

44 USCS § 3502

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§ 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;

(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 Board, 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 Rate Commission, the Securities and Exchange Commission, 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; and

(14) 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.

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.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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*)".

NOTES:

Related Statutes & Rules:

This section is referred to in *15 USCS § 278g-3*; *20 USCS § 1221-3*; *31 USCS § § 1344, 3811*; *41 USCS § 421*; *42 USCS § 1320b-9*.

Research Guide:

Federal Procedure:

2 Fed Proc L Ed, Administrative Procedure § § 2:26, 66.

Law Review Articles:

Lubbers. Paperwork redux: the (stronger) Paperwork Reduction Act of 1995, *49 Admin L Rev 111*, Winter 1997.

Interpretive Notes and Decisions:

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*, *108 L Ed 2d 23*, *110 S Ct 929*, *14 BNA OSHC 1425*, *1990 CCH OSHD P 28820*, *20 ELR 20447*.

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*.