Proposed Legislative Changes to Chapter 19

Depository Library Program, Cataloging & Indexing, and GPO’s System of Online Access

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Cynthia Etkin, Sr. Program Planning Specialist (Librarian)

FDLP Academy Webinar
January 28, 2021
Background

• The last major change to Chapter 19 was in 1962.

• Government Printing Office Improvement Act of 1990
  H.R. 3849, introduced January 23, 1990 – 101st Congress 2d Session, Committee on House Administration

  103rd Congress – June 8, 1993, PL 103-40

  S. 2288, introduced July 10, 1998 – 105th Congress 2d Session, Committee on Rules and Administration

• FDLP Modernization Act of 2018
  H.R. 5305, introduced March 15, 2018 – 115th Congress 2d Session, Committee on House Administration and Committee on Oversight and Government Reform
Moving Forward Without Legislative Change

• Administrative changes
• Oversight committee support for approvals
  o Waivers
  o Policy
  o Budget spending plans
• Partnerships
• Interpretation
FDLP Modernization Act of 2018

- H.R.5305 introduced March 15, 2018
- Referred to the Committee on House Administration and the Committee on Oversight and Government Reform
- Ordered to be Reported (Amended) by voice vote in Committee on House Administration
- Died in committee at the end of the 115th Congress
What happened during the 116th Congress?

2019 —

- Senate Committee on Rules and Administration sought suggested changes for Title 44 from GPO
- Committee on House Administration sought suggested changes for Title 44 from GPO
- New members on the Depository Library Council
- New GPO Director
Strategy for Revising 44 U.S.C. Chapter 19
December 2019

• Not a total overhaul
• Little wins
• Outcomes
  o Digital and tangible content specifically included, but format-neutral
  o National Collection of U.S. Government Public Information
  o Flexibility for libraries
    ▪ Digital-only option
    ▪ Regional collections across state boundaries
    ▪ GPO assisting with the disposition of materials
  o Training
Action during the 116th Congress

2020 —

• Continued interest in FDLP modernization from both the Senate Committee on Rules and Administration and the Committee on House Administration

• More new members on the Depository Library Council

• Under leadership of Director Halpern, a more comprehensive strategy for change

• GPO submitted legislative proposals to both committees in July

• 7 October and 3 December meetings with committee staff
GPO’s Legislative Proposal

• Three new sections
  o Purpose
  o Cataloging and Access Services
  o National Collection of U.S. Government Public Information

• Seven revised sections

• First time GPO has provided drafted legislative proposals
While drafting language we kept in mind ... 

• H.R. 5305, FDLP Modernization Act of 2018 
• Comments from: 
  o The Depository Library Council 
  o The Depository library community 
  o Library associations and organizations 
• The needs of GPO to administer and move forward the Public Information Programs of the Superintendent of Documents
Here’s what we said we wanted ... 

<table>
<thead>
<tr>
<th>Individuals</th>
<th>Organizations</th>
<th>GPO</th>
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<tr>
<td>Preservation</td>
<td>Definition of “publication”</td>
<td>Free access/privacy</td>
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<td>Free access</td>
<td>Free access</td>
<td>Lifecycle management</td>
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<td>Definition of “publication”</td>
<td>Preservation</td>
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<td>More digital</td>
<td>Privacy</td>
<td>National collection</td>
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<td>Privacy</td>
<td>Deposit digital files in FDLs</td>
<td>Preservation</td>
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<td>Item selections</td>
<td>Regional flexibility</td>
<td>Digitize historical content</td>
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<td>Discard process</td>
<td>Grant authority &amp; gift authority</td>
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<td>Shared print archives</td>
<td>New categories of libraries</td>
<td>Regional flexibility</td>
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<td>Deposit digital files in FDLs</td>
<td>Strengthen relationship with Federal agencies</td>
<td>Regional discard/substitution</td>
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<td>Protect integrity of digital content</td>
<td>Role in discard process</td>
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<td>Regional flexibility</td>
<td>Repeal 10,000 book requirement</td>
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<td>Grant authority</td>
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<td>Shared repositories/archives</td>
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<td>Deposit digital files in FDLs</td>
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<td>Agency notification</td>
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Title 44 Reform — User Groups Intersect

Depository Library Council recommendations for Chapter 19 revisions

Depository community recommendations for Title 44 revisions

GPO response to CHA QFR regarding Title 44 revisions
Definitions
§ 1901

“(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 including: creation, identification and acquisition; organization, bibliographic control and metadata; preservation, digitization and reformatting; authentication, access, and dissemination; promoting; storage of tangible information assets; and trusted digital repository management;

“(5) the term ‘permanent public access’, means making public information resources discoverable and available to, and accessible by, the public on an indefinite, continuing basis, without charge;

“(7) the term ‘public information’ means Federal Government publications or information resources regardless of physical form or medium, 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.
§ 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 and located in an area where it can best serve the public need 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. 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) 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.
## Summary of Proposed Revisions

<table>
<thead>
<tr>
<th>§1900</th>
<th>The purposes of this chapter are to:</th>
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<td>(1)</td>
<td>Ensure the public’s right to free, equitable, and convenient access to its Government’s information; and</td>
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<td>(2)</td>
<td>Establish Public Information Programs that together, function to identify, acquire, catalog, preserve, authenticate, disseminate, reformat, and provide no-fee permanent public access to the corpus of Federal public information for future generations.</td>
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| §1901 | Expand the definitions section to include fugitive public information, information, information lifecycle management, permanent public access, preservation, and public information. |

| §1902 | Remove the process of agencies listing information products for GPO use, and replace it with a broader and more flexible term of “notify.” Notification is not necessary for public information that is confidential in character or classified for reasons of national security. |

| §1905 | Add the ability for Delegates to Congress to designate depository libraries and provide a role for the Superintendent of Documents in the designation process. |
## Summary of Proposed Revisions (continued)

<table>
<thead>
<tr>
<th>§1907</th>
<th>Revise the disposition of materials process for executive departments and Federal agencies to offer materials to GPO.</th>
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<tr>
<td>§1909</td>
<td>Eliminate the 10,000 book requirement, allow for designation of digital only depository libraries, and replace “investigations” with consultations and training.</td>
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<td>§1911</td>
<td>Change Government publications to Government public information, and allow for regionals and states not served by a regional to discard in accordance with Superintendent of Documents policy and guidance.</td>
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<td>§1912</td>
<td>Provide a role for the Superintendent of Documents in the regional designation and disposition of materials processes, allow online as a format for selection, and allow for sharing collections across state boundaries.</td>
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<td>§1917</td>
<td>Repeal §§1710-1711 and create a new section in 44 U.S.C. Chapter 19, Cataloging and Access Services</td>
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<tr>
<td>§1918</td>
<td>Create a new section in 44 U.S.C. Chapter 19, National Collection of U.S. Government Public Information</td>
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Major Provisions of H.R. 5305

*Not in GPO’s Legislative Proposal*

- SOD, employees, and facilities of Superintendent.
- Regulatory process for the FDLP
- Preservation Depository Libraries
- Very prescriptive and laborious notification process for agencies and GPO
- SOD shall, in consultation with agency official, determine the best method to catalog, provide public access to information dissemination products.
GPO’s Legislative Proposals: DLC’s Comments

“Holistically, these proposed changes show a promising direction towards more flexibility for depository libraries, a modernized understanding of publishing practices and dissemination issues, and a wider but more intentional scope for the Government Publishing Office (GPO) and the programs falling under the Office of the Superintendent of Documents.”
### Extracted DLC Comments

<table>
<thead>
<tr>
<th>§1900</th>
<th>Council supports the new § 1900 as Council believes the language effectively defines the intent of the Public Information Program of the Superintendent of Documents.</th>
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<tr>
<td>§1901</td>
<td>Council recommended discontinuing the use of “fugitive” public information; found the terms government publication, information, and public information needing clarification and offered alternative definitions.</td>
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<td>§1902</td>
<td>The new language in §1902 reflects the wider scope of the FDLP in ensuring that the Superintendent of Documents is duly notified of digital content as well as all tangible content it has issued, regardless of a publishing connection to GPO. The focus on digital specifically is also helpful in making it very clear that digital content covers a wide scope as emphasized in the definition for “public information” in §1901.</td>
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<tr>
<td>§1905/ §1909</td>
<td>Council feels the phrase, “housing a depository collection,” included in both §1905 and §1909 has connotations too focused on tangible depository materials when there are all-digital or mostly digital depositories in the FDLP, and recommends that GPO change the language to make it more inclusive of all types of depository formats.</td>
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## Extracted DLC Comments (continued)

<table>
<thead>
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<th>Section</th>
<th>Comments</th>
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<tr>
<td>§1907</td>
<td>Council appreciates the change in language from “publications” to “public information” as it better reflects the variety of formats disseminated by GPO. Council supports the inclusion of the Superintendent of Documents in the disposal process for executive departments and independent agencies.</td>
</tr>
<tr>
<td>§1911</td>
<td>Council approves of the proposed changes, particularly the change from “publications” to “public information.” and the inclusion of the specific phrase “this Government property.” Council supports the elimination of the language specifying the retention of print and microfacsimile publications that have not been superseded.</td>
</tr>
<tr>
<td>§1912</td>
<td>Council recommends keeping the previous wording of this subsection related to this, eliminating a role for the Superintendent of Documents in the disposition of materials processes, except for those libraries relinquishing their depository designation.</td>
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<tr>
<td>§1917</td>
<td>Requests that language indicating that cataloging service will be offered free of charge</td>
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<tr>
<td>§1918</td>
<td>Agreement that the creation of a defined National Collection is exciting, significant, and has the potential to lead to great improvements in the collection, cataloging, dissemination, and access of government information sources, but should be defined earlier</td>
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</table>
2021: A New Year and a New Congress

• Senate Rules and Administration Committee
• Committee on House Administration
  o Zoe Lofgren, Chair
  o Rodney Davis, Ranking Member
• Committee memberships may change
• Committee staff may change
• GPO remains hopeful
• Superintendent of Documents will press onward
About the FDLP / Projects

Legislative Revisions to Title 44 U.S.C., Chapter 19: Depository Library Program

Details
Last Updated: January 26 2021
Published: January 22 2021

Legislative Proposals of the Government Publishing Office

- Legislative proposal text (July 15, 2020)
- Summary of proposed changes
- Feedback from the Depository Library Council (January 14, 2021)

GPO welcomes your thoughts on the proposed legislation. You may submit them using this form.
https://ask.gpo.gov/s/