

Notice of Proposed Rule

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: RULE TITLE:

1B-6.001: Definitions, Designation, Responsibilities, and Termination of Depository Status of Depository Libraries

1B-6.0012: Designation, Responsibilities, and Termination of Depository Status of Depository Libraries

1B-6.0013: State Publications: Delivery to and Distribution by Division

PURPOSE AND EFFECT: The purpose of this amendment is to change the name of the State Documents Depository Program to the State Publications Depository Program and to modify and clarify the guidelines and procedures for participating in this program.

SUMMARY: Amendment clarifies the designation, responsibilities, and termination of depository status of depository libraries.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Using the SERC checklist, it was determined that this amendment will not have a direct or indirect adverse financial impact on small businesses.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 257.14 FS.

LAW IMPLEMENTED: 257.02, 257.04, 257.05, 257.05(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cathy Moloney, Bureau Chief, State Library of Florida, 500 S. Bronough St., Tallahassee, FL 32399, Cathy.Moloney@dos.myflorida.com, 850-245-6687.

THE FULL TEXT OF THE PROPOSED RULE IS:

1B-6.001 Definitions, Designation, Responsibilities, and Termination of Depository Status of Depository Libraries.

As used in this chapter, the following words and terms shall mean:

(1) ‘State publication’ means a publication, either in print or electronically, under the authority of or at the total or partial expense of a state official, state department, state board, state court, or state agency, or that is required to be publicly distributed pursuant to state law. The term includes a publication containing information about the state and its government that is culturally and historically significant to researchers and the general public. The term does not include a publication that is created only for internal use of a state official, state department, state board, state court, or state agency. “Public documents” is defined by Section 257.05(1), F.S., as any document, report, directory, bibliography, rule, newsletter, pamphlet, brochure, periodical, or other publication, whether in print or non-print format, that is paid for in whole or in part by funds appropriated by the Legislature and may be subject to distribution to the public; however, the term excludes items issued for strictly administrative or operational purposes.

(2) "Agency" means any official, officer, commission, board, authority, council, committee, department, or entity of state government.

(3) "Depository library" means those libraries designated in accordance with Section 257.05(3)(a), F.S.

(4) "Division" means the Division of Library and Information Services of the Department of State.

~~(5) "Florida Public Documents" is the title of the bibliography produced in accordance with Section 257.05(3)(c), F.S.~~

~~(5)(6) "Publicly supported library" means that the library unit, agency, organization, or institution is under the administrative supervision or control of a government.~~

~~(7) Designation Procedure.~~

~~(a) Public and academic libraries in Florida are eligible to apply for designation as a depository library for state documents. Upon request from the administrator of the library, the form, Application and Agreement for Designation as a Depository for State Publications, Form LISE139 R3 89, effective March 1989, shall be provided by the Division. A copy of form LIS3E139 R3 89 may be obtained from the Division of Library and Information Services, R.A. Gray Building, Tallahassee, Florida 32399-0250, and is incorporated herein by reference.~~

~~(b) The completed application form must be signed by the administrator of the requesting library and submitted to the Division director.~~

~~(c) If the application is approved, the signed application will be permanently filed as the official agreement of the designated library with the Division for the maintenance and servicing of state documents.~~

~~(8) Designation Review.~~

~~(a) All applications received by the Division will be evaluated based upon the criteria set forth below, and the Division director shall notify the applicant as to approval or rejection of the application.~~

~~(b) Applications that have been rejected may be appealed to the State Library Council.~~

~~(c) The State Library Council shall review the appealed application and shall submit its recommendation to the Secretary of State.~~

~~(d) The Secretary of State shall make the final decision on all appealed applications.~~

~~(9) Criteria for Designation Evaluation.~~

~~(a) The Division director shall evaluate each application based upon the presence and proximity of other depository libraries in the same geographical area; the size, space, and staff available to properly maintain and service the collection; and the geographical distribution of the population to be served.~~

~~(b) Priority will be given to publicly supported libraries.~~

~~(c) It shall be the goal of the Division to designate at least one depository library in each comprehensive planning district, as specified by the Executive Office of the Governor, pursuant to Section 186.006, Florida Statutes, and thereafter to designate one depository library for each 250,000 people within the planning district. Except when the population of a comprehensive planning district reaches 1,000,000 population, one designation will be considered for each 500,000 people above 1,000,000.~~

~~(d) The number of designated depository libraries shall be limited by the number of copies of public documents available under Section 257.05, F.S.~~

~~(e) The Division director shall make every effort to designate a new depository library upon the occurrence of a vacancy. Consideration will first be given to libraries in the same geographical~~

area from which the vacancy occurred or to geographical areas not presently served by a state documents depository library.

~~(10) Responsibilities of Depository Libraries.~~

~~(a) Each depository library shall make all public documents conveniently available for free public use. Those libraries designated as receiving two copies of each item and those libraries designated as lending depositories shall make a copy available for interlibrary loan.~~

~~(b) All public documents received under this program must be retained for a period of 5 years except those identified by paragraphs (c), (d) and (e) below.~~

~~(c) Documents of the following types must be permanently retained as having significant permanent research value: annual or biennial reports of agencies and subagencies, session laws and statutes, legislative journals, statistical publications covering a period of at least 1 year, and series publications having monographic titles other than newsletters.~~

~~(d) Superseded items, such as draft or interim reports, which are followed by a final report, and publications which have been revised or updated may be discarded upon receipt of the final or revised document. Cumulative publications, such as monthly or quarterly reports, which are incorporated into an annual report, may be discarded on receipt of the cumulated report. Newsletters of limited local interest may be discarded after one year. U.S. Geological Survey publications received through the program but also received by Federal depository libraries may be discarded after five years.~~

~~(e) Program announcements, news releases, and similar dated materials may be discarded after their timeliness has expired.~~

~~(f) Duplicate copies of documents may be discarded. Depository libraries which receive two copies may discard the second copy of documents after the five-year minimum, although they are still responsible for providing interlibrary loan for all titles.~~

~~(11) Termination of Depository Status.~~

~~(a) Should a library wish to relinquish its designation as a state documents depository library, it shall do so by submitting an official letter of request from the administrator of the designated library to the Division director. This letter shall specify why the library is no longer able to comply with the conditions of designation as agreed to by the library at the time of its designation. The Division director shall review the request, prepare an official response and, if granting the request, give guidance to the closing of the depository. In granting the request, the Division director shall consider the library's ability to continue to provide space, staff and funding to provide, house, and provide access to state documents. The Division director should also consider the impact of the loss of that designation on citizens' access to state documents in that area.~~

~~(b) All publications that have been received by the designated library under this program and that fall into the categories for permanent retention, as defined in paragraph 1B-6.001(5)(c), F.A.C., must be retained by the designated library or returned to the Division in complete sets. Documents that fall into these categories for permanent retention shall not be selectively discarded.~~

~~(c) Documents not falling into the categories for permanent retention may be discarded and retained or discarded as the designated library so chooses.~~

~~(d) The Division will recognize the designated depository library as having responsibility for the permanent depository collection up to the date of the letter officially granting discontinuance. The Division will recognize a newly designated depository library, should there be one, as the library responsible for the permanent collection after that date. Should the designated depository not wish to retain the permanent collection, all publications referred to in paragraph 1B-~~

~~6.001(5)(c), F.A.C. above will be returned to the Division and will become a part of a newly designated depository collection should there be one.~~

~~Rulemaking Authority 257.14 FS. Law Implemented 257.02(1), 257.04, 257.05, 257.05(3) FS. History—New 5-1-89, Amended 10-9-96, XX-XX-XX.~~

1B-6.0012 Designation, Responsibilities, and Termination of Depository Status of Depository Libraries.

(1) Designation Procedure.

(a) Public and academic libraries in Florida are eligible to apply for designation as depository libraries for state documents. Upon request from the administrator of the library, the form, the Division shall provide Form LIS3E139 R3-15 (hyperlink), “Application and Agreement for Designation as a Depository for State Publications,” effective XXX 2015, shall be provided by the Division. Form LIS3E139 R3-89 may be obtained from the Division of Library and Information Services, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, and is incorporated herein by reference.

(b) The completed application form must be signed by the administrator of the requesting library and submitted to the Division director.

(c) If the application is approved, the signed application will be permanently filed as the official agreement between the designated the designated library and the Division to maintain and service state documents.

(2) Designation Review.

(a) All applications received by the Division will be evaluated based upon the criteria set forth below, and the Division director shall notify the applicant of the approval or rejection of the application.

(b) In the case that an application is rejected, the applicant may appeal the decision to the State Library Council.

(c) The State Library Council shall review the rejected application and shall submit its recommendation to the Secretary of State.

(d) The Secretary of State shall make the final decision on all rejected application appeals.

(3) Criteria for Designation Evaluation.

(a) The Division director shall evaluate each application based upon the presence and proximity of other depository libraries in the same geographical area; the size, space, and staff available to properly maintain and service the collection; and the geographical distribution of the population to be served.

(b) Priority will be given to publicly supported libraries.

(c) It shall be the goal of the Division to designate at least one depository library in each comprehensive planning district, as specified by the Executive Office of the Governor, pursuant to Section 186.006, F.S., and thereafter to designate one depository library for each 250,000 people within the planning district. When the population of a comprehensive planning district reaches 1,000,000, one designation will be considered for each 500,000 people above 1,000,000.

(d) The Division director shall make every effort to designate a new depository library upon the occurrence of a vacancy. Consideration will first be given to libraries in the same geographical area in which the vacancy occurred or to geographical areas not served by a state publications depository library.

(4) Responsibilities of Depository Libraries.

(a) Each depository library shall make all public documents conveniently available for free public use. Those libraries designated as receiving two copies of each item and those libraries designated as lending depositories shall make a copy available for interlibrary loan.

(b) All state publications received under this program, except for those identified by (c), (d), (e), (f), and (g) below, must be retained for a period of 5 years. The Division may permit depository libraries to dispose of government publications that they have retained for five (5) years after they first notify the Division.

(c) Publications of the following types have significant permanent research value and must be permanently retained: annual or biennial reports of agencies and subagencies, session laws and statutes, legislative journals, statistical publications covering a period of at least 1 year, and series publications other than newsletters that have monographic titles. If multiple copies of a permanent publication have been received refer to (h).

(d) Superseded items, such as draft or interim reports that are followed by a final report and publications that have been revised or updated may be discarded upon receipt of the final or revised publication. Cumulative publications, such as monthly or quarterly reports that are incorporated into an annual report may be discarded on receipt of the cumulated report.

(e) Newsletters of limited local interest may be discarded after one year.

(f) U.S. Geological Survey publications received through the program but also received by Federal depository libraries may be discarded after five (5) years.

(g) Program announcements, news releases, and similar dated materials may be discarded when they are no longer timely.

(h) Duplicate copies of publications may be discarded. Depository libraries that are designed as receiving two copies may discard the second copy of a publications after five (5) years, but they are still responsible for providing interlibrary loan for all titles.

(i) Further weeding policies and procedures are addressed by the Division outside of rule.

(5) Termination of Depository Status.

(a) Should a library wish to relinquish its designation as a state documents depository library, it shall do so by submitting an official letter of request from the administrator of the designated library to the Division director. This letter shall specify why the library is no longer able to comply with the conditions of designation as agreed to by the library at the time of its designation. The Division director shall review the request, prepare an official response and, if granting the request, give guidance to the closing of the depository. In granting the request, the Division director shall consider the library's ability to continue to provide space, staff and funding for providing access to state documents. The Division director should also consider the impact of the loss of that designation on citizens' access to state documents in that area.

(b) All publications that have been received by the designated library under this program and that fall into the categories for permanent retention, as defined in paragraph 1B-6.001(5)(c), F.A.C., must be retained by the designated library or returned to the Division in complete sets. Documents that fall into the categories for permanent retention shall not be selectively discarded.

(c) Documents not falling into the categories for permanent retention may be discarded and retained or discarded as the designated library so chooses.

(d) The Division will recognize the designated depository library as having responsibility for the permanent depository collection up to the date of the letter officially granting discontinuance. The Division will recognize a newly designated depository library, should there be one, as the library responsible for the permanent collection after that date. Should the designated depository not wish to retain the permanent collection, all publications referred to in paragraph 1B-

6.001(5)(c), F.A.C., will be returned to the Division and will become part of a newly designated depository collection.

Rulemaking Authority 257.14 FS. Law Implemented 257.02, 257.04, 257.05 FS. History–New XX-XX-XX.

1B-6.0013 State Publications: Delivery to and Distribution by Division.

(1) Agency Responsibilities:

(a) Any agency that produces a state publication in physical form should furnish to the Division, free-of-charge, 35 copies of that publication for deposit in the State Library’s collection and distribution by the Division to the depository libraries throughout the state. However, the Division reserves the right to request as many as 15 additional copies of each state publication. When fewer than 40 copies of a publication are printed, an agency is required to send two (2) copies, free-of-charge, to the Division for permanent inclusion in the State Library’s collection.

(b) Any agency that produces a state publication in an electronic format shall provide the Division with electronic access to the publication. The agency shall notify the Division of the new publication or provide the file directly to the Division.

(2) Agency Compliance:

(a) Each agency shall designate a state publications liaison and notify the Division of the liaison’s name and contact information as specified in s. 257.05(2)(b), F.S.

(b) Each liaison shall maintain a list of their agency’s publications and furnish that list to the Division as it is updated, or at least by December 31 of each year.

(3) Division Responsibilities:

(a) Upon receipt of an agency’s state publications, the Division shall make the record of those publications available through a centralized data base.

(b) On a quarterly basis, the Division shall distribute the received publications to the designated depository libraries.

(c) On a quarterly basis, the Division shall create a bibliography of those publications.

(d) The Division shall compile an annual summary to inform the Governor and the Legislature of which agencies have furnished publications or other information, as required under 1B-6.0013(2)(b), F.A.C.

Rulemaking Authority 257.14 FS. Law Implemented 257.04, 257.05 FS. History–New XX-XX-XX.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carlos A. Rey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Ken Detzner

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 10/05/15

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 08/31/2015