

DISPOSAL OF RECORDS

(44 U.S.C. Chapter 33)

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§ 3301. Definition of records

As used in this chapter, "records" includes all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included.

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

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

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

- (2) procedures for the disposal of records authorized for disposal, and
- (3) standards for the reproduction of records by photographic or microphotographic processes with a view to the disposal of the original records.

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

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

- (1) lists of any records in the custody of the agency that have been photographed or microphotographed under the regulations and that, as a consequence, do not appear to have sufficient value to warrant their further preservation by the Government;
- (2) lists of other records in the custody of the agency not needed by it in the transaction of its current business and that do not appear to have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government; and
- (3) schedules proposing the disposal after the lapse of specified periods of time of records of a specified form or character that either have accumulated in the custody of the agency or may accumulate after the submission of the schedules and apparently will not after the lapse of the period specified have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government.

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

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

- (1) notify the agency to that effect; and
- (2) empower the agency to dispose of those records in accordance with regulations promulgated under section 3302 of this title.

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

(c) The Archivist may request advice and counsel from the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives with respect to the disposal of any particular records under this chapter whenever he considers that--

- (1) those particular records may be of special interest to the Congress; or
- (2) consultation with the Congress regarding the disposal of those particular records is

in the public interest.

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

(d) The Archivist shall promulgate schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.

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

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

§ 3308. Disposal of similar records where prior disposal was authorized

When it appears to the Archivist that an agency has in its custody, or is accumulating, records of the same form or character as those of the same agency previously authorized to be disposed of, he may empower the head of the agency to dispose of the records, after they have been in existence a specified period of time, in accordance with regulations promulgated under section 3302 of this title and without listing or scheduling them.

§ 3309. Preservation of claims of Government until settled in General Accounting Office; disposal authorized upon written approval of Comptroller General

Records pertaining to claims and demands by or against the Government of the United States or to accounts in which the Government of the United States is concerned, either as debtor or creditor, may not be disposed of by the head of an agency under authorization granted under this chapter, until the claims, demands, and accounts have been settled and adjusted in the General Accounting Office, except upon the written approval of the Comptroller General of the United States.

§ 3310. Disposal of records constituting menace to health, life, or property

When the Archivist and the head of the agency that has custody of them jointly determine that records in the custody of an agency of the United States Government are a continuing menace to human health or life or to property, the Archivist shall eliminate the menace immediately by any method he considers necessary. When records in the custody of the Archivist are disposed of under this section, the Archivist shall report their disposal to the agency from which they were transferred.

§ 3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Archivist

During a state of war between the United States and another nation, or when hostile action by a foreign power appears imminent, the head of an agency of the United States Government may authorize the destruction of records in his legal custody situated in a military or naval establishment, ship, or other depository outside the territorial limits of continental United States--

(1) the retention of which would be prejudicial to the interests of the United States or

(2) which occupy space urgently needed for military purposes and are, in his opinion, without sufficient administrative, legal, research, or other value to warrant their continued preservation.

Within six months after their disposal, the official who directed the disposal shall submit a written report to the Archivist in which he shall describe the character of the records and state when and where he disposed of them.

§ 3312. Photographs or microphotographs of records considered as originals; certified reproductions admissible in evidence

Photographs or microphotographs of records made in compliance with regulations under section 3302 of this title shall have the same effect as the originals and shall be treated as originals for the purpose of their admissibility in evidence. Certified or authenticated reproductions of the photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

§ 3313. Moneys from sale of records payable into the Treasury

Money derived by agencies of the Government from the sale of records disposed of under this chapter shall be paid into the Treasury of the United States unless otherwise required by law.

§ 3314. Procedures for disposal of records exclusive

The procedures prescribed by this chapter are exclusive, and records of the United States Government may not be alienated or destroyed except under this chapter.