [17 Touro L Rev 297](#), Fall 2000.

Grant. Planning for the Death of a Systemically Important Financial Institution Under Title I § 165(d) of the Dodd-Frank Act: The Practical Implications of Resolution Plans or Living Wills in Planning a Bank's Funeral. [6 Va L & Bus Rev 467](#), Winter 2012.

Morrissey. Shareholder Litigation After the Meltdown. [114 W Va L Rev 531](#), Winter 2012.

Barr. The Financial Crisis and the Path of Reform. 29 Yale J on Reg 91, Winter 2012.

Gynn. Are Bailouts Inevitable?. 29 Yale J on Reg 121, Winter 2012.

Levitin; Pavlov; Wachter. The Dodd-Frank Act and Housing Finance: Can It Restore Private Risk Capital to the Securitization Market?. 29 Yale J on Reg 155, Winter 2012.

Ludwig. Assessment of Dodd-Frank Financial Regulatory Reform: Strengths, Challenges, and Opportunities for a Stronger Regulatory System. 29 Yale J on Reg 181, Winter 2012.

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[44 USCS § 3503](#)

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 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 subchapter [[44 USCS §§ 3501](#) et seq.], 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.

History

(As amended May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 165*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3503 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2814*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-336*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for an Office of Information and Regulatory Affairs.

Another prior § 3503 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1303*), which provided for the duties of the Director of the Bureau of the Budget, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

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2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), in subsec. (b), substituted "subchapter" for "chapter".

Other provisions:

Delegation of functions to Administrator for the Office of Information and Regulatory Affairs. Act Dec. 11, 1980, [P.L. 96-511](#), § 3, [94 Stat. 2825](#) (effective 4/1/81, as provided by § 5 of such Act); Sept. 13, 1982, [P.L. 97-258](#), § 5(b), [96 Stat. 1083](#), as amended Oct. 18, 1986, [P.L. 99-500](#), and Oct. 30, 1986, [P.L. 99-591](#), Title I, § 101(m), [100 Stat. 3341](#)-342 (effective Jan. 1, 1987, as provided by § 101(m) [§ 833] of such Act), provides:

"(a) [Repealed]

"(b) The Director of the Office of Management and Budget shall delegate to the Administrator for the Office of Information and Regulatory Affairs all functions, authority, and responsibility of the Director under *section 552a of title 5, United States Code*, under Executive Order 12046 [[47 USCS § 305](#) note, [50 USCS Appx §§ 2251](#) note, 2271 note] and Reorganization Plan No. 1 for telecommunications [[5 USCS § 903](#) note], and under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 ([former] [40 U.S.C. 759](#)) [repealed and reenacted, in part, as [40 USCS § 322](#)]."

Research References & Practice Aids

Related Statutes & Rules:

This section is referred to in [31 USCS § 505](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Am Jur:

[45B Am Jur 2d, Job Discrimination § 1688](#).

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

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[44 USCS § 3504](#)

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 3504. Authority and functions of Director [Caution: See prospective amendment note below.]

(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, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2)The authority of the Director under this subchapter [[44 USCS §§ 3501](#) et seq.] 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;

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

(6) [Caution: This paragraph is effective 180 days after enactment, as provided by § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.] issue guidance for agencies to implement section 3506(b)(6) [[44 USCS § 3506\(b\)\(6\)](#)] in a manner that takes into account--

(A)risks and restrictions related to the disclosure of personally identifiable information, including the risk that an individual data asset in isolation does not pose a privacy or confidentiality risk but when combined with other available information may pose such a risk;

(B)security considerations, including the risk that information in an individual data asset in isolation does not pose a security risk but when combined with other available information may pose such a risk;

(C)the cost and benefits to the public of converting a data asset into a machine-readable format that is accessible and useful to the public;

(D)whether the application of the requirements described in such section to a data asset could result in legal liability;

(E)a determination of whether a data asset--

(i)is subject to intellectual property rights, including rights under titles 17 and 35;

(ii)contains confidential business information, that could be withheld under section 552(b)(4) of title 5; or

(iii)is otherwise restricted by contract or other binding, written agreement;

(F)the requirement that a data asset be disclosed, if it would otherwise be made available under section 552 of title 5 (commonly known as the "Freedom of Information Act"); and

(G)any other considerations that the Director determines to be relevant.

(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;

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

(6)publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses, with the first such publication occurring not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002 [enacted June 28, 2002].

(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

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(2) promote public access to public information and fulfill the purposes of this subchapter [44 USCS §§ 3501 et seq.], 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 Governmentwide 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 [44 USCS §§ 2901 et seq., 3101 et seq., 3301 et seq.] with the information resources management policies, principles, standards, and guidelines established under this subchapter [44 USCS §§ 3501 et seq.];

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(2)review compliance by agencies with--

(A)the requirements of chapters 29, 31, and 33 of this [title \[44 USCS §§ 2901](#) et seq., [3101](#) et seq., [3301](#) et seq.]; 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; and

(2)oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act ([15 U.S.C. 278g-3](#) and [278g-4](#)), section 11331 of title 40 and subchapter II of this chapter [[44 USCS §§ 3531](#) et seq.], and related information management laws.

(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 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 11331 of title 40;

(2)monitor the effectiveness of, and compliance with, directives issued under subtitle III of title 40 [[40 USCS §§ 11101](#) et seq.] and directives issued under section 322 of title 40;

(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 dissemination of public information and the reduction of information collection burdens on the public.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 167*; Feb. 10, 1996, *P.L. 104-106*, Div E, Title LI, Subtitle D, § 5131(e)(1), Title LVI, § 5605(b), (c), *110 Stat. 688*, 700; Nov. 18, 1997, *P.L. 105-85*, Div A, Title X, Subtitle G, § 1073(h)(5)(B), (C), *111 Stat. 1907*; Oct. 21, 1998, *P.L. 105-277*, Div C, Title XVII, § 1702, *112 Stat. 2681-749*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; June 28, 2002, *P.L. 107-198*, § 2(a), *116 Stat. 729*; Aug. 21, 2002, *P.L.*

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107-217, § 3(l)(5), *116 Stat. 1301*; Nov. 25, 2002, *P.L. 107-296*, Title X, § 1005(c)(1), *116 Stat. 2272*; Dec. 17, 2002, *P.L. 107-347*, Title III, § 305(c)(1), *116 Stat. 2960*.)

(As amended Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(b), (d)(2)(B), [132 Stat. 5535](#), 5541.)

Annotations

Notes

References in text:

"Section 322 of title 40", referred to in subsec. (h)(2) was repealed by Act Oct. 6, 2006, *P.L. 109-313*, § 3(h)(1), *120 Stat. 1736*. It provided for Information Technology Fund.

Explanatory notes:

The word "and" has been added in brackets at the end of subsec. (c)(5) to indicate the probable intent of Congress to include such word.

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3504 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2815](#); Oct. 19, 1984, [P.L. 98-497](#), Title I, § 107(b)(26), [98 Stat. 2291](#); Oct. 18, 1986, [P.L. 99-500](#); Oct. 30, 1986, [P.L. 99-591](#), Title I, § 101(m), [100 Stat. 3341-336](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for the authority and functions of the Director.

Another prior § 3504 (Act Oct. 22, 1968, [P.L. 90-620](#), § 1, [82 Stat. 1303](#)), which provided for the designation of a central collection agency, was omitted in the general revision of this chapter by Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2812](#), effective April 1, 1981, as provided by § 5 of such Act.

Prospective amendment:

Amendment of subsec. (b)(2)(A). Act Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(d)(2)(B), [132 Stat. 5541](#), effective 180 days after date of enactment, as provided by § 403 of such Act, which appears as *5 USCS § 306* note, provides that subsec. (b)(2)(A) is amended by striking "the use of the Government Information Locator Service" and inserting "the use of comprehensive data inventories and the Federal data catalogue under section 3511".

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

1996 . Act Feb. 10, 1996 (effective 180 days after enactment, as provided by § 5701 of such Act), in subsec. (g), in para. (2), substituted "sections 20 and 21 of the National Institute of Standards and Technology Act ([15 U.S.C. 278g-3](#) and [278g-4](#)), section 5131 of the Information Technology Management Reform Act of 1996, and sections 5 and 6 of the Computer Security Act of 1987 ([40 U.S.C. 759](#) note)" for "the Computer Security Act of 1987 ([40 U.S.C. 759](#) note)" and, in para. (3), substituted "the standards and guidelines promulgated under section 5131 of the Information Technology Management Reform Act of 1996 and sections 5 and 6 of the Computer Security Act of

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1987 ([40 U.S.C. 759](#) note)" for "the Computer Security Act of 1987 ([40 U.S.C. 759](#) note)"; and, in subsec. (h), in para. (1)(B), substituted "section 5131 of the Information Technology Management Reform Act of 1996" for "section 111(d) of the Federal Property and Administrative Services Act of 1949 ([40 U.S.C. 759\(d\)](#))" and, in para. (2), substituted "the Information Technology Management Reform Act of 1996 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 ([40 U.S.C. 757](#))" for "sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 ([40 U.S.C. 757](#) and [759](#))".

1997 . Act Nov. 18, 1997 (applicable as provided by § 1073(i) of such Act, which appears as *10 USCS § 101* note), in subsec. (g), in paras. (2) and (3), substituted "Clinger-Cohen Act of 1996 ([40 U.S.C. 1441](#))" for "Information Technology Management Reform Act of 1996"; and, in subsec. (h), in para. (1)(B), substituted "Clinger-Cohen Act of 1996 ([40 U.S.C. 1441](#))" for "Information Technology Management Reform Act of 1996" and, in para. (2), substituted "division E of the Clinger-Cohen Act of 1996 ([40 U.S.C. 1401](#) et seq.)" for "the Information Technology Management Reform Act of 1996".

1998 . Act Oct. 21, 1998, in subsec. (a)(1)(B), substituted cl. (vi) for one which read: "(vi) the acquisition and use of information technology."

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever occurring.

2002 . Act June 28, 2002, in subsec. (c), in para. (4), deleted "and" following the concluding semicolon, in para. (5), substituted the concluding semicolon for a period, and added para. (6).

Act Aug. 21, 2002, in subsec. (g), in paras. (2) and (3), substituted "sections 11331 and 11332(b) and (c) of title 40" for "section 5131 of the Clinger-Cohen Act of 1996 ([40 U.S.C. 1441](#)), and sections 5 and 6 of the Computer Security Act of 1987 ([40 U.S.C. 759](#) note)"; and, in subsec. (h), in para. (1)(B), substituted "section 11331 of title 40" for "section 5131 of the Clinger-Cohen Act of 1996 ([40 U.S.C. 1441](#))", and, in para. (2), substituted "subtitle III of title 40" for "division E of the Clinger-Cohen Act of 1996 ([40 U.S.C. 1401](#) et seq.)", and substituted "section 322 of title 40" for "section 110 of the Federal Property and Administrative Services Act of 1949 ([40 U.S.C. 757](#))".

Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as [6 USCS § 101](#) note), purported to make the same amendments to paras. (1) and (3) of subsec. (g) as Act Dec. 17, 2002; however, in order to effectuate the probable intent of Congress, these amendments were not been executed.

Such Act further (effective as above), purported to amend subsec. (g)(2) by substituting "section 11331 of title 40 and subchapter II of this title" for "sections 11331 and 11332(b) and (c) of title 40", and substituting a concluding period for a semicolon; however, because of prior amendments, these amendments could not be executed.

Act Dec. 17, 2002 (effective on enactment, as provided by § 402(b) of such Act, which appears as [44 USCS § 3541](#) note), in subsec. (g), in para. (1), added "and" following the concluding semicolon, in para. (2), substituted "section 11331 of title 40 and subchapter II of this chapter" for "sections 11331 and 11332(b) and (c) of title 40", and substituted the concluding period for "; and", and deleted para. (3), which read: "(3) require Federal agencies, consistent with the standards and guidelines promulgated under sections 11331 and 11332(b) and (c) of title 40, 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 or modification of information collected or maintained by or on behalf of an agency."

2019 . Act Jan. 14, 2019 (effective 180 days after the date of enactment of Act Jan. 14, 2019, [P.L. 115-435](#), pursuant to § 403 of such Act, which appears as *5 USCS § 306* note), in subsec. (b), in para. (4), substituted a semicolon for "; and", in para. (5), substituted "; and" for a concluding period, and added para. (6).

Other provisions:

Government Paperwork Elimination Act. Act Oct. 21, 1998, *P.L. 105-277*, Div C, Title XVII, *112 Stat. 2681-749*, provides:

"Sec. 1701. Short title. This title may be cited as the 'Government Paperwork Elimination Act'.

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"Sec. 1702. [Omitted--This section amended [44 USCS § 3504\(a\)\(1\)\(B\)\(vi\)](#).]

"Sec. 1703. Procedures for use and acceptance of electronic signatures by executive agencies.

"(a) In general. In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of *Public Law 104-106*) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

"(b) Requirements for procedures.

(1) The procedures developed under subsection (a)--

"(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

"(B) may not inappropriately favor one industry or technology;

"(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

"(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

"(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

"(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

"Sec. 1704. Deadline for implementation by executive agencies of procedures for use and acceptance of electronic signatures.

"In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of *Public Law 104-106*) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide--

"(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

"(2) for the use and acceptance of electronic signatures, when practicable.

"Sec. 1705. Electronic storage and filing of employment forms.

"In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of *Public Law 104-106*) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

"Sec. 1706. Study on use of electronic signatures.

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"(a) Ongoing Study Required. In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of *Public Law 104-106*) and the amendments made by that Act [for full classification, consult USCS Tables volumes], and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on--

"(1) paperwork reduction and electronic commerce;

"(2) individual privacy; and

"(3) the security and authenticity of transactions.

"(b) Reports. The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

"Sec. 1707. Enforceability and legal effect of electronic records.

"Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

"Sec. 1708. Disclosure of information.

"Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

"Sec. 1709. Application with internal revenue laws.

"No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision--

"(1) involves the administration of the internal revenue laws; or

"(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 [Act July 22, 1998, *P.L. 105-206*; for full classification, consult USCS Tables volumes] or the Internal Revenue Code of 1986 [[26 USCS §§ 1](#) et seq.].

"Sec. 1710. Definitions.

"For purposes of this title:

"(1) Electronic signature. The term 'electronic signature' means a method of signing an electronic message that--

"(A) identifies and authenticates a particular person as the source of the electronic message; and

"(B) indicates such person's approval of the information contained in the electronic message.

"(2) Executive agency. The term 'Executive agency' has the meaning given that term in [section 105 of title 5, United States Code](#)".

Case Notes

Regulations regarding work place hazard communication standards promulgated by OSHA were insulated from authority and approval of Office of Management and Budget, due to limitations imposed on that authority under [44 USCS §§ 3504](#) and [3518](#), where regulations do not require collection of information and do not embody substantive policy decision-making entrusted to OSHA. *United Steelworkers of America, etc. v Pendergrass* (1988, CA3) 855 F2d 108, 13 BNA OSHC 1825, 1988 CCH OSHD P 28284, 18 ELR 21294, affd (1990) 494 US 26, 110 S Ct 929, 108 L Ed 2d 23, 14 BNA OSHC 1425, 1990 CCH OSHD P 28820, 20 ELR 20447 and cert den (1990) 494 US 1003, 110 S Ct 1295, 108 L Ed 2d 472, 14 BNA OSHC 1480.

Research References & Practice Aids

Code of Federal Regulations:

Nuclear Regulatory Commission--Access authorization, [10 CFR 25.1](#) et seq.

Nuclear Regulatory Commission--Licenses, certifications, and approvals for nuclear power plants, [10 CFR 52.0](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Tied-house, [27 CFR 6.1](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Commercial bribery, [27 CFR 10.1](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Consignment sales, [27 CFR 11.1](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Production of volatile fruit-flavor concentrate, [27 CFR 18.1](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Exportation of alcohol, [27 CFR 28.1](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Removal of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States, [27 CFR 45.1](#) et seq.

Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury--Miscellaneous regulations relating to tobacco products and cigarette papers and tubes, [27 CFR 46.1](#) et seq.

Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice--Commerce in firearms and ammunition, [27 CFR 478.1](#) et seq.

Environmental Protection Agency--Cross-media electronic reporting, [40 CFR 3.1](#) et seq.

Related Statutes & Rules:

This section is referred to in [42 USCS § 13271](#); [44 USCS §§ 3507](#), [3514](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Am Jur:

[45B Am Jur 2d, Job Discrimination § 1688](#).

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Texts:

7 [Government Contracts: Law, Administration & Procedure \(Matthew Bender\), ch 48](#), Small Business Aids and Preferences § 48.80.

Law Review Articles:

Wolf. Dissecting the Information Quality Act: A Look at the Act's Effect on the Florida Panther and Evidentiary Science. [11 Alb L Envtl Outlook 89, 2006](#).

Conrad. Information Disclosures by Government: Data Quality and Security Concerns Symposium: the Information Quality Act--Antiregulatory Costs of Mythic Proportions? [12 Kan J.L & Pub Pol'y 521](#), Spring, 2003.

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44 USCS § 3505

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 3505. Assignment of tasks and deadlines

(a) In carrying out the functions under this subchapter [[44 USCS §§ 3501](#) et seq.], 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 subchapter [[44 USCS §§ 3501](#) et seq.], 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 subchapter [[44 USCS §§ 3501](#) et seq.]; 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 directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

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(c)Inventory of major information systems.

(1)The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

(2)The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

(3)Such inventory shall be--

(A)updated at least annually;

(B)made available to the Comptroller General; and

(C)used to support information resources management, including--

(i)preparation and maintenance of the inventory of information resources under section 3506(b)(4) [[44 USCS § 3506\(b\)\(4\)](#)];

(ii)information technology planning, budgeting, acquisition, and management under section 3506(h) [[44 USCS § 3506\(h\)](#)], subtitle III of title 40 [[40 USCS §§ 11101](#) et seq.], and related laws and guidance;

(iii)monitoring, testing, and evaluation of information security controls under subchapter II [[44 USCS §§ 3531](#) et seq.];

(iv)preparation of the index of major information systems required under *section 552(g) of title 5, United States Code*; and

(v)preparation of information system inventories required for records management under chapters 21, 29, 31, and 33 [[44 USCS §§ 2101](#) et seq., [2901](#) et seq., [3101](#) et seq., [3301](#) et seq.].

(4)The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.

[(d)]**(c)**Inventory of information systems.

(1)The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

(2)The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

(3)Such inventory shall be--

(A)updated at least annually;

(B)made available to the Comptroller General; and

(C)used to support information resources management, including--

(i)preparation and maintenance of the inventory of information resources under section 3506(b)(4) [[44 USCS § 3506\(b\)\(4\)](#)];

(ii)information technology planning, budgeting, acquisition, and management under section 3506(h) [[44 USCS § 3506\(h\)](#)], subtitle III of title 40 [[40 USCS §§ 11101](#) et seq.], and related laws and guidance;

(iii)monitoring, testing, and evaluation of information security controls under subchapter II [[44 USCS §§ 3531](#) et seq.];

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(iv) preparation of the index of major information systems required under *section 552(g) of title 5, United States Code*; and

(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33 [[44 USCS §§ 2101](#) et seq., [2901](#) et seq., [3101](#) et seq., [3301](#) et seq.].

(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 170*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; Nov. 25, 2002, *P.L. 107-296*, Title X, § 1005(c)(2), *116 Stat. 2272*; Dec. 17, 2002, *P.L. 107-347*, Title III, § 305(c)(2), *116 Stat. 2961*.)

Annotations

Notes

Explanatory notes:

The subsection designator "(d)" has been inserted in order to maintain alphabetical continuity.

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3505 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2818*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-337*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for assignment of tasks and deadlines.

Another prior § 3505 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1303*), which provided for the prohibition of independent collection by an agency, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever occurring.

2002 . Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as [6 USCS § 101](#) note) added subsec. [(d)](c)

Act Dec. 17, 2002 (effective on enactment, as provided by § 402(b) of such Act, which appears as [44 USCS § 3541](#) note), added subsec. (c).

Research References & Practice Aids

Code of Federal Regulations:

Environmental Protection Agency--Cross-media electronic reporting, [40 CFR 3.1](#) et seq.

Related Statutes & Rules:

This section is referred to in [44 USCS § 3514](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Am Jur:

[45B Am Jur 2d, Job Discrimination § 1688](#).

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

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[44 USCS § 3506](#)

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 3506. Federal agency responsibilities [Caution: See prospective amendment note below.]

(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 subchapter [[44 USCS §§ 3501](#) et seq.] and related policies established by the Director.

(2)

(A)Except as provided under subparagraph (B), the head of each agency shall designate a Chief Information Officer who shall report directly to such agency head to carry out the responsibilities of the agency under this subchapter [[44 USCS §§ 3501](#) et seq.].

(B)The Secretary of the Department of Defense and the Secretary of each military department may each designate Chief Information Officers who shall report directly to such Secretary to carry out the responsibilities of the department under this subchapter [[44 USCS §§ 3501](#) et seq.]. If more than one Chief Information Officer is designated, the respective duties of the Chief Information Officers shall be clearly delineated.

(3)The Chief Information Officer 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 subchapter [[44 USCS §§ 3501](#) et seq.], including the reduction of information collection burdens on the public. The Chief Information Officer and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this subchapter [[44 USCS §§ 3501](#) et seq.].

(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 Chief Information Officer 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

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(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 subchapter [[44 USCS § 3511](#)];

(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; and

(6) **[Caution: This paragraph is effective Jan. 14, 2020, as provided by § 202(c)(3) of Act Jan. 14, 2019, P.L. 115-435, which appears as a note to this section.]** in accordance with guidance by the Director--

(A)make each data asset of the agency available in an open format; and

(B)make each public data asset of the agency available--

(i)as an open Government data asset; and

(ii)under an open license.

(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 Chief Information Officer designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this subchapter [[44 USCS §§ 3501](#) et seq.], to--

(A)review each collection of information before submission to the Director for review under this subchapter [[44 USCS §§ 3501](#) et seq.], 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;

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(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 [[44 USCS § 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) [[44 USCS § 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) [[44 USCS § 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);

(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 [[44 USCS § 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

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- (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; and
- (4)in addition to the requirements of this chapter [[44 USCS §§ 3501](#) et seq.] regarding the reduction of information collection burdens for small business concerns (as defined in section 3 of the Small Business Act ([15 U.S.C. 632](#))), make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees.
- (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;
 - (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;
 - (5) **[Caution: This paragraph is effective Jan. 14, 2020, as provided by § 202(c)(3) of Act Jan. 14, 2019, P.L. 115-435, which appears as a note to this section.]** ensure that any public data asset of the agency is machine-readable; and
 - (6) **[Caution: This paragraph is effective Jan. 14, 2020, as provided by § 202(c)(3) of Act Jan. 14, 2019, P.L. 115-435, which appears as a note to this section.]** engage the public in using public data assets of the agency and encourage collaboration by--

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(A)publishing on the website of the agency, on a regular basis (not less than annually), information on the usage of such assets by non-Government users;

(B)providing the public with the opportunity to request specific data assets to be prioritized for disclosure and to provide suggestions for the development of agency criteria with respect to prioritizing data assets for disclosure;

(C)assisting the public in expanding the use of public data assets; and

(D)hosting challenges, competitions, events, or other initiatives designed to create additional value from public data assets of the agency.

(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; and

(2)assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, subchapter II of this chapter [[44 USCS §§ 3531](#) et seq.], and related information management laws.

(3)[Deleted]

(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, including 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

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

(i)

(1)In addition to the requirements described in subsection (c), each agency shall, with respect to the collection of information and the control of paperwork, establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns (as defined in section 3 of the Small Business Act ([15 U.S.C. 632](#))).

(2)Each point of contact described under paragraph (1) shall be established not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002 [enacted June 28, 2002].

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 171*; Feb. 10, 1996, *P.L. 104-106*, Div E, Title LI, Subtitle C, § 5125(a), *110 Stat. 684*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; June 28, 2002, *P.L. 107-198*, § 2(b), (c), *116 Stat. 729*; Aug. 21, 2002, *P.L. 107-217*, § 3(l)(6), *116 Stat. 1302*; Nov. 25, 2002, *P.L. 107-296*, Title X, § 1005(c)(3), *116 Stat. 2273*; Dec. 17, 2002, *P.L. 107-347*, Title III, § 305(c)(3), *116 Stat. 2961*.)

(As amended Jan. 14, 2019, *P.L. 115-435*, Title II, § 202(c)(1), *132 Stat. 5536*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3506 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2819*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-338*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for Federal agency responsibilities.

Another prior § 3506 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1303*), which provided for a determination by the Director of the necessity for information, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Prospective amendment:

Amendment of subsec. (b)(2), effective January 14, 2020. Act Jan. 14, 2019, *P.L. 115-435*, Title II, § 202(c)(1)(A)(i), *132 Stat. 5536*, effective 1 year after date of enactment of Act Jan. 14, 2019, *P.L. 115-435*, as provided by § 202(c)(3) such Act, which appears as a note to this section, provides that subsec. (b)(2) is amended to read as follows:

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that, to the extent practicable--

"(A) describes how information resources management activities help accomplish agency missions;

"(B) includes an open data plan for data that does not concern monetary policy that--

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"(i) requires the agency to develop processes and procedures that--

"(I) require data collection mechanisms created on or after the date of the enactment of the OPEN Government Data Act to be available in an open format; and

"(II) facilitate collaboration with non-Government entities (including businesses), researchers, and the public for the purpose of understanding how data users value and use government data;

"(ii) identifies and implements methods for collecting and analyzing digital information on data asset usage by users within and outside of the agency, including designating a point of contact within the agency to assist the public and to respond to quality issues, usability issues, recommendations for improvements, and complaints about adherence to open data requirements within a reasonable period of time;

"(iii) develops and implements a process to evaluate and improve the timeliness, completeness, consistency, accuracy, usefulness, and availability of open Government data assets;

"(iv) includes requirements for meeting the goals of the agency open data plan, including the acquisition of technology, provision of training for employees, and the implementation of procurement standards, in accordance with existing law, regulation, and policy, that allow for the acquisition of innovative solutions from public and private sectors;

"(v) identifies as priority data assets any data asset for which disclosure would be in the public interest and establishes a plan to evaluate each priority data asset for disclosure on the Federal Data Catalogue under section 3511 [[44 USCS § 3511](#)] and for a determination under 3511(a)(2)(A)(iii)(I)(bb) [[44 USCS § 3511\(a\)\(2\)\(A\)\(ii\)\(I\)\(bb\)](#)], including an accounting of which priority data assets have not yet been evaluated; and

"(vi) requires the agency to comply with requirements under section 3511 , including any standards established by the Director under such section, when disclosing a data asset pursuant to such section; and

"(C) is updated annually and made publicly available on the website of the agency not later than 5 days after each such update;".

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

1996 . Act Feb. 10, 1996 (effective 180 days after enactment, as provided by § 5701 of such Act), in subsec. (a), in para. (2), in subpara. (A), substituted "Chief Information Officer" for "senior official" and, in subpara. (B), substituted "Chief Information Officers" for "senior officials" and for "officials" and substituted "Chief Information Officer" for "official" wherever appearing, and, in paras. (3) and (4), substituted "Chief Information Officer" for "senior official" wherever appearing; and, in subsec. (c)(1), in the introductory matter, substituted "Chief Information Officer" for "official".

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever occurring.

2002 . Act June 28, 2002, in subsec. (c), in para. (2)(B), deleted "and" following the concluding semicolon, in para. (3)(J), substituted "; and" for a concluding period, and added para. (4); and added subsec. (i).

Act Aug. 21, 2002, in subsec. (g), in paras. (2) and (3), substituted "section 11332 of title 40" for "the Computer Security Act of 1987 ([40 U.S.C. 759](#) note)".

Act Nov. 25, 2002 (effective 60 days after enactment, as provided by § 4 of such Act, which appears as [6 USCS § 101](#) note), purported to make the same amendments as Act Dec. 17, 2002; however, in order to effectuate the

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probable intent of Congress, these amendments were not executed.

Act Dec. 17, 2002 (effective on enactment, as provided by § 402(b), which appears as [44 USCS § 3541](#) note), in subsec. (g), in para. (1), added "and" following the concluding semicolon, in para. (2), substituted "subchapter II of this chapter" for "section 11332 of title 40", and substituted the concluding period for "; and", and deleted para. (3), which read: "(3) consistent with section 11332 of title 40, 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."

2019 . Act Jan. 14, 2019 (effective 1 year after date of enactment, as provided by § 202(c)(3) of such Act, which appears as a note to this section), in subsec. (b), in para. (4), substituted a semicolon for "; and", in para. (5), substituted "; and" for a concluding period, and added para. (6); and in subsec. (d), in para. (3), deleted "and" following the concluding semicolon, in para. (4), substituted a semicolon for a concluding period, and added paras. (6) and (7).

Other provisions:

Year 2000 conversion. Ex. Or. No. 13073 of Feb. 4, 1998, [63 Fed. Reg. 6467](#); Ex. Or. No. 13127 of June 14, 1999, [64 Fed. Reg. 32793](#), provides:

"The American people expect reliable service from their Government and deserve the confidence that critical government functions dependent on electronic systems will be performed accurately and in a timely manner. Because of a design feature in many electronic systems, a large number of activities in the public and private sectors could be at risk beginning in the year 2000. Some computer systems and other electronic devices will misinterpret the year '00' as 1900, rather than 2000. Unless appropriate action is taken, this flaw, known as the 'Y2K problem,' can cause systems that support those functions to compute erroneously or simply not run. Minimizing the Y2K problem will require a major technological and managerial effort, and it is critical that the United States Government do its part in addressing this challenge.

"Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

"Section 1. Policy. (a) It shall be the policy of the executive branch that agencies shall:

"(1) assure that no critical Federal program experiences disruption because of the Y2K problem;

"(2) assist and cooperate with State, local, and tribal governments to address the Y2K problem where those governments depend on Federal information or information technology or the Federal Government is dependent on those governments to perform critical missions;

"(3) cooperate with the private sector operators of critical national and local systems, including the banking and financial system, the telecommunications system, the public health system, the transportation system, and the electric power generation system, in addressing the Y2K problem; and

"(4) communicate with their foreign counterparts to raise awareness of and generate cooperative international arrangements to address the Y2K problem.

"(b) As used in this order, 'agency' and 'agencies' refer to Federal agencies that are not in the judicial or legislative branches.

"Sec. 2. Year 2000 Conversion Council. There is hereby established the President's Council on Year 2000 Conversion (the 'Council').

"(a) The Council shall be led by a Chair who shall be an Assistant to the President, and it shall be composed of one representative from each of the executive departments and from such other Federal agencies as may be determined by the Chair of the Council (the 'Chair').

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"(b) The Chair shall appoint a Vice Chair and assign other responsibilities for operations of the council as he or she deems necessary.

"(c) The Chair shall oversee the activities of agencies to assure that their systems operate smoothly through the year 2000, act as chief spokesperson on this issue for the executive branch in national and international fora, provide policy coordination of executive branch activities with State, local, and tribal governments on the Y2K problem, and promote appropriate Federal roles with respect to private sector activities in this area.

"(d) The Chair and the Director of the Office of Management and Budget shall report jointly at least quarterly to me on the progress of agencies in addressing the Y2K problem.

"(e) The Chair shall identify such resources from agencies as the Chair deems necessary for the implementation of the policies set out in this order, consistent with applicable law.

"Sec. 3. Responsibilities of agency heads. (a) The head of each agency shall:

"(1) assure that efforts to address the Y2K problem receive the highest priority attention in the agency and that the policies established in this order are carried out; and

"(2) cooperate to the fullest extent with the Chair by making available such information, support, and assistance, including personnel, as the Chair may request to support the accomplishment of the tasks assigned herein, consistent with applicable law.

"(b) The heads of executive departments and the agencies designated by the Chair under section 2(a) of this order shall identify a responsible official to represent the head of the executive department or agency on the Council with sufficient authority and experience to commit agency resources to address the Y2K problem.

"Sec. 4. Responsibilities of interagency and executive office councils. Interagency councils and councils within the Executive Office of the President, including the President's Management Council, the Chief Information Officers Council, the Chief Financial Officers Council, the President's Council on Integrity and Efficiency, the Executive Council on Integrity and Efficiency, the National Science and Technology Council, the National Performance Review, the National Economic Council, the Domestic Policy Council, and the National Security Council shall provide assistance and support to the Chair upon the Chair's request.

"Sec. 5. Information Coordination Center. (a) To assist the Chair in the Y2K response duties included under section 2(c) of this order, there shall be established the Information Coordination Center (ICC) in the General Services Administration.

"(b) At the direction of the Chair, the ICC will assist in making preparations for information sharing and coordination within the Federal Government and key components of the public and private sectors, coordinating agency assessments of Y2K emergencies that could have an adverse affect on U.S. interests at home and abroad, and, if necessary, assisting Federal agencies and the Chair in reconstitution processes where appropriate.

"(c) The ICC will:

"(1) consist of officials from executive agencies, designated by agency heads under subsection 3(a)(2) of this order, who have expertise in important management and technical areas, computer hardware, software or security systems, reconstitution and recovery, and of additional personnel hired directly or by contract, as required, to carry out the duties described under section 5 of this order;

"(2) work with the Council and the Office of Management and Budget to assure that Federal efforts to restore critical systems are coordinated with efforts managed by Federal agencies acting under existing emergency response authorities.

"(d) The Chair of the President's Council on Year 2000 Conversion shall designate a Director of the ICC.

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"Sec. 6. Judicial review. This Executive order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, or instrumentalities, its officers or employees, or any other person."

Use of open data assets. Act Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(c)(2), [132 Stat. 5538](#), provides: "Not later than 1 year after the date of the enactment of this Act, the head of each agency (as defined in [section 3502 of title 44, United States Code](#)) shall ensure that any activity by the agency meets the requirements of [section 3506 of title 44, United States Code](#), as amended by this subsection."

Effective date of § 202(c) of Act Jan. 14, 2019. Act Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(c)(3), [132 Stat. 5538](#), provides: "The amendments made by this subsection [amending subsecs. (b) and (d) of this section] shall take effect on the date that is 1 year after the date of the enactment of this Act."

Case Notes

1. Tax matters

2. Other information resources management

1. Tax matters

Appellate court affirmed tax court's rejection of taxpayer's argument that he could not be penalized for failing to file Internal Revenue Service (IRS) Form 1040 for his 2003 taxes because (1) Internal Revenue Service complied with Paperwork Reduction Act of 1995 (PRA), [44 USCS §§ 3501](#) et seq., by periodically updating expiration date applicable to IRS Form 1040 and thus, Form 1040 displayed valid control number, (2) current version of PRA did not require any expiration date to be printed on IRS Form 1040, and (3) PRA did not expressly require each form requesting information to include disclaimer language of [44 USCS § 3506\(c\)\(1\)\(B\)\(iii\)](#) on form itself; rather agency had to satisfy disclosure requirement, and Internal Revenue Service satisfied that obligation by making those disclosures in instruction booklet associated with Form 1040; therefore, court rejected taxpayer's argument that Form 1040 itself, not associated instructions, had to display PRA disclosure information. [Lewis v Comm'r \(2008, CA10\) 523 F3d 1272, 2008-1 USTC P 50317, 101 AFTR 2d 1929.](#)

Failure by Commissioner of Internal Revenue to comply with [44 USCS § 3506](#) did not trigger public protection provision of [44 USCS § 3512](#) and prohibit assessment of penalties against taxpayers. *Willis v Comm'r* (2008) [TC Memo 2008-233, 96 CCH TCM 245](#), affd (2009, CA5) [351 Fed Appx 970, 2009-2 USTC P 50729, 104 AFTR 2d 7202.](#)

Unpublished Opinions

Unpublished: In case in which defendant argued that information against her should have been dismissed because IRS Form 1040 did not comply with Paperwork Reduction Act (PRA) since it did not contain information listed in [44 USCS § 3506\(c\)\(1\)\(B\)](#), that argument failed; Congress created taxpayer's duty to file tax returns in [26 USCS § 6012\(a\)](#), and Congress did not enact PRA's public protection provision to allow OMB to abrogate any duty imposed by *Congress. United States v Jackson* (2008, CA11 Ga) [315 Fed Appx 127, 2008-2 USTC P 50544, 102 AFTR 2d 6139](#), magistrate's recommendation (2010, ND Ga) [2010 US Dist LEXIS 126382.](#)

2. Other information resources management

Plaintiff government contractor was entitled to pursue discovery on claim that Defense Department (Department) injured it by failing to consider cheaper private bids for document retrieval system before Department created its

own system. [*Info. Handling Servs. v Def. Automated Printing Servs. \(2003, App DC\) 358 US App DC 37, 338 F3d 1024.*](#)

Agency could not categorically exclude its word processing and e-mail systems from index of its major information systems required under 5 USCS § 552(g)(1) and [44 USCS § 3506\(b\)\(4\)](#), since such systems could constitute information systems by virtue of being general support systems, and could qualify as major information system under governing definition. [*Public Citizen, Inc. v Lew \(2000, DC Dist Col\) 127 F Supp 2d 1.*](#)

Paperwork Reduction Act did not prevent Secretary of Health and Human Services from conducting audit of durable medical equipment supplier's unusually high rate of requests for powered wheelchairs, especially given that about 30 percent of payments from requests came from single doctor's referrals. [*Mackenzie Med. Supply v Leavitt \(2006, DC Md\) 419 F Supp 2d 766*](#), affd (2007, CA4 Md) [506 F3d 341](#).

Questionnaire sent by Environmental Protection Agency to establishment engaged in timber products processing should not be subject to clearance under Federal Reports Act ([44 USCS §§ 3501](#) et seq.) when sent as result of court order requiring EPA to conduct extensive studies on effluent limitations using best available technology. USEPA GCO 76-33.

Research References & Practice Aids

Code of Federal Regulations:

Office of the Secretary of Agriculture--Import quotas and fees, [7 CFR 6.2](#) et seq.

Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture--Tobacco inspection, [7 CFR 29.1](#) et seq.

Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture--Regulations (other than rules of practice) under the Perishable Agricultural Commodities Act, 1930, [7 CFR 46.1](#) et seq.

Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture--Grading and inspection, general specifications for approved plants and standards for grades of dairy products, [7 CFR 58.1](#) et seq.

Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture--Federal Seed Act regulations, [7 CFR 201.1](#) et seq.

Food and Nutrition Service, Department of Agriculture--Special milk program for children, [7 CFR 215.1](#) et seq.

Food and Nutrition Service, Department of Agriculture--School breakfast program, [7 CFR 220.1](#) et seq.

Food and Nutrition Service, Department of Agriculture--Nutrition education and training program, [7 CFR 227.1](#) et seq.

Federal Crop Insurance Corporation, Department of Agriculture--Catastrophic risk protection endorsement, [7 CFR 402.1](#) et seq.

Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service), Department of Agriculture--General regulations, [7 CFR 800.0](#) et seq.

Commodity Credit Corporation, Department of Agriculture--Sugar program, [7 CFR 1435.1](#) et seq.

Commodity Credit Corporation, Department of Agriculture--Technical assistance for specialty crops, [7 CFR 1487.1](#) et seq.

Commodity Credit Corporation, Department of Agriculture--Farm and Ranch Lands Protection Program, [7 CFR 1491.1](#) et seq.

Commodity Credit Corporation, Department of Agriculture--CCC export credit guarantee programs, [7 CFR 1493.1](#) et seq.

Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture--Rural development, [7 CFR 1948.51](#) et seq.

Animal and Plant Health Inspection Service, Department of Agriculture--Regulations, [9 CFR 2.1](#) et seq.

Animal and Plant Health Inspection Service, Department of Agriculture--Horse protection regulations, [9 CFR 11.1](#) et seq.

Animal and Plant Health Inspection Service, Department of Agriculture--Scabies in cattle, [9 CFR 73.1](#) et seq.

Animal and Plant Health Inspection Service, Department of Agriculture--Experimental production, distribution, and evaluation of biological products prior to licensing, [9 CFR 103.1](#) et seq.

Animal and Plant Health Inspection Service, Department of Agriculture--Records and reports, [9 CFR 116.1](#) et seq.

Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture--Regulations under the Packers and Stockyards Act, [9 CFR 201.1](#) et seq.

Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture--Statements of general policy under the Packers and Stockyards Act, [9 CFR 203.1](#) et seq.

Food Safety and Inspection Service, Department of Agriculture--Ante-mortem inspection, [9 CFR 309.1](#) et seq.

Food Safety and Inspection Service, Department of Agriculture--Certification of technical animal fats for export, [9 CFR 351.1](#) et seq.

Food Safety and Inspection Service, Department of Agriculture--Voluntary inspection of rabbits and edible products thereof, [9 CFR 354.1](#) et seq.

Food Safety and Inspection Service, Department of Agriculture--Certified products for dogs, cats, and other carnivora; inspection, certification, and identification as to class, quality, quantity, and condition, [9 CFR 355.1](#) et seq.

Food Safety and Inspection Service, Department of Agriculture--Voluntary poultry inspection regulations, [9 CFR 362.1](#) et seq.

Comptroller of the Currency, Department of the Treasury--Organization and functions, availability and release of information, contracting outreach program, [12 CFR 4.1](#) et seq.

Office of Natural Resources Revenue, Department of the Interior--Forms and reports, [30 CFR 1210.01](#) et seq.

Office of the Secretary of Defense--Department of Defense (DoD)--Defense Industrial Base (DIB) Cyber Security (CS) activities, [32 CFR 236.1](#) et seq.

Forest Service, Department of Agriculture--Timber management planning, [36 CFR 221.3](#) et seq.

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Environmental Protection Agency--Cross-media electronic reporting, [40 CFR 3.1](#) et seq.

Related Statutes & Rules:

This section is referred to in [38 USCS §§ 308](#), 310; [40 USCS § 759](#); [44 USCS §§ 3507](#), [3513](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Am Jur:

[45B Am Jur 2d, Job Discrimination § 1688](#).

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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[44 USCS § 3507](#)

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 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) [[44 USCS § 3506\(c\)\(1\)](#)];

(B)evaluated the public comments received under section 3506(c)(2) [[44 USCS § 3506\(c\)\(2\)](#)];

(C)submitted to the Director the certification required under section 3506(c)(3) [[44 USCS § 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.

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(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)

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(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 [[44 USCS §§ 3501](#) et seq.], 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 [[44 USCS § 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) [[44 USCS § 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 [[44 USCS §§ 3501](#) et seq.].

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(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 [[44 USCS §§ 3501](#) et seq.].

(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 [[5 USCS §§ 500](#) et seq.], 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 [[44 USCS §§ 3501](#) et seq.]; and

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

(B) the agency cannot reasonably comply with the provisions of this subchapter [[44 USCS §§ 3501](#) et seq.] 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 [[44 USCS §§ 3501](#) et seq.] for a maximum of 180 days after the date on which the Director received the request to authorize such collection.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 176*; Feb. 10, 1996, *P.L. 104-106*, Div E, Title LVI, § 5605(d), *110 Stat. 700*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

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The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3507 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2819*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-338*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as *44 USCS § 3501* note. The prior section provided for public information collection activities; submission to the Director; approval and delegation.

Another prior § 3507 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1304*), which provided for the cooperation of agencies in making information available, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as *44 USCS § 3501* note.

Amendments:

1996 . Act Feb. 10, 1996 (effective 180 days after enactment, as provided by § 5701 of such Act, and subject to savings provisions and rules of construction set out in §§ 5702 and 5703 of such Act), in subsec. (j)(2), substituted "180 days" for "90 days".

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as *44 USCS § 3531* note), substituted "this subchapter" for "this chapter" wherever appearing.

Case Notes

1. Generally
2. Relationship with other laws
3. Judicial review
4. Particular materials

1. Generally

Action by operator of private mail forwarding service challenging regulation requiring customers to fill out information forms is dismissed, where operator contended regulation violated Paperwork Reduction Act (PRA) (*44 USCS § 3507*) by not having received prior approval from Director of Information and Regulatory Affairs for collection of information, because PRA was enacted 10 years after formation of Postal Service and exclusion from scope of agencies covered by PRA indicates congressional intent that Postal Service not be so regulated, notwithstanding inclusion of Postal Rate Commission in scope of PRA due to commission's regulatory powers. *Shane v Buck* (1985, DC Utah) 658 F Supp 908, affd (1987, CA10 Utah) 817 F2d 87.

2. Relationship with other laws

In suit challenging Federal Motor Carrier Safety Administration's (FMCSA) finding that commercial motor carrier violated *49 C.F.R. § 395.8(k)(1)* by failing to maintain each driver's toll receipts and improperly combined toll receipts of all other drivers, FMCSA's requirements regarding toll receipts did not violate Paperwork Reduction Act,

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[44 USCS §§ 3501-3520. *Darrell Andrews Trucking, Inc. v Fed. Motor Carrier Safety Admin.* \(2002, App DC\) 353 US App DC 113, 296 F3d 1120.](#)

Claim for declaratory relief was ripe for adjudication in action by employers seeking to stop implementation of state regulations on grounds that regulations violated OSHA ([29 USCS §§ 651 et seq.](#)), where state contended that OSHA standards were stayed pending review of Office of Management and Budget (OMB) because (1) under [44 USCS § 3507\(b\)](#), any matter not denied or approved by OMB within 90 days is deemed to be approved, and (2) notice of one year approval of standards had been given for standards in question. [*New Jersey State Chamber of Commerce v New Jersey* \(1987, DC NJ\) 653 F Supp 1453, 13 BNA OSHC 1097, 1987 CCH OSHD P 27866.](#)

Where defendants were charged with conspiracy to defraud United States and tax evasion, defendants were prohibited from challenging government's investigation and prosecution based on Paperwork Reduction Act of 1990 (PRA), [44 USCS § 3501](#), because [44 USCS § 3518\(c\)\(1\)\(B\)\(ii\)](#) provided that PRA did not apply to such investigation and prosecution. [*United States v Schwartz* \(2008, WD Mich\) 101 AFTR 2d 2253, decision reached on appeal by \(2010, CA6 Mich\) 408 Fed Appx 868, 106 AFTR 2d 6901, 2010 FED App 661N.](#)

Taxpayer's argument that notice of deficiency was invalid because it did not have Office of Management and Budget number on form in violation of Paperwork Reduction Act of 1980 was frivolous and had been universally rejected. *Holliday v Comm'r* (2005) [TC Memo 2005-240, 90 CCH TCM 390.](#)

Failure to make "3507 statement" under [44 USCS § 3507](#) is not one of things that will prohibit assessment of penalty under [44 USCS § 3512](#) of Paperwork Reduction Act of 1995. *Willis v Comm'r* (2008) [TC Memo 2008-233, 96 CCH TCM 245, affd \(2009, CA5\) 351 Fed Appx 970, 2009-2 USTC P 50729, 104 AFTR 2d 7202.](#)

3. Judicial review

Wireless and paging service providers' challenge to FCC orders in *In Matter of Recommendations of Independent Panel Reviewing Impact of Hurricane Katrina on Communications Networks*, [22 F.C.C. Rcd 18,013, 18,035 \(2007\).](#) were unripe because orders could not take effect until Office of Management and Budget (OMB), pursuant to [44 USCS § 3507\(e\)\(1\)](#), approved orders' information collection provisions, which might or might not ever come to pass; that FCC had authority under § 3507(f)(1) to overrule OMB did not render case justiciable, as FCC might never take that course of action. CTIA - [*Wireless Ass'n v FCC* \(2008, App DC\) 382 US App DC 71, 530 F3d 984.](#)

District Court has power to review decision of Director of OMB to grant conditional clearance of information collection form. [*Shell Oil Co. v Department of Energy* \(1979, DC Del\) 477 F Supp 413, affd \(1980, CA3 Del\) 631 F2d 231, 1980-2 CCH Trade Cases P 63525, cert den \(1981\) 450 US 1024, 101 S Ct 1730, 68 L Ed 2d 219, 1981-1 CCH Trade Cases P 63884.](#)

Challenge to OMB's decision to approve EPA's Information Collection Requests (ICR) in connection with rulemaking regarding toxic chemical reporting requirements is dismissed for lack of subject-matter jurisdiction, even though consultant makes technical argument that alleged procedural violations prevent EPA's submission from being statutorily sufficient to constitute adequate ICR so as to trigger judicial review bar that otherwise applies, because [44 USCS § 3507\(d\)\(6\)](#) is nothing less than explicit statement of clear congressional intent that, under Paperwork Reduction Act ([44 USCS §§ 3501 et seq.](#)), OMB's ICR approval decisions are unequivocally not subject to judicial review. [*Tozzi v EPA* \(2001, DC Dist Col\) 148 F Supp 2d 35.](#)

4. Particular materials

Tax instruction booklets simply assist taxpayer in completing tax forms and insure compliance with information collection requests, hence booklets are not required to display OMB number. [*United States v Holden* \(1992, CA8](#)

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[Mo](#) 963 F2d 1114, 92-2 USTC P 50321, 69 AFTR 2d 1288, cert den (1992) 506 US 958, 113 S Ct 419, 121 L Ed 2d 342.

Tax instruction booklets are not required to display OMB control numbers. [United States v Axmear \(1992, CA8 Minn\)](#) 964 F2d 792, 92-1 USTC P 50278, 69 AFTR 2d 1305, cert den (1993) 506 US 1048, 113 S Ct 963, 122 L Ed 2d 120.

HHS regulation requiring each of adopting agency's funding recipients to complete written self-evaluation of its compliance under ADEA and to make it available on request to agency and public for period of 3 years following its completion was governed by Act since it was both record-keeping requirement and collection of information. [Action Alliance of Senior Citizens v Sullivan \(1991, App DC\)](#) 289 US App DC 192, 930 F2d 77, 56 CCH EPD P 40775, cert den (1991) 502 US 938, 112 S Ct 371, 116 L Ed 2d 323, 57 CCH EPD P 41060.

[44 USCS § 3507](#)(h) applied when an agency decided to seek extension of its approval granted for a currently approved collection of information, thus, plaintiff hospital's challenge to defendant Secretary of the Department of Health and Human Services' requirement that claims for educational reimbursements had to be filed with the fiscal intermediary was colorable because the claims filing requirement at issue was a new use of the agency's form for filing claims. [Cottage Health Sys. v Sebelius \(2009, DC Dist Col\)](#) 631 F Supp 2d 80.

Commissioner of Internal Revenue, by providing control number on taxpayers' IRS Form 1040 and other information about collection of information, made statement that he was in compliance with [44 USCS § 3507](#) of Paperwork Reduction Act of 1995 and did not need expressly state section number "3507" in order to comply with statute. [Willis v Comm'r \(2008\) TC Memo 2008-233, 96 CCH TCM 245](#), affd (2009, CA5) [351 Fed Appx 970, 2009-2 USTC P 50729, 104 AFTR 2d 7202](#).

Unpublished Opinions

Unpublished: Sanctions were properly imposed on taxpayer by tax court under [26 USCS § 6673](#) because taxpayer's argument that tax form did not comply with Paperwork Reduction Act, [44 USCS §§ 3501](#) and [3507](#), was groundless in that requirement to file tax return was mandated by [26 USCS § 6012](#), not by IRS, and statutory obligations were not affected by Act. [Vence v Comm'r \(2008, CA11\)](#) 297 Fed Appx 827, 2008-2 USTC P 50608, [102 AFTR 2d 6668](#).

Research References & Practice Aids

Code of Federal Regulations:

Office of Personnel Management--Posting notice of new OPM regulations, [5 CFR 110.101](#) et seq.

Securities and Exchange Commission--Organization; conduct and ethics; and information and requests, [17 CFR 200.1](#) et seq.

Coast Guard, Department of Homeland Security--OMB control numbers assigned pursuant to the Paperwork Reduction Act, [33 CFR 4.01](#) et seq.

Coast Guard, Department of Homeland Security--Organization, general course and methods governing marine safety functions, [46 CFR 1.01-05](#) et seq.

Coast Guard, Department of Homeland Security--Licensing of maritime personnel, [46 CFR 10.101](#) et seq.

Coast Guard, Department of Homeland Security--General provisions, [46 CFR 30.01-1](#) et seq.

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Coast Guard, Department of Homeland Security--Domestic and foreign voyages by sea, [46 CFR 42.01-1](#) et seq.

Coast Guard, Department of Homeland Security--General provisions, [46 CFR 50.01-10](#) et seq.

Coast Guard, Department of Homeland Security--General provisions, [46 CFR 70.01-1](#) et seq.

Coast Guard, Department of Homeland Security--Inspection and certification, [46 CFR 107.01](#) et seq.

Coast Guard, Department of Homeland Security--General provisions, [46 CFR 110.01-1](#) et seq.

Coast Guard, Department of Homeland Security--General provisions, [46 CFR 114.100](#) et seq.

Coast Guard, Department of Homeland Security--Compatibility of cargoes, [46 CFR 150.105](#) et seq.

Coast Guard, Department of Homeland Security--Approval of equipment and materials, [46 CFR 159.001-1](#) et seq.

Coast Guard, Department of Homeland Security--General provisions, [46 CFR 175.100](#) et seq.

Coast Guard (Great Lakes Pilotage), Department of Homeland Security--Great Lakes Pilotage regulations, [46 CFR 401.100](#) et seq.

National Highway Traffic Safety Administration, Department of Transportation--OMB control numbers for information collection requirements, [49 CFR 509.1](#) et seq.

Related Statutes & Rules:

This section is referred to in [20 USCS § 1221-3](#); [42 USCS § 242k](#); [44 USCS §§ 3504](#), [3506](#), [3509](#), [3514](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Am Jur:

[45B Am Jur 2d, Job Discrimination § 1688](#).

Corporate and Business Law:

4 Antitrust Counseling and Litigation Techniques (Matthew Bender), ch 48, Federal Trade Commission Investigations § 48.08.

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

Forms

17 [Bender's Federal Practice Forms, Form CrR34:2](#), Federal Rules of Criminal Procedure.

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§ 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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 179*.)

Annotations

Notes

Explanatory notes:

A prior § 3508 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2821](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for determination of the necessity for information and for a hearing.

Another prior § 3508 (Act Oct. 22, 1968, [P.L. 90-620](#), § 1, [82 Stat. 1304](#)), which related to unlawful disclosure of information, penalties therefor, and the release of information to other agencies, was omitted in the general revision of this chapter by Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2812](#), effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on Oct. 1, 1995, with certain exceptions, as provided by Act May 22, 1995, *P.L. 104-13*, § 4, *109 Stat. 185*, which appears as [44 USCS § 3501](#) note.

Research References & Practice Aids

Related Statutes & Rules:

This section is referred to in [44 USCS § 3504](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

2 Administrative Law (Matthew Bender), ch 10A, Preventing Disclosure of Information: The "Reverse-FOIA" Case §§ 10A.01, 10A.02.

Am Jur:

[45B Am Jur 2d, Job Discrimination § 1688](#).

Intellectual Property:

3 Milgrim on Trade Secrets (Matthew Bender), ch 12, Public Law Aspects of Trade Secrets: Regulatory Agencies; Criminal Prosecution § 12.04.

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork redux: the (stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

Gellhorn, Adverse Publicity by Administrative Agencies. 86 Harv L Rev 1380, June, 1973.

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§ 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 subchapter.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 180*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3509 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2821*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for designation of a central collection agency.

Another prior § 3509 (Act Oct. 22, 1968, *P.L. 90-620*, § 1, *82 Stat. 1304*), which provided plans or forms for collecting information, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

44 USCS § 3509

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter".

Research References & Practice Aids

Related Statutes & Rules:

This section is referred to in [42 USCS § 242k](#); [44 USCS §§ 3504](#), [3507](#).

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Texts:

3 The Law of Advertising (Matthew Bender), ch 32, Investigations and Rulemaking § 32.03.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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[44 USCS § 3510](#)

Current through PL 116-7, approved 2/21/19

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§ 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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 180*.)

Annotations

Notes

Explanatory notes:

A prior § 3510 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2822](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for cooperation of agencies in making information available.

Another prior § 3510 (Act Oct. 22, 1968, [P.L. 90-620](#), § 1, [82 Stat. 1305](#)), which provided for rules and regulations for the coordination of reporting services, was omitted in the general revision of this chapter by Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2812](#), effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on Oct. 1, 1995, with certain exceptions, as provided by Act May 22, 1995, *P.L. 104-13*, § 4, *109 Stat. 185*, which appears as [44 USCS § 3501](#) note.

Case Notes

Under predecessor statute, Director of bureau of budget could require corps of engineers, department of army, to make available to maritime commission information obtained since Dec. 24, 1942, relating to commodities shipped in domestic water trades of United States. [\(1949\) 41 Op Atty Gen 35.](#)

Research References & Practice Aids

Code of Federal Regulations:

Comptroller of the Currency, Department of the Treasury--Organization and functions, availability and release of information, contracting outreach program, [12 CFR 4.1](#) et seq.

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

2 Administrative Law (Matthew Bender), ch 10A, Preventing Disclosure of Information: The "Reverse-FOIA" Case § 10A.05.

Am Jur:

37A Am Jur 2d, Freedom of Information Acts § 167.

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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§ 3511. Establishment and operation of Government Information Locator Service [Caution: See prospective amendment note below.]

(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 Director of the Government Publishing Office, 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.).

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 180*.)

(As amended Dec. 16, 2014, [P.L. 113-235](#), Div H, Title I, § 1301(c)(1), [128 Stat. 2537](#); Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(d)(1), [132 Stat. 5538](#).)

Annotations

Notes

Explanatory notes:

44 USCS § 3511

A prior § 3511 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2822](#); Oct. 18, 1986, [P.L. 99-500](#); Oct. 30, 1986, [P.L. 99-591](#), Title I, § 101(m), [100 Stat. 3341-339](#)) was omitted in the general revision of this chapter by Act May 22, 1995, [P.L. 104-13](#), § 2, [109 Stat. 163](#), effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for establishment and operation of a Federal Information Locator System.

Another prior § 3511 (Act Oct. 22, 1968, [P.L. 90-620](#), § 1, [82 Stat. 1305](#)), which provided for a penalty for failure to furnish information, was omitted in the general revision of this chapter by Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2812](#), effective April 1, 1981, as provided by § 5 of such Act.

Prospective amendment:

Amendment of section. Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(d)(1), [132 Stat. 5538](#), effective 180 days after the date of enactment of Act Jan. 14, 2019, [P.L. 115-435](#), pursuant to § 403 of such Act, which appears as 5 USCS § 306 note, provides that this section is amended to read as follows:

"§ 3511. Data inventory and Federal data catalogue

"(a) Comprehensive data inventory.

(1) In general. In consultation with the Director and in accordance with the guidance established under paragraph (2), the head of each agency shall, to the maximum extent practicable, develop and maintain a comprehensive data inventory that accounts for all data assets created by, collected by, under the control or direction of, or maintained by the agency. The head of each agency shall ensure that such inventory provides a clear and comprehensive understanding of the data assets in the possession of the agency.

"(2) Guidance. The Director shall establish guidance for agencies to develop and maintain comprehensive data inventories under paragraph (1). Such guidance shall include the following:

"(A) A requirement for the head of an agency to include in the comprehensive data inventory metadata on each data asset of the agency, including, to the maximum extent practicable, the following:

"(i) A description of the data asset, including all variable names and definitions.

"(ii) The name or title of the data asset.

"(iii) An indication of whether or not the agency--

"(I) has determined or can determine if the data asset is--

"(aa) an open Government data asset;

"(aa) subject to disclosure or partial disclosure or exempt from disclosure under section 552 of title 5;

"(cc) a public data asset eligible for disclosure under subsection (b); or

"(dd) a data asset not subject to open format or open license requirements due to existing limitations or restrictions on government distribution of the asset; or

"(II) as of the date of such indication, has not made such determination.

"(iv) Any determination made under section 3582 [[44 USCS § 3582](#)], if available.

"(v) A description of the method by which the public may access or request access to the data asset.

"(vi) The date on which the data asset was most recently updated.

"(vii) Each agency responsible for maintaining the data asset.

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"(viii) The owner of the data asset.

"(ix) To the extent practicable, any restriction on the use of the data asset.

"(x) The location of the data asset.

"(xi) Any other metadata necessary to make the comprehensive data inventory useful to the agency and the public, or otherwise determined useful by the Director.

"(B) A requirement for the head of an agency to exclude from the comprehensive data inventory any data asset contained on a national security system, as defined in section 11103 of title 40.

"(C) Criteria for the head of an agency to use in determining which metadata required by subparagraph (A), if any, in the comprehensive data inventory may not be made publicly available, which shall include, at a minimum, a requirement to ensure all information that could not otherwise be withheld from disclosure under section 552 of title 5 is made public in the comprehensive data inventory.

"(D) A requirement for the head of each agency, in accordance with a procedure established by the Director, to submit for inclusion in the Federal data catalogue maintained under subsection (c) the comprehensive data inventory developed pursuant to subparagraph (C), including any real-time updates to such inventory, and data assets made available in accordance with subparagraph (E) or any electronic hyperlink providing access to such data assets.

"(E) Criteria for the head of an agency to use in determining whether a particular data asset should not be made publicly available in a manner that takes into account--

"(i) risks and restrictions related to the disclosure of personally identifiable information, including the risk that an individual data asset in isolation does not pose a privacy or confidentiality risk but when combined with other available information may pose such a risk;

"(ii) security considerations, including the risk that information in an individual data asset in isolation does not pose a security risk but when combined with other available information may pose such a risk;

"(iii) the cost and benefits to the public of converting the data into a format that could be understood and used by the public;

"(iv) whether the public dissemination of the data asset could result in legal liability;

"(v) whether the data asset--

"(I) is subject to intellectual property rights, including rights under titles 17 and 35;

"(II) contains confidential business information, that could be withheld under section 552(b)(4) of title 5; or

"(III) is restricted by contract or other binding, written agreement;

"(vi) whether the holder of a right to such data asset has been consulted;

"(vii) the expectation that all data assets that would otherwise be made available under section 552 of title 5 be disclosed; and

"(viii) any other considerations that the Director determines to be relevant.

"(F) Criteria for the head of an agency to use in assessing the indication of a determination under subparagraph (A)(iii) and how to prioritize any such subsequent determinations in the strategic information management plan under section 3506 [[44 USCS § 3506](#)], in consideration of the existing resources available to the agency.

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"(3) Regular updates required. With respect to each data asset created or identified by an agency, the head of the agency shall update the comprehensive data inventory of the agency not later than 90 days after the date of such creation or identification.

"(b) Public data assets. The head of each agency shall submit public data assets, or links to public data assets available online, as open Government data assets for inclusion in the Federal data catalogue maintained under subsection (c), in accordance with the guidance established under subsection (a)(2).

"(c) Federal data catalogue.

(1) In general. The Administrator of General Services shall maintain a single public interface online as a point of entry dedicated to sharing agency data assets with the public, which shall be known as the 'Federal data catalogue'. The Administrator and the Director shall ensure that agencies can submit public data assets, or links to public data assets, for publication and public availability on the interface.

"(2) Repository. The Director shall collaborate with the Office of Government Information Services and the Administrator of General Services to develop and maintain an online repository of tools, best practices, and schema standards to facilitate the adoption of open data practices across the Federal Government, which shall--

"(A) include any definitions, regulations, policies, checklists, and case studies related to open data policy;

"(B) facilitate collaboration and the adoption of best practices across the Federal Government relating to the adoption of open data practices; and

"(C) be made available on the Federal data catalogue maintained under paragraph (1).

"(3) Access to other data assets. The Director shall ensure the Federal data catalogue maintained under paragraph (1) provides information on how the public can access a data asset included in a comprehensive data inventory under subsection (a) that is not yet available on the Federal data catalogue, including information regarding the application process established under section 3583 of title 44.

"(d) Delegation. The Director shall delegate to the Administrator of the Office of Information and Regulatory Affairs and the Administrator of the Office of Electronic Government the authority to jointly issue guidance required under this section."

Effective date of section:

This section became effective on Oct. 1, 1995, with certain exceptions, as provided by Act May 22, 1995, *P.L. 104-13*, § 4, *109 Stat. 185*, which appears as [44 USCS § 3501](#) note.

Amendments:

2014 . Act Dec. 16, 2014, in subsec. (a)(3), substituted "Director of the Government Publishing Office" for "Public Printer".

Research References & Practice Aids

Related Statutes & Rules:

This section is referred to in [44 USCS § 3504](#).

Federal Procedure:

44 USCS § 3511

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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[44 USCS § 3512](#)

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§ 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 subchapter [[44 USCS §§ 3501](#) et seq.] if--

(1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter [[44 USCS §§ 3501](#) et seq.]; 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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 181*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3512 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2822*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for public protection.

Another prior § 3512 (Act Nov. 16, 1973, *P.L. 93-153*, Title IV, § 409(b), *87 Stat. 593*), which provided information for independent regulatory agencies, was omitted in the general revision of this chapter by Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2812*, effective April 1, 1981, as provided by § 5 of such Act.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever appearing.

Case Notes

1. Generally
2. Effect of noncompliance, generally
3. Tax matters, generally
4. --Display of control number
5. --Display of expiration date
6. --Failure to file forms

1. Generally

Under Paperwork Reduction Act of 1980 ([44 USCS §§ 3501](#) et seq.), forms provided by government agencies for collection of information must conform to certain standards; defendant in administrative enforcement action cannot raise affirmative defenses which have not been raised in administrative proceeding, and affirmative defense that forms were not in compliance with applicable standards does not preclude enforcement where government sought relief only for periods in which report forms carried control numbers under [44 USCS § 3512](#). [Navel Orange Administrative Committee v Exeter Orange Co. \(1983, CA9 Cal\) 722 F2d 449, 14 Fed Rules Evid Serv 1286, 74 ALR Fed 265.](#)

Fact that IRS summonses were issued on IRS Form 2029 without Office of Management and Budget control number, as allegedly required by [44 USCS § 3512](#), was not valid basis for quashing summonses. [Faber v United States \(1999, WD Mich\) 69 F Supp 2d 965, 99-2 USTC P 50593, 83 AFTR 2d 2764.](#)

Paperwork Reduction Act, [44 USCS § 3512](#), does not create private right of action; [44 USCS § 3512](#) is only defense to enforcement actions. [Ass'n of Am. Physicians & Surgs., Inc. v United States HHS \(2002, SD Tex\) 224 F Supp 2d 1115](#), affd (2003, CA5 Tex) 67 Fed Appx 253.

Where defendants were charged with conspiracy to defraud United States and tax evasion, defendants were prohibited from challenging government's investigation and prosecution based on Paperwork Reduction Act of 1990 (PRA), [44 USCS § 3501](#), because [44 USCS § 3518\(c\)\(1\)\(B\)\(ii\)](#) provided that PRA did not apply to such investigation and prosecution. [United States v Schwartz \(2008, WD Mich\) 101 AFTR 2d 2253](#), decision reached on appeal by (2010, CA6 Mich) [408 Fed Appx 868, 106 AFTR 2d 6901, 2010 FED App 661N.](#)

Defendant Secretary of the Department of Health and Human Services' denying reimbursement to plaintiff teaching hospital for failure to provide claims information to the fiscal intermediary seemed to fall within the scope of the public protection provision of [44 USCS § 3512\(a\)](#) and the definitions under [44 USCS § 3502\(3\)](#), but such a determination had to be made by the Secretary in the first instance. [Cottage Health Sys. v Sebelius \(2009, DC Dist Col\) 631 F Supp 2d 80.](#)

Defendant Secretary of the Department of Health and Human Services' denying reimbursement to plaintiff teaching hospital for failure to provide claims information to the fiscal intermediary seemed to fall within the scope of the public protection provision of [44 USCS § 3512\(a\)](#) and the definitions under [44 USCS § 3502\(3\)](#), but such a determination had to be made by the Secretary in the first instance. [Cottage Health Sys. v Sebelius \(2009, DC Dist Col\) 631 F Supp 2d 80.](#)

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Paperwork Reduction Act does not incorporate money-mandating provision, either mandatory or permissive, into its statutory language, does not reference or indicate any intent to include such provision, and does not create entitlement in any individual or entity to collect money from sovereign automatically or upon completion of responsibility or fulfillment of duty; fact that Congress opted not to incorporate money-mandating provision in Act is significant, and results in absence of waiver of sovereign immunity to allow lawsuits premised upon Act to be brought in Court of [Federal Claims. *Pacific Nat'l Cellular v United States* \(1998\) 41 Fed Cl 20.](#)

2. Effect of noncompliance, generally

Convictions for residing and working on unpatented mining claim without having sought, filed for, or obtained permit (Plan of Operations) from Forest Service would be reversed since Plan of Operations filing requirement lacked current control number. [United States v Smith \(1989, CA9 Alaska\) 866 F2d 1092, 106 OGR 165.](#)

Since Forest Service did not comply with PRA when it required miner to file operations plan, miner could not be subject to any penalty and information therefore failed to charge offense. [United States v Hatch \(1990, CA9 Nev\) 919 F2d 1394, 90 CDOS 8577.](#)

Paperwork Reduction Act does not protect individual against prosecution for making false statements on government forms. [United States v Sasser \(1992, CA10 Okla\) 974 F2d 1544, 36 Fed Rules Evid Serv 830](#), cert den (1993) 506 US 1085, 113 S Ct 1063, 122 L Ed 2d 368 and (criticized in [State v Gallegos \(2011\) 2011 NMSC 27, 149 NM 704, 254 P3d 655](#)).

PRA's 1995 amendments allowing any adversely affected person to raise PRA violations without limitation, so long as administrative or judicial process in connection with particular license of application continues, was properly applied to cellular telephone service provider's application for license in ongoing proceedings on remand; amendments govern only conduct of litigation after their effective date and do nothing to reopen matters litigated before then, hence does not offend any norm against retroactive lawmaking. [Saco River Cellular v FCC \(1998, App DC\) 328 US App DC 162, 133 F3d 25](#), cert den (1998) 525 US 813, 142 L Ed 2d 37, 119 S Ct 47.

Airbag manufacturers' submissions to National Highway Traffic Safety Administration could not be considered mandatory for purposes of analyzing applicability of FOIA exemption 4, since agency failed to obtain prior approval from OMB for its request form, hence request, which on its face appeared to be mandatory, was not enforceable. [Ctr. for Auto Safety v Nat'l Highway Traffic Safety Admin. \(2001, App DC\) 345 US App DC 248, 244 F3d 144, 58 USPQ2d 1294](#) (criticized in [Inner City Press/Community on the Move v Bd. of Governors of the Fed. Reserve Sys. \(2005, SD NY\) 380 F Supp 2d 211](#)).

Japanese nonimmigrant visitor may not defend against charges of falsifying criminal record on visa application by citing lack of OMB control number on application, even though [44 USCS § 3512](#) precludes penalty against any person "for failing to provide information" to agency on information collection request not displaying current control number, because legislative history clarifies that § 3512 was intended to protect only nonfeasor bombarded by unauthorized forms, not malfeasor or fraudfeasor who gives false information on unauthorized form. [United States v Takeo Matsumoto \(1991, DC Hawaii\) 756 F Supp 1361.](#)

Airplane parts importer lacks standing to maintain claim under Paperwork Reduction Act ([44 USCS §§ 3501 et seq.](#)), where importer challenges investigatory circular or questionnaire distributed to its customers by federal agencies, because importer was not asked to provide information and asserts no direct injury from alleged failure to comply with § 3512. [Wag-Aero, Inc. v United States \(1993, ED Wis\) 837 F Supp 1479](#), affd without op (1994, CA7 Wis) [1994 US App LEXIS 27856](#).

Failure to make "3507 statement" under [44 USCS § 3507](#) is not one of things that will prohibit assessment of penalty under [44 USCS § 3512](#) of Paperwork Reduction Act of 1995. *Willis v Comm'r* (2008) [TC Memo 2008-233, 96 CCH TCM 245](#), affd (2009, CA5) [351 Fed Appx 970, 2009-2 USTC P 50729, 104 AFTR 2d 7202](#).

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Failure by Commissioner of Internal Revenue to comply with [44 USCS § 3506](#) did not trigger public protection provision of [44 USCS § 3512](#) and prohibit assessment of penalties against taxpayers. *Willis v Comm'r* (2008) [TC Memo 2008-233](#), [96 CCH TCM 245](#), affd (2009, CA5) [351 Fed Appx 970](#), [2009-2 USTC P 50729](#), [104 AFTR 2d 7202](#).

3. Tax matters, generally

PRA is not applicable to IRS instruction booklets, which merely assist taxpayer in filling out tax forms, rather than independently request information from taxpayer. *United States v Ryan* (1992, CA7 Ill) [969 F2d 238](#), [36 Fed Rules Evid Serv 148](#), [71 AFTR 2d 1731](#).

Defendant was not entitled to relief under Paperwork Reduction Act (PRA), [44 USCS §§ 3501](#) et seq., where PRA protected person only for failing to file information, it did not protect one who filed tax information which was false; charges against defendant were predicated on filing of false information, not failure to file, and therefore, defendant was not entitled to relief under [44 USCS § 3512](#). *United States v Chisum* (2007, CA10 Okla) [502 F3d 1237](#), [2007-2 USTC P 50724](#), [100 AFTR 2d 6140](#), cert den (2008) [552 US 1211](#), [128 S Ct 1290](#), [170 L Ed 2d 115](#), reh den (2008) [552 US 1333](#), [128 S Ct 1929](#), [170 L Ed 2d 787](#) and post-conviction proceeding, Certificate of appealability denied, dismd (2009, CA10) [343 Fed Appx 335](#), [104 AFTR 2d 6207](#).

Where taxpayer alleged that [44 USCS § 3512](#) of Paperwork Reduction Act provided him with complete defense to at least part of his tax liabilities, his challenge failed because it was undisputed that taxpayer received notices of deficiency for each of tax years in question which he unsuccessfully challenged in tax court, and interest imposed under [26 USCS § 6673](#) did not fall within Paperwork Reduction Act's statutory definition of term "penalty" in [44 USCS § 3502\(14\)](#). *Springer v Comm'r* (2009, CA10) [580 F3d 1142](#), [2009-2 USTC P 50619](#), [104 AFTR 2d 6195](#), cert den (2010, US) [130 S Ct 1907](#), [176 L Ed 2d 383](#).

Defendants charged with either attempting to evade tax or failing to file tax return cannot rely on [44 USCS § 3512](#) as defense. *United States v Gross* (2010, CA6 Mich) [626 F3d 289](#), [2010-2 USTC P 50717](#), [106 AFTR 2d 7011](#), [2010 FED App 351P](#).

Unpublished Opinions

Unpublished: Defendant's convictions for defrauding government and tax evasion were affirmed because indictment set forth charges with sufficient specificity to not only put defendant on notice of offenses charged, but also would have prevented subsequent prosecution for same offense and evidence was sufficient to support convictions; furthermore, [44 USCS § 3512](#) did not invalidate statutory requirement to file tax return and to pay taxes. *United States v Owunga* (2006, CA6 Mich) [173 Fed Appx 411](#), [97 AFTR 2d 1577](#), [2006 FED App 188N](#).

Unpublished: Court of appeals found that [44 USCS § 3512\(b\)](#) did not create private right of action, and it rejected taxpayer's claim that IRS was precluded from collecting penalties arising from his failure to file tax returns because IRS Form 1040 and its variants lacked valid control number issued by [Office of Management and Budget](#). *Springer v IRS ex rel. United States* (2007, CA10 Okla) [231 Fed Appx 793](#), [2007-1 USTC P 50520](#), [99 AFTR 2d 2559](#), cert den (2008) [552 US 1143](#), [128 S Ct 1093](#), [169 L Ed 2d 812](#), reh den (2008) [552 US 1276](#), [128 S Ct 1698](#), [170 L Ed 2d 388](#) and cert den (2008) [552 US 1143](#), [128 S Ct 1094](#), [169 L Ed 2d 812](#), reh den (2008) [552 US 1276](#), [128 S Ct 1699](#), [170 L Ed 2d 389](#) and cert den (2008) [552 US 1143](#), [128 S Ct 1094](#), [169 L Ed 2d 812](#), reh den (2008) [552 US 1276](#), [128 S Ct 1698](#), [170 L Ed 2d 389](#).

Unpublished: In case in which district court correctly dismissed pro se federal taxpayer's case because U.S. Tax Court had exclusive jurisdiction to hear taxpayer's challenge to IRS's collection-due-process determination of his income tax liability, taxpayer's attempt to establish district court jurisdiction based on Paperwork Reduction Act was unavailing; Paperwork Reduction Act provided defense to administrative or judicial enforcement actions, but does not create private right of action for alleged violations of statute. *Smith v United States* (2008, CA5 Tex) [2009-1 USTC P 50111](#), [102 AFTR 2d 7122](#).

44 USCS § 3512

Unpublished: Defendants made no showing that IRS Form 1040 failed to comply with [44 USCS § 3512\(a\)](#); defendants' obligation to file return, and crimes associated with their efforts to circumvent that obligation, were prescribed by statute (e.g. [26 USCS §§ 6012](#) and [7203](#)), and there was no substantive obligation or crime arising out of Form 1040 itself. [United States v Springer \(2011, CA10 Okla\) 2011 US App LEXIS 21760](#).

Unpublished: Defendants might have invoked Paperwork Reduction Act (PRA), [44 USCS §§ 3501](#) et seq., to avoid any penalties assessed for submitting faulty information on non-compliant IRS form, but they could not use PRA to side-step criminal offenses arising under [Internal Revenue Code. United States v Springer \(2011, CA10 Okla\) 2011 US App LEXIS 21760](#).

4. --Display of control number

IRS investigation of taxpayer's failure to file income tax return constitutes agency action against specific individuals, hence summons were valid even absent either OMB number or statement that document request was not subject to requirements of § 3512. [United States v Saunders \(1991, CA9 Or\) 951 F2d 1065, 91 Daily Journal DAR 15334, 92-1 USTC P 50055, 69 AFTR 2d 331](#).

Act did not bar prosecution for income tax evasion; it is irrelevant that Treasury regulation stating where income tax returns must be filed does not have OMB control number since Congress created duty to file returns and did not condition it on any Treasury regulation. [United States v Neff \(1992, CA11 Fla\) 954 F2d 698, 69 AFTR 2d 788, 6 FLW Fed C 135](#).

Court rejected taxpayer's argument that penalties assessed against him were improper because 1040 forms he eventually provided did not possess valid control number from Office of Management and Budget since Paperwork Reduction Act, [44 USCS § 3512](#) did not require each form requesting information to inform person responding to request that he or she was not required to respond unless valid control number is displayed; IRS satisfied that obligation by making those disclosures in instruction booklet associated with Form 1040. [Wheeler v Commissioner \(2008, CA10\) 528 F3d 773, 2008-1 USTC P 50386, 101 AFTR 2d 2529](#).

Defendant's conviction for willfully attempting to evade and defeat payment of federal income tax, violation of [26 USCS § 7201](#) and 18 USCS § 2, was affirmed because district court did not err in admitting evidence that defendant did not file Form 1040 tax returns for 1992-1994 tax years because forms did not violate Paperwork Reduction Act as Office of Management and Budget control number was clearly displayed at top of each form as required by [44 USCS § 3512](#). [United States v Cavins \(2008, CA8 Mo\) 543 F3d 456, 2008-2 USTC P 50565, 102 AFTR 2d 6279](#).

Requirement of [44 USCS § 3512](#) that forms contain Office of Management and Budget number does not apply to collection of information during course of administrative action where investigation is against specific individuals or entities by operation of [44 USCS § 3518](#); process of assessment and collection of taxes appropriately falls within exception of [44 USCS § 3512](#). [Cameron v IRS \(1984, ND Ind\) 593 F Supp 1540, 84-2 USTC P 9845, 54 AFTR 2d 6260](#), affd (1985, CA7 Ind) [773 F2d 126, 85-2 USTC P 9661, 56 AFTR 2d 5851](#).

Internal Revenue Service documents are not required to carry Office of Management and Budget numbers to be valid under [44 USCS § 3512](#). [Snyder v IRS \(1984, ND Ind\) 596 F Supp 240, 84-2 USTC P 9894, 40 FR Serv 2d 496, 54 AFTR 2d 6425](#).

Accused tax evaders are not entitled to acquittal due to federal income tax instruction booklets' lack of OMB control numbers, although [44 USCS § 3512](#) does prohibit penalties if information collection request does not display current control number, because tax forms--not instruction booklets--are "information collection requests" requiring OMB control numbers. [United States v Stiner \(1991, DC Kan\) 765 F Supp 663, 68 AFTR 2d 5696](#), affd without op (1992, CA10) [952 F2d 1401](#).

44 USCS § 3512

Criminal prosecution for tax evasion will not be dismissed for IRS's failure to display OMB control numbers or expiration dates on its Form 1040 instruction booklet and implementing regulations, because Congress did not intend IRS regulations and instruction booklets to be "information collection requests" within meaning of [44 USCS § 3512](#). [United States v Burdett \(1991, ED NY\) 768 F Supp 409](#), affd (1992, CA2 NY) [962 F2d 228](#), [92-2 USTC P 50337](#), [35 Fed Rules Evid Serv 803](#), [69 AFTR 2d 1263](#).

Tax evader's prosecution need not be abandoned, despite absence of OMB control number on 1040 instruction booklets, because Form 1040 contains number and instruction booklet is merely attendant part of one "information collection request" not requiring or entitled to separate control number, so that [44 USCS § 3512](#) bar to prosecution is not applicable. [United States v Schweitzer \(1991, DC Mont\) 775 F Supp 1355](#).

Pro se taxpayer's action against IRS must be dismissed, where IRS has filed tax lien against her, and she seeks permanent injunction invalidating lien on basis that IRS's request for her 1991 tax information, and its notice of intent to levy, bore no OMB control number as required, because neither [44 USCS § 3512](#) nor related regulations provide for relief or remedy sought. [Woods v Commissioner \(1998, MD Fla\) 8 F Supp 2d 1357](#), [84 AFTR 2d 6396](#), [11 FLW Fed D 795](#).

Action alleging that IRS violated Paperwork Reduction Act (PRA), [44 USCS § 3512\(a\)\(1\)](#), by failing to include Office of Management and Budget numbers on Form 1040 was dismissed pursuant to [Fed. R. Civ. P. 12\(b\)\(1\)](#) for lack of subject matter jurisdiction because claims were barred by Anti-Injunction Act, 26 USCS § 7412, and they did not fall within any exception since IRS was likely to succeed on merits where (1) requirement to file tax return was mandated by statute, not by regulation, and such explicit statutory requirements were not subject to PRA, and (2) taxpayer lacked authority to enforce PRA, in that it did not create private right of action but, rather, served as defense under [44 USCS § 3512\(b\)](#). [Springer v United States \(2006, ND Okla\) 447 F Supp 2d 1235](#), [2006-2 USTC P 50468](#), [98 AFTR 2d 5415](#), affd (2007, CA10 Okla) [231 Fed Appx 793](#), [2007-1 USTC P 50520](#), [99 AFTR 2d 2559](#), cert den (2008) 552 US 1143, 128 S Ct 1093, 169 L Ed 2d 812, reh den (2008) 552 US 1276, 128 S Ct 1698, 170 L Ed 2d 388 and cert den (2008) 552 US 1143, 128 S Ct 1094, 169 L Ed 2d 812, reh den (2008) 552 US 1276, 128 S Ct 1699, 170 L Ed 2d 389 and cert den (2008) 552 US 1143, 128 S Ct 1094, 169 L Ed 2d 812, reh den (2008) 552 US 1276, 128 S Ct 1698, 170 L Ed 2d 389.

Though taxpayer contended that IRS summons was invalid under [44 USCS § 3512](#) because it did not have Office of Management and Budget number on it, such argument had long been rejected; pursuant to [44 USCS § 3518\(c\)\(1\)\(B\)\(iii\)](#), [44 USCS § 3512](#) did not apply to collection of information during conduct of administrative action or investigation involving agency against specific individuals or entities, as in case of administrative summonses issued by IRS. [United States v Ford \(2007, DC NM\) 2007-2 USTC P 50670](#), [100 AFTR 2d 6281](#).

Unpublished Opinions

Unpublished: In case in which federal taxpayer argued that he was not required to file 1040 tax return because form did not have valid Office of Management and Budget (OMB) number as required by [44 USCS § 3512](#), that argument failed; Eleventh Circuit had rejected argument that tax return need not be filed because of absence of OMB control number because Congress did not condition statutory duty to file tax return on U.S. Treasury regulation. [Taliaferro v Comm'r \(2008, CA11\) 272 Fed Appx 831](#), [2008-1 USTC P 50278](#), [101 AFTR 2d 1595](#).

5. --Display of expiration date

Failure to display expiration date on tax return form does not violate Act since, even if Act requires expiration date, form was expressly designated "1981" tax return which is sufficient to satisfy such requirement. [Salberg v United States \(1992, CA7 Ill\) 969 F2d 379](#), [92-2 USTC P 50490](#), [70 AFTR 2d 5345](#).

Appellate court affirmed tax court's rejection of taxpayer's argument that he could not be penalized for failing to file Internal Revenue Service (IRS) Form 1040 for his 2003 taxes because (1) Internal Revenue Service complied with Paperwork Reduction Act of 1995 (PRA), [44 USCS §§ 3501](#) et seq., by periodically updating expiration date

44 USCS § 3512

applicable to IRS Form 1040 and thus, Form 1040 displayed valid control number,(2) current version of PRA did not require any expiration date to be printed on IRS Form 1040,and (3) PRA did not expressly require each form requesting information to include disclaimer language of [44 USCS § 3506\(c\)\(1\)\(B\)\(iii\)](#) on form itself; rather agency had to satisfy disclosure requirement, and Internal Revenue Service satisfied that obligation by making those disclosures in instruction booklet associated with Form 1040; therefore, court rejected taxpayer's argument that Form 1040 itself, not associated instructions, had to display PRA disclosure information. [Lewis v Comm'r \(2008, CA10\) 523 F3d 1272, 2008-1 USTC P 50317, 101 AFTR 2d 1929.](#)

6. --Failure to file forms

Act does not apply to statutory requirement to file income tax return, but only to forms themselves, so that tax protestor's claim of ineffective assistance of counsel for failing to raise implications of Act was meritless. [United States v Wunder \(1990, CA6 Ohio\) 919 F2d 34, 90-2 USTC P 50575, 67 AFTR 2d 552.](#)

Statute does not apply to statutory requirement that taxpayer must file return. [United States v Kerwin \(1991, CA5 Tex\) 945 F2d 92, 91-2 USTC P 50547, 68 AFTR 2d 5753.](#)

Taxpayer argued that he could not be penalized for failing to file 1040 Form because 1040 Form was covered by Paperwork Reduction Act and failed to meet its requirements, and although court agreed that 1040 Form was covered by Act, court could not address whether 1040 was excepted from requirements in [44 USCS § 3512](#) because taxpayer did not include any of 1040 forms that he challenged in record on appeal. [Pond v Comm'r \(2007, CA10\) 211 Fed Appx 749, 2007-1 USTC P 50129, 99 AFTR 2d 348.](#)

Even if [44 USCS § 3512](#) excused defendant's failure to file 1040 form, excuse was not relevant to his conviction for attempting to evade payment of his taxes. [United States v Gross \(2010, CA6 Mich\) 626 F3d 289, 2010-2 USTC P 50717, 106 AFTR 2d 7011, 2010 FED App 351P.](#)

Tax dodger is not entitled to dismissal of indictment for failure to file income tax returns for 1984 through 1987, even if IRS regulations for 1984 contain no Paperwork Reduction Act ([44 USCS §§ 3501](#) et seq.) control numbers and 1985, 1986 and 1987 regulations lack expiration dates, where duty to file income tax returns is found in [26 USCS § 6012\(a\)\(1\)\(A\)](#) and control numbers with expiration dates are required on tax forms, not regulations, because penalty bar at [44 USCS § 3512](#) is inapplicable. [United States v Pottorf \(1991, DC Kan\) 769 F Supp 1176.](#)

In case in which defendant moved to dismiss Counts 3-8, charging him with violating [26 USCS § 7203](#), for failure to comply with Paperwork Reduction Act (PRA), essentially arguing that 1995 amendment to [44 USCS § 3512](#) so changed PRA that pre-1995 case law holding that PRA violation did not bar criminal prosecution for failure to file tax return was no longer controlling, that argument failed; those courts that had examined issue post-1995 had decided that PRA did not invalidate statutory requirement to file tax returns. [United States v Clayton \(2006, WD Tex\) 2006 US Dist LEXIS 97178](#), subsequent app (2007, CA5 Tex) [506 F3d 405, 2007-2 USTC P 50775, 100 AFTR 2d 6459](#), cert den (2008) 552 US 1310, 128 S Ct 1874, 170 L Ed 2d 745.

[44 USCS § 3512](#) did not provide defense to criminal prosecution for violations of statutory obligations imposed under tax code, including willful filing of false tax forms in violation of [26 USCS § 7206\(1\)](#); court therefore overruled defendant's motion to dismiss superseding indictment because IRS did not comply with Paperwork Reduction Act, [44 USCS §§ 3501](#) et seq. [United States v Folkers \(2007, DC Kan\) 99 AFTR 2d 1336.](#)

Taxpayer's argument that he was not required to file tax return because return violated [44 USCS § 3512](#) was without merit, as was his argument that PRA prevented IRS from charging interest because PRA did not apply to federal tax regulations or federal tax forms; taxpayer was cautioned that if he made such arguments in future, after being warned before on two occasions, court might impose [26 USCS § 6673](#) penalty. [Turner v Comm'r \(2010\) TC Memo 2010-44, 99 CCH TCM 1173.](#)

Unpublished Opinions

44 USCS § 3512

Unpublished: Defendant's argument that her prosecution and conviction for failing to file income tax returns were barred by Paperwork Reduction Act failed where she failed to provide factual record necessary to support claim and public protection provisions of [44 USCS § 3512](#) did not constitute defense to prosecution under [26 USCS § 7203](#). [United States v Priest \(2007, CA9 Ariz\) 243 Fed Appx 251, 100 AFTR 2d 5309](#), cert den (2008) 552 US 1313, 128 S Ct 1870, 170 L Ed 2d 750 and cert den (2008) 552 US 1313, 128 S Ct 1871, 170 L Ed 2d 750.

Unpublished: Taxpayer's petition for redetermination of deficiency was dismissed under U.S. Tax Ct. R. 149(b) and 123(b) because failure of tax form to comply with Paperwork Reduction Act under [44 USCS § 3512](#) did not abrogate her duty to file return under [26 USCS § 6012](#) and taxpayer failed to present any evidence to support her claimed deductions and expenses to rebut presumption of correctness of deficiency as established by Commissioner of Internal Revenue under [26 USCS § 7491\(a\)\(1\)](#). [Cargill v Comm'r \(2008, CA11\) 272 Fed Appx 756, 2008-1 USTC P 50269, 101 AFTR 2d 1528](#).

Research References & Practice Aids

Code of Federal Regulations:

Small Business Administration--Administration, [13 CFR 101.100](#) et seq.

Related Statutes & Rules:

This section is referred to in [15 USCS § 57b-2](#); [31 USCS § 3811](#).

Am Jur:

37A Am Jur 2d, Freedom of Information Acts § 146.

[45B Am Jur 2d, Job Discrimination § 1688](#).

Criminal Law and Practice:

5 Business Crime (Matthew Bender), ch 27, Tax Fraud P 27.04.

Corporate and Business Law:

4 Antitrust Counseling and Litigation Techniques (Matthew Bender), ch 48, Federal Trade Commission Investigations §§ 48.08, 48.10.

Annotations:

Construction and Application of Paperwork Reduction Act of 1980 (PRA), [44 U.S.C.A. §§ 3501](#) et seq. [[44 USCS §§ 3501](#) et seq.]. [200 ALR Fed 173](#).

Texts:

2 [Environmental Law Practice Guide \(Matthew Bender\), ch 11A](#), Practice Before the EPA § 11A.02.

[Toxic Substances Control Act: Reformed by the Lautenberg Act \(Gold & Warshaw\), ch. 14, Penalties and Enforcement, § 14.04](#).

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

Forms

17 [*Bender's Federal Practice Forms, Form CrR34:2*](#), Federal Rules of Criminal Procedure.

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[44 USCS § 3513](#)

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 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 selected 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.

(c) Comparable treatment. Notwithstanding any other provision of law, the Director shall treat or review a rule or order prescribed or proposed by the Director of the Bureau of Consumer Financial Protection on the same terms and conditions as apply to any rule or order prescribed or proposed by the Board of Governors of the Federal Reserve System.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 181*; July 21, 2010, *P.L. 111-203*, Title X, Subtitle H, § 1100D(b), *124 Stat. 2111*.)

Annotations

Notes

Explanatory notes:

A prior § 3513 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2822](#); Oct. 19, 1984, [P.L. 98-497](#), Title I, § 107(b)(27), [98 Stat. 2291](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for Director review of agency activities, reporting, and agency response.

Effective date of section:

This section became effective on Oct. 1, 1995, with certain exceptions, as provided by Act May 22, 1995, *P.L. 104-13*, § 4, *109 Stat. 185*, which appears as [44 USCS § 3501](#) note.

Amendments:

2010 . Act July 21, 2010 (effective on 7/21/2011, pursuant to § 1100H of such Act, which appears as 5 USCS § 552a note), added subsec. (c).

Research References & Practice Aids

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Am Jur:

[*45B Am Jur 2d, Job Discrimination § 1688.*](#)

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork redux: the (stronger) Paperwork Reduction Act of 1995, [*49 Admin L Rev 111*](#), Winter 1997.

Karmel. An Orderly Liquidation Authority is Not the Solution to Too-Big-To-Fail. 6 Brook J Corp Fin & Com L 1, Fall 2011.

Joo. A Comparison of Liquidation Regimes: Dodd-Frank's Orderly Liquidation Authority and the Securities Investor Protection Act. 6 Brook J Corp Fin & Com L 47, Fall 2011.

Rapp. Mutiny by the Bounties? The Attempt to Reform Wall Street by the New Whistleblower Provisions of the Dodd-Frank Act. [*2012 BYUL Rev 73, 2012.*](#)

Widman; Cox. State Attorneys General's Use of Concurrent Public Enforcement Authority in Federal Consumer Protection Laws. [*33 Cardozo L Rev 53*](#), October 2011.

Murphy. Assuring Responsible Risk Management in Banking: The Corporate Governance Dimension. [*36 Del J Corp L 121, 2011.*](#)

Conti-Brown. Elective Shareholder Liability. [*64 Stan L Rev 409*](#), February 2012.

Grant. Planning for the Death of a Systemically Important Financial Institution Under Title I § 165(d) of the Dodd-Frank Act: The Practical Implications of Resolution Plans or Living Wills in Planning a Bank's Funeral. [*6 Va L & Bus Rev 467*](#), Winter 2012.

Morrissey. Shareholder Litigation After the Meltdown. [*114 W Va L Rev 531*](#), Winter 2012.

Barr. The Financial Crisis and the Path of Reform. 29 Yale J on Reg 91, Winter 2012.

Guynn. Are Bailouts Inevitable?. 29 Yale J on Reg 121, Winter 2012.

Levitin; Pavlov; Wachter. The Dodd-Frank Act and Housing Finance: Can It Restore Private Risk Capital to the Securitization Market?. 29 Yale J on Reg 155, Winter 2012.

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Ludwig. Assessment of Dodd-Frank Financial Regulatory Reform: Strengths, Challenges, and Opportunities for a Stronger Regulatory System. 29 Yale J on Reg 181, Winter 2012.

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[44 USCS § 3514](#)

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§ 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 subchapter [[44 USCS §§ 3501](#) et seq.]; 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 subchapter [[44 USCS §§ 3501](#) et seq.] and of any rules, guidelines, policies, and procedures issued pursuant to this subchapter [[44 USCS §§ 3501](#) et seq.];

(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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 181*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3514 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2823*; Oct. 18, 1986, *P.L. 99-500*; Oct. 30, 1986, *P.L. 99-591*, Title I, § 101(m), *100 Stat. 3341-339*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section related to responsiveness to Congress.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever appearing.

Other provisions:

Termination of reporting requirements. For termination, effective May 15, 2000, of provisions in this section relating to transmittal to Congress of an annual report, see § 3003 of Act Dec. 21, 1995, *P.L. 104-66*, which appears as [31 USCS § 1113](#) note. See also page 171 of House Document No. 103-7.

Research References & Practice Aids

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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§ 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 subchapter [[44 USCS §§ 3501](#) et seq.].

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 182*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3515 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2824](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for administrative powers.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter".

Research References & Practice Aids

Corporate and Business Law:

44 USCS § 3515

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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§ 3516. Rules and regulations

The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this subchapter [[44 USCS §§ 3501](#) et seq.].

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 182*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3516 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2824](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for rules and regulations.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter".

Other provisions:

Paperwork Reduction Act guidelines. Act Dec. 21, 2000, *P.L. 106-554*, § 1(a)(3), *114 Stat. 2763* (enacting into law § 515 of Title V of H.R. 5658 (*114 Stat. 2763A-153*), as introduced on Dec. 14, 2000), provides:

"(a) In general. The Director of the Office of Management and Budget shall, by not later than September 30, 2001, and with public and Federal agency involvement, issue guidelines under sections 3504(d)(1) and 3516 of title 44,

44 USCS § 3516

United States Code, that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of chapter 35 of title 44, United States Code [[44 USCS §§ 3501](#) et seq.], commonly referred to as the Paperwork Reduction Act.

"(b) Content of guidelines. The guidelines under subsection (a) shall--

"(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and

"(2) require that each Federal agency to which the guidelines apply--

"(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

"(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

"(C) report periodically to the Director--

"(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and

"(ii) how such complaints were handled by the agency.".

Case Notes

1. Generally

2. Relationship with other laws

3. Particular cases

1. Generally

Dismissal for lack of jurisdiction of suit seeking disclosure of findings underlying studies funded by agency was affirmed because [44 USCS § 3516](#) did not create legal right to access to information or to correctness, and thus organizations did not allege invasion of legal right and failed to establish injury in fact sufficient to satisfy Article III standing, and because FOIA did not grant organizations right to information since data generated by private organization, which received grants prior to April 17, 2000, but which data was not obtained by agency, were not "agency records." [Salt Inst. v Leavitt \(2006, CA4 Va\) 440 F3d 156](#).

Because Congress delegated to Office of Management and Budget (OMB) authority to develop binding guidelines implementing Information Quality Act (IQA), [44 USCS § 3516](#) note, appellate court deferred to OMB's reasonable construction of statute; IQA was silent on meaning of "dissemination," and in defining term OMB exercised its discretion to exclude documents prepared and distributed in context of adjudicative proceedings; this was permissible interpretation of statute. [Prime Time Int'l Co. v Vilsack \(2010, App DC\) 389 US App DC 416, 599 F3d 678](#).

2. Relationship with other laws

44 USCS § 3516

With respect to Fish and Wildlife Service's (FWS's) biological opinion (BiOp) pertaining to whether certain water projects threatened protection of delta smelt, endangered species, claim that FWS violated Information Quality Act (IQA), [44 USCS § 3516](#), could not proceed because FWS guidelines pertaining to IQA failed to set forth any judicially manageable standards against which presentation, use, or analysis of data could be measured; moreover, to extent IQA and any Endangered Species Act (ESA) claims overlapped, ESA claims were subject to ESA's pre-filing notice requirement under [16 USCS § 1540\(g\)\(2\)\(A\)\(i\)](#), which was not given in this case. [Delta Smelt Consol. Cases v Salazar \(2010, ED Cal\) 760 F Supp 2d 855, 41 ELR 20053](#), summary judgment gr, in part, summary judgment den, in part,, remanded (2010, ED Cal) [2010 US Dist LEXIS 135805](#), request gr, motion to modify den (2011, ED Cal) [41 ELR 20179](#).

3. Particular cases

Because United States Department of Agriculture's (USDA) determination of cigar manufacturer's assessments under Fair and Equitable Tobacco Reform Act, [7 USCS §§ 518](#) et seq., for three quarters of fiscal year 2005 was adjudication as defined in [5 USCS § 551\(7\)](#), attendant to which manufacturer had rights to administrative appeal and judicial review pursuant to [7 USCS § 518\(i\)](#) and (j), manufacturer's contention that USDA violated Information Quality Act, [44 USCS § 3516](#) note, when it did not respond to request to disclose and correct certain information underlying tobacco assessments failed. [Prime Time Int'l Co. v Vilsack \(2010, App DC\) 389 US App DC 416, 599 F3d 678](#).

Information Quality Act is not independent measure of EPA's National Ambient Air Quality Standards decision; purpose of Information Quality Act is to ensure and maximize quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies and does not constitute statutory mechanism by which EPA's conclusions reached while making its nonattainment determinations can be challenged. [Miss. Comm'n on Envtl. Quality v EPA \(2015, App DC\) 790 F3d 138, 80 Env't Rep Cas 1861](#).

Court dismissed plaintiffs claim that National Heart, Lung and Blood Institute, agency of Department of Health and Human Services, violated Information Quality Act, [44 USCS § 3516](#) note, by failing to disclose underlying data and methods of study that was conducted by grant recipients, publishing results, and recommending that people limit their intake of salt, because agency's action was not final agency action, and statements and recommendations were discretionary matters that were not subject to judicial review under [5 USCS § 701\(a\)\(2\)](#) of Administrative Procedure Act; further, Information Quality Act did not provide for private cause of action. [Salt Inst. v Thompson \(2004, ED Va\) 345 F Supp 2d 589](#), affd (2006, CA4 Va) [440 F3d 156](#).

Research References & Practice Aids

Code of Federal Regulations:

National Transportation Safety Board--Rules of practice in transportation: investigative hearings; meetings, reports, and petitions for reconsideration, [49 CFR 845.1](#) et seq.

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures § 45.32.

Law Review Articles:

Wolf. Dissecting the Information Quality Act: A Look at the Act's Effect on the Florida Panther and Evidentiary Science. [*11 Alb L Envtl Outlook* 89, 2006.](#)

Johnson. Ruminations on Dissemination: Limits on Administrative and Judicial Review Under the Information Quality Act. [*55 Cath UL Rev* 59, Fall, 2005.](#)

Hecht. Administrative Process in an Information Age: the Transformation of Agency Action Under the Data Quality Act. [*31 J Legis* 233, 2005.](#)

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[44 USCS § 3517](#)

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 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 subchapter [[44 USCS §§ 3501](#) et seq.], 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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 182*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3517 (Act Dec. 11, 1980, *P.L. 96-511*, § 2(a), *94 Stat. 2824*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for consultation with other agencies and the public.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

44 USCS § 3517

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), in subsec. (b), substituted "subchapter" for "chapter".

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44 USCS § 3518

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§ 3518. Effect on existing laws and regulations

(a) Except as otherwise provided in this subchapter [[44 USCS §§ 3501](#) et seq.], 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 subchapter [[44 USCS §§ 3501](#) et seq.].

(b) Nothing in this subchapter [[44 USCS §§ 3501](#) et seq.] 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 [[3 USCS prec § 101](#) note and [5 USCS § 903](#) note], 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 subchapter [[44 USCS §§ 3501](#) et seq.] 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 [[15 USCS § 57b-1](#)]; or

(D) during the conduct of intelligence activities as defined in section 3.4(e) of Executive Order No. 12333, issued December 4, 1981 [[50 USCS § 401](#) note], or successor orders, or during the conduct of cryptologic activities that are communications security activities.

(2) This subchapter [[44 USCS §§ 3501](#) et seq.] 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 subchapter [[44 USCS §§ 3501](#) et seq.] shall be interpreted as increasing or decreasing the authority conferred by sections 11331 and 11332 of title 40 on the Secretary of Commerce or the Director of the Office of Management and Budget.

(e) Nothing in this subchapter [[44 USCS §§ 3501](#) et seq.] 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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 183*; Feb. 10, 1996, *P.L. 104-106*, Div E, Title LI, Subtitle D, § 5131(e)(2), *110 Stat. 688*; Nov. 18, 1997, *P.L. 105-85*, Div A, Title X, Subtitle G, § 1073(h)(5)(C), *111 Stat. 1907*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; Aug. 21, 2002, *P.L. 107-217*, § 3(l)(7), *116 Stat. 1302*.)

Annotations

Notes

References in text:

The "Antitrust Civil Process Act", referred to in this section, is Act Sept. 19, 1962, [P.L. 87-664](#), which appears generally as [15 USCS §§ 1311](#) et seq. For full classification of such Act, consult USCS Tables volumes.

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

A prior § 3518 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2824](#)) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section related to the effect of former [44 USCS §§ 3501](#) et seq. on existing laws and regulations.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Amendments:

1996 . Act Feb. 10, 1996 (effective 180 days after enactment, as provided by § 5701 of such Act), in subsec. (d), substituted "section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987 ([40 U.S.C. 759](#) note) on the Secretary of Commerce or" for "Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or".

1997 . Act Nov. 18, 1997 (applicable as provided by § 1073(i) of such Act, which appears as *10 USCS § 101* note), in subsec. (d), substituted "Clinger-Cohen Act of 1996 ([40 U.S.C. 1441](#))" for "Information Technology Management Reform Act of 1996".

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter" wherever occurring.

2002 . Act Aug. 21, 2002, in subsec. (d), substituted "sections 11331 and 11332 of title 40" for "section 5131 of the Clinger-Cohen Act of 1996 ([40 U.S.C. 1441](#)) and the Computer Security Act of 1987 ([40 U.S.C. 759](#) note)".

Case Notes

44 USCS § 3518

1. Generally

2. Exemptions

1. Generally

Requirement of [44 USCS § 3512](#) that forms contain Office of Management and Budget number does not apply to collection of information during course of administrative action where investigation is against specific individuals or entities by operation of [44 USCS § 3518](#); process of assessment and collection of taxes appropriately falls within exception of [44 USCS § 3512](#). *Cameron v IRS* (1984, ND Ind) 593 F Supp 1540, 84-2 USTC P 9845, 54 AFTR 2d 6260, affd (1985, CA7 Ind) 773 F2d 126, 85-2 USTC P 9661, 56 AFTR 2d 5851.

Though taxpayer contended that IRS summons was invalid under [44 USCS § 3512](#) because it did not have Office of Management and Budget number on it, such argument had long been rejected; pursuant to [44 USCS § 3518\(c\)\(1\)\(B\)\(ii\)](#), [44 USCS § 3512](#) did not apply to collection of information during conduct of administrative action or investigation involving agency against specific individuals or entities, as in case of administrative summonses issued by IRS. *United States v Ford* (2007, DC NM) 2007-2 USTC P 50670, 100 AFTR 2d 6281.

2. Exemptions

Regulations regarding work place hazard communication standards promulgated by OSHA were insulated from authority and approval of Office of Management and Budget, due to limitations imposed on that authority under [44 USCS §§ 3504](#) and [3518](#), where regulations do not require collection of information and do not embody substantive policy decision-making entrusted to OSHA. *United Steelworkers of America, etc. v Pendergrass* (1988, CA3) 855 F2d 108, 13 BNA OSHC 1825, 1988 CCH OSHD P 28284, 18 ELR 21294, affd (1990) 494 US 26, 110 S Ct 929, 108 L Ed 2d 23, 14 BNA OSHC 1425, 1990 CCH OSHD P 28820, 20 ELR 20447 and cert den (1990) 494 US 1003, 110 S Ct 1295, 108 L Ed 2d 472, 14 BNA OSHC 1480.

Collection information requests related to Minerals Management Service's audit of oil company under Federal Oil and Gas Royalty Management Act clearly fell within parameters of exemption for collection of information during investigation involving agency against specific individuals or entities. *Phillips Petroleum Co. v Lujan* (1992, CA10 Okla) 963 F2d 1380, 119 OGR 346, remanded (1993, CA10) 4 F3d 858, 127 OGR 135 (criticized in *OXY USA, Inc. v Babbitt* (2000, CA10 Okla) 230 F3d 1178, 2000 Colo J C A R 5921, 31 ELR 20241, 147 OGR 102).

Data collection programs undertaken with respect to civil rights laws are within scope of authority granted to Office of Management and Budget under [44 USCS § 3518](#); thus, action taken by Department of Health and Human Services in eliminating mandatory self-evaluation requirement imposed on certain federal aid recipients under Age Discrimination Act, [42 USCS § 6101](#), was appropriate because OMB properly eliminated requirement as unnecessarily burdensome for recipients. *Action Alliance of Senior Citizens v Bowen* (1988, App DC) 269 US App DC 463, 846 F2d 1449, vacated on other grounds, remanded (1990) 494 US 1001, 108 L Ed 2d 469, 110 S Ct 1329.

Requirement of [44 USCS § 3512](#) that forms contain Office of Management and Budget number does not apply to collection of information during course of administrative action where investigation is against specific individuals or entities by operation of [44 USCS § 3518](#); process of assessment and collection of taxes appropriately falls within exception of [44 USCS § 3512](#). *Cameron v IRS* (1984, ND Ind) 593 F Supp 1540, 84-2 USTC P 9845, 54 AFTR 2d 6260, affd (1985, CA7 Ind) 773 F2d 126, 85-2 USTC P 9661, 56 AFTR 2d 5851.

Summonses issued on IRS Form 2039 seeking information concerning potential tax liability of individual does not require Office of Management and Budget control number under Paperwork Reduction Act where summonses were directed to "specific individual" under [44 USCS § 3518\(c\)\(1\)](#). *United States v Particle Data, Inc.* (1986, ND Ill) 634 F Supp 272, 86-2 USTC P 9747, 58 AFTR 2d 5418.

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Where defendants were charged with conspiracy to defraud United States and tax evasion, defendants were prohibited from challenging government's investigation and prosecution based on Paperwork Reduction Act of 1990 (PRA), [44 USCS § 3501](#), because [44 USCS § 3518\(c\)\(1\)\(B\)\(ii\)](#) provided that PRA did not apply to such investigation and prosecution. [United States v Schwartz \(2008, WD Mich\) 101 AFTR 2d 2253](#), decision reached on appeal by (2010, CA6 Mich) [408 Fed Appx 868, 106 AFTR 2d 6901, 2010 FED App 661N](#).

In action to enforce IRS summons in which taxpayer argued that she was not required to respond to questions contained on form 433-A presented to her at interview because form did not contain Office of Management and Budget (OMB) number, since it was administrative action or investigation involving agency against specific individual, no OMB number was required. *United States v Elmes (2009, SD Fla) 2010-1 USTC P 50103, 104 AFTR 2d 7676*.

On plaintiff hospital's challenge to defendant Secretary of the Department of Health and Human Services' requirement that claims for educational reimbursements had to be filed with the fiscal intermediary was colorable because, contrary to the Secretary's argument, the filing requirement was not a collection of information assembled pursuant to an investigation or audit under [44 USCS § 3518\(c\)](#). [Cottage Health Sys. v Sebelius \(2009, DC Dist Col\) 631 F Supp 2d 80](#).

[44 USCS § 3518\(c\)\(1\)](#) excludes administrative hearings, such as collection due process (CDP) hearings that evaluate propriety of specific collection action against specific taxpayer, from reach of Paperwork Reduction Act (PRA); consistent with that exclusion, § 3518(c)(2) describes "general investigations" that are included within reach of PRA, and CDP hearings are not in that description. *Pitts v Comm'r (2010) TC Memo 2010-101, 99 CCH TCM 1406*.

Question under [44 USCS § 3518\(c\)\(2\)](#) is not whether many individual taxpayers have collection due process (CDP) hearings (they do), nor whether Form 433-A is used widely (it is), but whether given CDP hearing is "general investigation," and it is not; rather, CDP hearing is administrative action, investigation, or audit involving agency (IRS) against specific individual; just as IRS audit of specific individual taxpayer is not general investigation, so CDP hearing is administrative action involving specific individual and is not general investigation; for that reason, collection of information during CDP hearing is not subject to Paperwork Reduction Act. *Pitts v Comm'r (2010) TC Memo 2010-101, 99 CCH TCM 1406*.

Information Request Letters were exempt from requirements of Paperwork Reduction Act pursuant to [44 USCS § 3518\(c\)\(1\)](#), where they were issued by EPA as part of ongoing investigation of respondents' compliance with regulations governing underground storage tanks. In the Matter of Valvo Convenience and Gas, Inc., and Stephen M. Valvo, Individually, Respondents (USEPA Office of Administrative Law Judges, Feb. 7, 2012) 2012 EPA ALJ LEXIS 12.

Research References & Practice Aids

Federal Procedure:

2 Administrative Law (Matthew Bender), ch 7, Public Information Generally: Access to Public Records; Disclosure of Confidential Information; Open Meetings § 7.09.

Corporate and Business Law:

6 Kintner, Federal Antitrust Law (Matthew Bender), ch 45, The Federal Trade Commission Investigation and Enforcement Procedures §§ 45.32, 45.44.

44 USCS § 3518

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44 USCS § 3519

Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 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.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 183*.)

Annotations

Notes

Explanatory notes:

A prior § 3519 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2825](#); Sept. 13, 1982, [P.L. 97-258](#), § 3(l), *96 Stat. 1066*) was omitted in the general revision of this chapter by Act May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 163*, effective as provided by § 4 of such Act, which appears as [44 USCS § 3501](#) note. The prior section provided for access to information.

Effective date of section:

This section became effective on October 1, 1995, with certain exceptions, as provided by § 4 of Act May 22, 1995, *P.L. 104-13*, which appears as [44 USCS § 3501](#) note.

Research References & Practice Aids

Law Review Articles:

Lubbers. Paperwork Redux: The (Stronger) Paperwork Reduction Act of 1995, [49 Admin L Rev 111](#), Winter 1997.

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44 USCS § 3520

Current through PL 116-7, approved 2/21/19

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§ 3520. Establishment of task force on information collection and dissemination [Caution: See prospective amendment note below.]

(a) There is established a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information (in this section referred to as the "task force").

(b)

(1) The Director shall determine--

(A) subject to the minimum requirements under paragraph (2), the number of representatives to be designated under each subparagraph of that paragraph; and

(B) the agencies to be represented under paragraph (2)(K).

(2) After all determinations are made under paragraph (1), the members of the task force shall be designated by the head of each applicable department or agency, and include--

(A) 1 representative of the Director, who shall convene and chair the task force;

(B) not less than 2 representatives of the Department of Labor, including 1 representative of the Bureau of Labor Statistics and 1 representative of the Occupational Safety and Health Administration;

(C) not less than 1 representative of the Environmental Protection Agency;

(D) not less than 1 representative of the Department of Transportation;

(E) not less than 1 representative of the Office of Advocacy of the Small Business Administration;

(F) not less than 1 representative of the Internal Revenue Service;

(G) not less than 2 representatives of the Department of Health and Human Services, including 1 representative of the Centers for Medicare and Medicaid Services;

(H) not less than 1 representative of the Department of Agriculture;

(I) not less than 1 representative of the Department of the Interior;

(J) not less than 1 representative of the General Services Administration; and

(K) not less than 1 representative of each of 2 agencies not represented by representatives described under subparagraphs (A) through (J).

(c) The task force shall--

(1) identify ways to integrate the collection of information across Federal agencies and programs and examine the feasibility and desirability of requiring each agency to consolidate requirements regarding collections of information with respect to small business concerns within and across agencies, without negatively impacting the effectiveness of underlying laws and regulations regarding such collections of

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information, in order that each small business concern may submit all information required by the agency--

(A)to 1 point of contact in the agency;

(B)in a single format, such as a single electronic reporting system, with respect to the agency; and

(C)with synchronized reporting for information submissions having the same frequency, such as synchronized quarterly, semiannual, and annual reporting dates;

(2)examine the feasibility and benefits to small businesses of publishing a list by the Director of the collections of information applicable to small business concerns (as defined in section 3 of the Small Business Act ([15 U.S.C. 632](#))), organized--

(A)by North American Industry Classification System code;

(B)by industrial sector description; or

(C)in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply;

(3)examine the savings, including cost savings, and develop recommendations for implementing--

(A)systems for electronic submissions of information to the Federal Government; and

(B)interactive reporting systems, including components that provide immediate feedback to assure that data being submitted--

(i)meet requirements of format; and

(ii)are within the range of acceptable options for each data field;

(4)make recommendations to improve the electronic dissemination of information collected under Federal requirements;

(5)recommend a plan for the development of an interactive Governmentwide system, available through the Internet, to allow each small business to--

(A)better understand which Federal requirements regarding collection of information (and, when possible, which other Federal regulatory requirements) apply to that particular business; and

(B)more easily comply with those Federal requirements; and

(6)in carrying out this section, consider opportunities for the coordination--

(A)of Federal and State reporting requirements; and

(B)among the points of contact described under section 3506(i), such as to enable agencies to provide small business concerns with contacts for information collection requirements for other agencies.

(d)The task force shall--

(1)by publication in the Federal Register, provide notice and an opportunity for public comment on each report in draft form; and

(2)make provision in each report for the inclusion of--

(A)any additional or dissenting views of task force members; and

(B)a summary of significant public comments.

(e)Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002 [enacted June 28, 2002], the task force shall submit a report of its findings under subsection (c)(1), (2), and (3) to--

(1)the Director;

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(2)the chairpersons and ranking minority members of--

(A)the Committee on Governmental Affairs [Homeland Security and Governmental Affairs] and the Committee on Small Business and Entrepreneurship of the Senate; and

(B)the Committee on Government Reform [Committee on Oversight and Government Reform] and the Committee on Small Business of the House of Representatives; and

(3)the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act ([15 U.S.C. 657\(b\)](#)).

(f)Not later than 2 years after the date of enactment of the Small Business Paperwork Relief Act of 2002 [enacted June 28, 2002], the task force shall submit a report of its findings under subsection (c)(4) and (5) to--

(1)the Director;

(2)the chairpersons and ranking minority members of--

(A)the Committee on Governmental Affairs [Homeland Security and Governmental Affairs] and the Committee on Small Business and Entrepreneurship of the Senate; and

(B)the Committee on Government Reform [Committee on Oversight and Government Reform] and the Committee on Small Business of the House of Representatives; and

(3)the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act ([15 U.S.C. 657\(b\)](#)).

(g)The task force shall terminate after completion of its work.

(h)In this section, the term "small business concern" has the meaning given under section 3 of the Small Business Act ([15 U.S.C. 632](#)).

History

(Added June 28, 2002, *P.L. 107-198*, § 3(a)(2), *116 Stat. 730*.)

(As amended Jan. 14, 2019, *P.L. 115-435*, Title II, § 202(e)(1), *132 Stat. 5541*.)

Annotations

Notes

Explanatory notes:

The bracketed words "Committee on Oversight and Government Reform" have been inserted in this section on the authority of House Res. No. 6, Jan. 5, 2007, 110th Congress, which changed the name of the Committee on Government Reform of the House of Representatives to the Committee on Oversight and Government Reform of the House of Representatives.

The bracketed words "Homeland Security and Governmental Affairs" have been inserted in this section on the authority of Senate Resolution No. 445, approved Oct. 9, 2004, effective Jan. 4, 2005, which changed the name of the Committee on Governmental Affairs of the Senate to the Committee on Homeland Security and Governmental Affairs of the Senate.

A prior § 3520 was redesignated [44 USCS § 3521](#).

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Another prior § 3520 (Act Dec. 11, 1980, [P.L. 96-511](#), § 2(a), [94 Stat. 2825](#); Oct. 18, 1986, [P.L. 99-500](#); Oct. 30, 1986, [P.L. 99-591](#), Title I, § 101(m), [100 Stat. 3341-339](#)) was omitted in the general revision of this chapter by Act May 22, 1995, [P.L. 104-13](#), § 2, [109 Stat. 163](#). Such section related to authorization of appropriations.

Prospective amendment:

Amendment of section. Act Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(e)(1), [132 Stat. 5541](#), effective 180 days after date of enactment, as provided by § 403 of such Act, which appears as 5 USCS § 306 note, provides this section is amended to read as follows:

"§ 3520. Chief Data Officers

"(a) Establishment. The head of each agency shall designate a nonpolitical appointee employee in the agency as the Chief Data Officer of the agency.

"(b) Qualifications. The Chief Data Officer of an agency shall be designated on the basis of demonstrated training and experience in data management, governance (including creation, application, and maintenance of data standards), collection, analysis, protection, use, and dissemination, including with respect to any statistical and related techniques to protect and de-identify confidential data.

"(c) Functions. The Chief Data Officer of an agency shall--

"(1) be responsible for lifecycle data management;

"(2) coordinate with any official in the agency responsible for using, protecting, disseminating, and generating data to ensure that the data needs of the agency are met;

"(3) manage data assets of the agency, including the standardization of data format, sharing of data assets, and publication of data assets in accordance with applicable law;

"(4) in carrying out the requirements under paragraphs (3) and (5), consult with any statistical official of the agency (as designated under section 314 of title 5);

"(5) carry out the requirements of the agency under subsections (b) through (d), (f), and (i) of section 3506, section 3507, and section 3511 [[44 USCS §§ 3506, 3507, 3511](#)];

"(6) ensure that, to the extent practicable, agency data conforms with data management best practices;

"(7) engage agency employees, the public, and contractors in using public data assets and encourage collaborative approaches on improving data use;

"(8) support the Performance Improvement Officer of the agency in identifying and using data to carry out the functions described in section 1124(a)(2) of title 31;

"(9) support the Evaluation Officer of the agency in obtaining data to carry out the functions described in section 313(d) of title 5;

"(10) review the impact of the infrastructure of the agency on data asset accessibility and coordinate with the Chief Information Officer of the agency to improve such infrastructure to reduce barriers that inhibit data asset accessibility;

"(11) ensure that, to the extent practicable, the agency maximizes the use of data in the agency, including for the production of evidence (as defined in section 3561 [[44 USCS § 3561](#)]), cybersecurity, and the improvement of agency operations;

"(12) identify points of contact for roles and responsibilities related to open data use and implementation (as required by the Director);

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"(13) serve as the agency liaison to other agencies and the Office of Management and Budget on the best way to use existing agency data for statistical purposes (as defined in section 3561 [[44 USCS § 3561](#)]); and

"(14) comply with any regulation and guidance issued under subchapter III, including the acquisition and maintenance of any required certification and training.

"(d) Delegation of responsibilities.

(1) In general. To the extent necessary to comply with statistical laws, the Chief Data Officer of an agency shall delegate any responsibility under subsection (c) to the head of a statistical agency or unit (as defined in section 3561 [[44 USCS § 3561](#)]) within the agency.

"(2) Consultation. To the extent permissible under law, the individual to whom a responsibility has been delegated under paragraph (1) shall consult with the Chief Data Officer of the agency in carrying out such responsibility.

"(3) Deference. The Chief Data Officer of the agency shall defer to the individual to whom a responsibility has been delegated under paragraph (1) regarding the necessary delegation of such responsibility with respect to any data acquired, maintained, or disseminated by the agency under applicable statistical law.

"(e) Reports. The Chief Data Officer of an agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives an annual report on the compliance of the agency with the requirements of this subchapter, including information on each requirement that the agency could not carry out and, if applicable, what the agency needs to carry out such requirement."

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Current through PL 116-7, approved 2/21/19

United States Code Service - Titles 1 through 54 > TITLE 44. PUBLIC PRINTING AND DOCUMENTS > CHAPTER 35. COORDINATION OF FEDERAL INFORMATION POLICY > SUBCHAPTER I. FEDERAL INFORMATION POLICY

§ 3520A. Chief Data Officer Council [Caution: For effective date of this section, see § 403 of Act Jan. 14, 2019, P.L. 115-435, which appears as 5 USCS § 306 note.]

(a) Establishment. There is established in the Office of Management and Budget a Chief Data Officer Council (in this section referred to as the "Council").

(b) Purpose and functions. The Council shall--

- (1)** establish Governmentwide best practices for the use, protection, dissemination, and generation of data;
- (2)** promote and encourage data sharing agreements between agencies;
- (3)** identify ways in which agencies can improve upon the production of evidence for use in policymaking;
- (4)** consult with the public and engage with private users of Government data and other stakeholders on how to improve access to data assets of the Federal Government; and
- (5)** identify and evaluate new technology solutions for improving the collection and use of data.

(c) Membership.

- (1)** In general. The Chief Data Officer of each agency shall serve as a member of the Council.
- (2)** Chair. The Director shall select the Chair of the Council from among the members of the Council.
- (3)** Additional members. The Administrator of the Office of Electronic Government shall serve as a member of the Council.
- (4)** Ex officio member. The Director shall appoint a representative for all Chief Information Officers and Evaluation Officers, and such representative shall serve as an ex officio member of the Council.

(d) Reports. The Council shall submit to the Director, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a biennial report on the work of the Council.

(e) Evaluation and termination.

- (1)** GAO evaluation of Council. Not later than 4 years after date of the enactment of this section [enacted Jan. 14, 2019], the Comptroller General shall submit to Congress a report on whether the additional duties of the Council improved the use of evidence and program evaluation in the Federal Government.
- (2)** Termination of Council. The Council shall terminate and this section shall be repealed upon the expiration of the 2-year period that begins on the date the Comptroller General submits the report under paragraph (1) to Congress.

History

(Added Jan. 14, 2019, [P.L. 115-435](#), Title II, § 202(f)(1), [132 Stat. 5542](#).)

Annotations

Notes

Effective date of section:

This section takes effect 180 days after the date of enactment of Act Jan. 14, 2019, [P.L. 115-435](#), pursuant to § 403 of such Act, which appears as 5 USCS § 306 note.

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44 USCS § 3521

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§ 3521. Authorization of appropriations

There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this subchapter [[44 USCS §§ 3501](#) et seq.] and for no other purpose, \$ 8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, and 2001.

History

(Added May 22, 1995, *P.L. 104-13*, § 2, *109 Stat. 184*; Oct. 30, 2000, *P.L. 106-398*, § 1, *114 Stat. 1654*; June 28, 2002, *P.L. 107-198*, § 3(a)(1), *116 Stat. 730*.)

Annotations

Notes

Explanatory notes:

The amendment made by § 1 of Act Oct. 30, 2000, *P.L. 106-398*, is based on § 1064(b) of Subtitle G of Title X of Division A of H.R. 5408 (*114 Stat. 1654A-275*), as introduced on Oct. 6, 2000, which was enacted into law by such § 1.

Effective date of section:

This section took effect on enactment, pursuant to § 4(b) of Act May 22, 1995, *P.L. 104-13*, which appears as 35 USCS § 3501 note.

Amendments:

2000 . Act Oct. 30, 2000 (effective 30 days after enactment, as provided by § 1065 of H.R. 5408, as enacted into law by such Act, which appears as [44 USCS § 3531](#) note), substituted "subchapter" for "chapter".

2002 . Act June 28, 2002, redesignated this section, formerly [44 USCS § 3520](#), as [44 USCS § 3521](#).

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