

Suggested Changes to The Government Publishing Office Legislative Proposals for changes to Title 44 U.S. Code

February 27, 2021

[The following is the text of the GPO proposal for revising Title 44 Chapter 19 with amendments and changes suggested by FreeGovInfo.info. Color coding indicates the FGI suggestions: additions are in red, deletions are in ~~strikeout text~~, changes are in green. Comments and explanation of our suggested section by section edits is at the end of the document.]

44 U.S.C. § 1900 [NEW] Proposed Language

Sec. _____. IN GENERAL.—Chapter 19 of title 44, United States Code, is amended – (a) by inserting before section 1901 of such Chapter the following:

§ 1900. Purpose and establishment of the Public Information Programs of the Superintendent of Documents

(a) PURPOSES. The purposes of this chapter are:

(1) ~~To ensure the public's right to free, equitable, and convenient access to its Government's information~~ The purpose of these programs is to ensure the preservation of all Federal Government Public Information for its long-term use by the public. These programs identify and describe a National Collection of U.S. Government Public Information; they preserve this Collection; and they provide services so that the public can locate, acquire, and use the information in the Collection. The Superintendent of Documents identifies all Federal Government Public Information, maintains the National Collection of U.S. Government Public Information by creating and providing metadata necessary for the identification, location, preservation, and use of the Collection; provides an Online System of Access to the Collection; and, through distribution, training, and management partners with Federal Depository Libraries for the maintenance of collections and services to meet the needs of the General Public and other designated

communities.

(2) To establish the Public Information Programs of the Superintendent of Documents in the Government Publishing Office, that together, function to identify, acquire, catalog, authenticate, disseminate, reformat, and preserve the corpus of Federal public information, and to provide no-fee, permanent public access to **and services for the use of that corpus** to **current and** future generations, for including:

(A) Federal Depository Library Program;

(B) Cataloging and Access Services Program;

(C) Online System of Access;

(D) National Collection of U.S. Government Public Information; and

(E) Preservation Program

(b) As the Superintendent of Documents determines appropriate, the Programs may engage in activities that enhance awareness and access to United States Government public information or provide services **to the public and services** that support libraries in their ~~efforts to~~ **programs that** serve their communities.

1901. Definitions.

As used in this chapter--

() **'Federal information'** means information created, collected, processed, maintained, disseminated, disclosed, or disposed of by or for the Federal Government, in any medium or form. [text from OMB A-130 def. 22]

(1) the term 'fugitive public information' means public information which is not cataloged or otherwise identifiable or retrievable by an end user of the catalog in section 1917.

~~(2) the term 'government publication' means informational matter which is published as an individual document at Government expense, or as required by law;~~ 'Government publication' means information that is published as an individual document at Government expense, or as required by law, in any medium or form (44 U.S.C. § 1901).
[text from OMB A-130 def. 25]

(3) the term 'information' means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, electronic, or audiovisual forms; [text from OMB A-130, def. 28]

() 'Information dissemination product' means any recorded information, regardless of physical form or characteristics, disseminated by an agency, or contractor thereof, to the public. [text from OMB A-130, def. 29]

() 'Information life cycle' means the stages through which information passes, typically characterized as creation or collection, processing, dissemination, use, storage, and long-term preservation. [text adapted from OMB A-130, def. 30]

(4) the term 'information lifecycle management' means the planning, budgeting, administering, processing and controlling information throughout the stages through which ~~tangible or digital information assets pass~~ passes during its life cycle including: creation, identification and acquisition; organization, bibliographic control and **creation and management of** metadata; preservation, digitization and reformatting; authentication, access, and dissemination; ~~promoting;~~ promotion, storage of ~~tangible information assets;~~ and **provision of Open Archival Information System (OAIS) compliant trusted digital** repository management;

() The 'National Collection of U.S. Government Public Information' is all federal government Public Information in the control of the Superintendent of Documents, in all forms and formats and media held in physical storage by the Government Publications Office, or individual FDLP libraries, or other officially designated partners of the

Government Publications Office, or any combination of those.

() ‘Open data’ means publicly available data that are made available consistent with relevant privacy, confidentiality, security, and other valid access, use, and dissemination restrictions, and are structured in a way that enables the data to be fully discoverable and usable by end users. Generally, open data are consistent with principles, explained in OMB guidance, of such data being public, accessible, machine-readable, described, reusable, complete, timely, and managed post-release. [text adapted from OMB A-130, def. 55]

(5) the term 'permanent public access', means making **Public Information** resources discoverable and available to, and ~~accessible~~ **acquirable and usable** by the public on an indefinite, continuing basis, without charge;

(6) the term 'preservation' means strategic initiatives, programs, and processes designed to maintain ~~useful~~ **permanent public** access to information ~~assets~~, **servicing in order to provide services to meet** the information needs of both present and future generations; and

(7) the term ‘**Public information**’ means **any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public (44 U.S.C. Chapter 35)**. [text from OMB A-130, def. 68] ~~‘public information’ means Federal Government publications or information resources regardless of physical form or medium~~. This includes information compiled by Government employees, or at Government expense, or as required by law, and disseminated to the public by an agency or a contractor thereof or of educational value.

() ‘Records’ means all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions,

procedures, operations, or other activities of the United States Government or because of the informational value of data in them (44 U.S.C. § 3301). [text adapted from OMB A-130, def. 70]

44 U.S.C. § 1902

Proposed Language

Sec. _____. Section 1902 of title 44, United States Code, is amended to read:

1902. Availability of Government publications through Superintendent of Documents; notification of publications not ordered from Government Publishing Office.

(a) The Superintendent of Documents shall make Government public information available to depository libraries through the Superintendent of Documents Public Information Programs.

(b) In order to ensure that all Public Information is accessible to depository libraries, Each component of the Government shall **either** --

(1) furnish to the Superintendent of Documents ~~tangible Government public information content~~ sufficient copies of all Public Information it ~~has issued~~ **issues to ensure its long-term preservation and free public access; and or**

(2) notify the Superintendent of Documents of ~~digital Government~~ such public information ~~content~~ it has issued.

~~(3) notify the Superintendent of Documents of any tangible public information it has issued that was obtained from sources other than the Government Publishing Office, unless other arrangements have been made with the Superintendent of Documents to ensure the public information is accessible to depository libraries.~~

(c) The requirements of subsection (b) include Public Information that was obtained from sources other than the Government Publishing Office, unless other arrangements have been made with the Superintendent of Documents. These requirements do not apply to Government public information that is confidential in character or classified for reasons of national security, but do include government Records that an agency discloses, disseminates, or makes available to the public through the Freedom of Information Act.

44 U.S.C. § 1904

Proposed Language

[no changes were offered by GPO to this section. The text here is a suggestion for changing the wording from the current version of Section 1904]

§1904. Classified list of Government publications for selection by depositories

The Superintendent of Documents shall ~~currently issue a classified list of Government publications in suitable form, containing annotations of contents and listed by item identification numbers to facilitate the selection of only those publications needed by depository libraries.~~ provide mechanisms for Depository Libraries to select items for deposit by issuing agency and department, publication type, data type, author, title, and subject. The selected publications Information Dissemination Products shall be distributed to depository libraries in accordance with regulations of the Superintendent of Documents, as long as they fulfill the conditions provided by law.

44 U.S.C. § 1905

Proposed Language

Sec. _____. Section 1905 of title 44, United States Code, is amended to read as follows:

§ 1905. Distribution to depositories; designation of additional libraries; justification; authorization for certain designations

() The Federal Depository Library Program extends the reach of GPO to provide specialized collections and services to the General Public and specific designated communities and enhances preservation by ensuring that multiple copies of The Collection are stored, managed, and preserved by multiple partners in multiple locations to meet the needs of multiple communities including the General Public. The Superintendent of Documents provides services to individual Depository Libraries and the community of Depository Libraries without charge. These services include: depositing Government Public Information with the libraries so that they can build and enhance their own collections with government information; providing metadata for discovery, management, and use of their collections and The National Collection; and managing the Program to ensure all libraries meet common standards.

(a) Government **Public Information** selected from lists prepared by the Superintendent of Documents, ~~available from the Superintendent of Documents~~, and when requested from the Superintendent of Documents, shall be distributed ~~or made accessible~~ to depository libraries **as Information Dissemination Products** to specifically designated by law and to libraries designated pursuant to this section.

(b) Additional libraries within areas served by Members of the House, Delegates, or the Resident Commissioner from the Commonwealth of Puerto Rico may be designated by them to receive Government public information to the extent that the total number of libraries designated by them does not exceed two within each area.

(c) Not more than two additional libraries within a State may be designated by each Senator from the State.

(d) The Mayor of the District of Columbia may designate two depository libraries in the District of Columbia.

(e) The Governor of the Commonwealth of Puerto Rico, the Governor of Guam, the Governor of American Samoa and the Governor of the Commonwealth of the Northern

Mariana Islands may each designate one depository library in the Commonwealth of Puerto Rico, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands respectively. The Governor of the Virgin Islands may designate one depository library on the island of Saint Thomas and one on the island of Saint Croix.

(f) Before a library is designated as a depository for Government **Public Information**, the Superintendent of Documents shall assess the potential depository library to determine its sustainability for ~~housing~~ **securely storing Information Dissemination Products a depository collection** and for providing access **to them and other services for them to the public**. The head of that library shall furnish justification of the necessity for the additional designation to the library's Senator, Member of the House, Delegate, the Resident Commissioner from the Commonwealth of Puerto Rico, Mayor of the District of Columbia or Governor, as the case may be. The justification shall also include the assessment of the Superintendent of Documents. The justification for depository library designations shall be transmitted to the Superintendent of Documents by the Senator, Member of the House, Delegate, the Resident Commissioner from the Commonwealth of Puerto Rico, the Mayor of the District of Columbia or Governor, as the case may be.

44 U.S.C. § 1907

Proposed Language

Sec. _____. Section 1907 of title 44, United States Code, is amended to read as follows:

44 U.S.C. § 1907. Libraries of executive departments, service academies, and independent agencies constituted depositories; certifications of need; disposal of unwanted publications

The libraries of the executive departments, of the United States Military Academy, of the United States Naval Academy, of the United States Air Force Academy, of the United States Coast Guard Academy, and of the United States Merchant Marine Academy are designated depositories of Government public information. A depository library within

each independent agency may be designated upon certification of need by the head of the independent agency to the Superintendent of Documents. Additional depository libraries within executive departments and independent agencies may be designated to receive Government publications to the extent that the number so designated does not exceed the number of major bureaus or divisions of the departments and independent agencies. These designations may be made only after certification by the head of each executive department or independent agency to the Superintendent of Documents as to the justifiable need for additional depository libraries. Depository libraries within executive departments and independent agencies may dispose of unwanted Government publications after first offering them to the Superintendent of Documents.

44 U.S.C. § 1909

Proposed Language

Sec. _____. Section 1909 of title 44, United States Code, is amended to read as follows:

§ 1909. Requirements of depository libraries; reports on conditions; consultations and training; termination; replacement

(a) Only a library able to provide access to, custody of, and services for deposited ~~tangible materials or access to and services for online digital content~~ **Information Dissemination Products** and **either** located in ~~an~~ **a geographic** area where it can best serve the public need **or capable of delivering digital services to a designated community or communities** may be designated as a Federal depository library. Prior to the designation the Superintendent of Documents shall visit potential depository libraries to assess their sustainability for housing depository collections and for providing ~~access~~ **services and access to its collections**. Designations of a depository of Government publications shall be made pursuant to section 1905 of this chapter. The designated depository libraries shall report to the Superintendent of Documents at least every two years concerning their condition.

(b) The Superintendent of Documents shall make regular visits to consult on conditions and provide training as needed and include the results of consultations in the Superintendent of Documents' annual report. When the Superintendent of Documents ascertains that the designated depository has ceased to be maintained so as to be accessible to the public, or that the government publications **Information Dissemination Products** which have been furnished the library have not been properly maintained, the Superintendent of Documents shall delete the library from the list of depository libraries if the library fails to correct the unsatisfactory conditions within an agreed upon time frame. A library may be designated, pursuant to section 1905 of this chapter, to replace a library deleted by the Superintendent of Documents, provided that the designation may not be in excess of the number of depository libraries authorized by law.

44 U.S.C. § 1911

Proposed Language

Sec. _____. Section 1911 of title 44, United States Code, is amended as follows:

§ 1911. Free use of Government public information in depositories; disposal of unwanted public information.

Depository libraries shall make Government **Public Information** available for the free use of the general public, and may dispose of this Government property after retention for five years under section 1912 of this title, if the depository library is served by a regional depository library. Depository libraries not served by a regional depository library, ~~or that are regional depository libraries themselves,~~ may dispose of unwanted public information in accordance with Superintendent of Documents policy and guidance. Superseded publications or those issued later in bound form which may be discarded as authorized by the Superintendent of Documents.

44 U.S.C. § 1912

Proposed Language

Sec. _____. Section 1912 of title 44, United States Code, is amended to read as follows:

§ 1912. Regional depositories; designation; functions; shared responsibilities, disposal of publications

(a) Not more than two depository libraries in each State and the Commonwealth of Puerto Rico may be designated as regional depositories and shall receive from the Superintendent of Documents copies of ~~or access to~~ all new and revised Government **Publications** authorized for dissemination to depository libraries. Designation of regional depository libraries may be made by a Senator or the Resident Commissioner from Puerto Rico within the areas served by them. Prior to the designation the Superintendent of Documents shall consult with the head of the potential regional depository library and ascertain that the library will fulfill the requirements for depository libraries. The agreement to function as a regional depository library shall be transmitted to the Superintendent of Documents by the Senator or the Resident Commissioner from Puerto Rico when the designation is made.

(b) Regional depository libraries must retain at least one copy of all Government **Publications** received (except those authorized to be discarded by the Superintendent of Documents), ~~or make accessible digital versions (in accordance with Superintendent of Documents policy)~~; and within the area served will provide leadership and coordination for the provision of program-related activities for depository libraries.

(c) Regional depository libraries from different states may share responsibilities by entering into agreements in accordance with Superintendent of Documents guidance and upon approval of a Senator from each of the states.

(d) **All government Public Information Publications** distributed by the Superintendent of Documents to depository libraries are holdings of the National Collection of U.S. Government Public Information and remain the property of the United States

Government. Libraries designated as regional depositories will coordinate with the Superintendent of Documents on the disposition of Government Publications from depository libraries, within the areas served by them, which the depository library has retained for five years. After first offering the publications to the regional depository and to other depository libraries within their area, the Superintendent of Documents will ensure depository libraries nationwide have an opportunity to obtain them, and then will authorize the withdrawal of the materials from the depository library program.

44 U.S.C. § 1917 [NEW]

Proposed Language

Sec. _____. Chapter 17 of title 44, United States Code, is amended \neq (1) by repealing sections 1710 and 1711.

Sec. _____. Chapter 19 of title 44, United States Code, is amended \neq (1) by adding at the end thereof the following new section:

§ 1917. Cataloging and Access Services

(a) CATALOGING DESCRIBED. The Superintendent of Documents shall provide descriptive cataloging records for the corpus of all **federal** government **Public Information**. The cataloging records shall be created using library ~~or~~ **and** information industry standards and best practices and shall include metadata elements in accordance with Superintendent of Documents policy.

(b) ACCESS SERVICES. As defined in this chapter "access services" means those functions or services which enable or enhance discovery, awareness, and use of public information in the National Collection of U.S. Government Public Information, ~~and Federal documents collections held by Federal depository libraries.~~

(1) The Superintendent of Documents shall maintain an online comprehensive catalog of ~~historical and current, tangible and digital~~ all federal government Public Information cataloged under (a) above, and the catalog shall show where the Public Information is obtainable. The catalog shall be machine or device-independent and available for free use by the public.

(2) The Superintendent of Documents shall carry out a program to bring fugitive public information under bibliographic control and to make records associated with such information available through the catalog in (b)(1) above.

(3) The Superintendent of Documents may make the records of the catalog in (b)(1) above available without charge or fees to Federal Depository Libraries, bibliographic utilities that support widely available record sharing, or other entities that make available government Public Information.

(4) The Superintendent of Documents may accept records for inclusion in the catalog in (b)(1) above from libraries and agencies of the Federal government, Federal Depository Libraries, bibliographic utilities that support widely available record sharing, or other entities that make available government public information.

(5) The Superintendent of Documents may acquire digital Federal government Public Information for inclusion in the Federal Depository Library Program, Cataloging and Access Services Program, and GPO's System of Online Access through automated and manual harvesting of official Federal public websites, or through digitization and/or fugitive document partnerships with Federal Depository Libraries. Harvested content will be cataloged and accessible through the catalog in (b)(1) above.

(6) The Superintendent of Documents may engage in activities that enhance access to and awareness of government public information or provide services that support libraries in their efforts to programs that serve their communities' government information needs.

44 U.S.C. § 1918 [NEW]

Proposed Language

Sec. _____. Chapter 41 of title 44, United States Code, is amended by striking Chapter 41.

Sec. _____. Chapter 19 of title 44, United States Code, is amended \neq (a) by inserting after section 1917 of such Chapter the following new section:

§ 1918. National Collection of U.S. Government Public Information

(a) ESTABLISHMENT AND PURPOSE.

(1) There is hereby established a National Collection of U.S. Government Public Information (in this chapter referred to as the "National Collection").

(2) The Federal government's publications and information are national assets and resources. Its availability and accessibility ensures an informed citizenry and an improved quality of life for them while spurring innovation. To ensure the public's right to free, equitable, and convenient access to its government's **Public Information**, the National Collection of U.S. Government Public Information is hereby established.

(b) RESPONSIBILITIES OF THE SUPERINTENDENT OF DOCUMENTS. The Superintendent of Documents shall administer the National Collection and shall:

(1) Guarantee free permanent public access to the geographically distributed National Collection.

(2) Apply information lifecycle management best practices.

(3) Collaborate with stakeholders including national libraries of the United States, Federal agencies, Congress, the Judiciary, and Federal Depository Library Program member libraries in as much is practicable, to ensure preservation, comprehensiveness, ~~and~~ accessibility, **and usability** of the National Collection.

(c) SCOPE OF THE NATIONAL COLLECTION. The content included in the National Collection is the corpus of Federal Government **Public Information**, ~~tangible or digital~~, regardless of format or medium, produced by Federal employees of the three branches of Government or paid for with Federal funds or as required by law, or of educational value and is disseminated to the public by an agency or a contractor thereof.

(d) RESPONSIBILITIES OF THE DIRECTOR OF THE GOVERNMENT PUBLISHING OFFICE. - The Director shall--

(1) operate a digital repository system that functions as GPO's online system of access through which members of the public may obtain, at no charge, information that is included in the National Collection of Government Public Information;

(2) develop and enhance the system as needed;

(3) digitize, authenticate, manage, preserve, and provide a permanent means of accessing information;

(4) provide access to information in an open, **non-proprietary, open data** format to the extent practicable;

(5) provide funding for system development, operational support, and infrastructure; and

(6) have the ability to provide services to Federal agencies.

comments on fgi draft

[The following comments explain the changes suggested by FGI to each section of Title 44]

- § 1900 [NEW].
We add text that defines the purposes of the law and the programs and their relationships. We insert text clarifying that the collection is to be used not just "accessed."
- § 1901.
We changed some text to conform to the existing OMB A-130 definitions. We added OMB definitions of "Information dissemination product," "Information life cycle," "Open data," and "Records." We also added a definition of "The National Collection of U.S. Government Public Information." These changes should make the text in other sections of the proposal consistent and clearer. This should also help make the hierarchy of types of information clear and which are to be considered part of the Collection and which not (see below). We deleted references to "tangible" and "digital" information so that all Information Dissemination Products can be treated appropriately and to avoid applying a special second-class status to "tangible" products. (We believe that decisions about services and preservation should be made based on accuracy, completeness and functionality of the particular IDP, not whether or not it is "tangible.") We made other small changes to repeat the importance of "use" of (not just "access to") the collection

information
 -> federal information
 -> records
 -> public information
 -> information dissemination product
 -> government publication
- § 1902.
We attempted to clarify the intended obligations of departments and agencies to guide OMB in [Circular A-130 Managing Information as a Strategic Resource](#) 5.e.2.d (Policy, Information Management

and Access, Agencies, GPO; [p.15]).

- § 1904.
GPO did not propose any changes to section 1904. We suggest changes to the existing wording of this section in order to update the outdated concept of an "Item List" for the digital age.
- § 1905.
We add a Statement of Purpose for FDLP libraries. We drop language that allows GPO to treat information "made accessible" to depository libraries as if it was deposited. We change "housing" to "securely storing Information Dissemination Products" in order to cover both digital and non-digital IDPs.
- § 1907.
We make no suggestions to section 1907.
- § 1909.
We delete the terms "tangible" and "digital" so that every IDP can be treated appropriately to its format, function, usability, etc. We add language to expand the way FDLP libraries define their communities to allow them to serve communities beyond their geographically-local constituents.
- § 1911.
We delete GPO's proposal to allow Regional Depositories to delete their holdings.
- § 1912.
We delete language that treats digital content in govinfo.gov as if it was held and managed by the FDLP.
- § 1917 [NEW].
We suggest minor changes to make this text consistent with the Definitions.
- § 1918 [NEW].
We add text to acknowledge the usability (not just "access") is an important purpose of The Collection. We delete text that refers to "tangible" information so that the law treats all IDPs equally. We add text to clarify and expand the concept of open, non-proprietary formats.