

BEFORE THE MONTANA STATE LIBRARY  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 10.102.4001, 10.102.5102, ) PROPOSED AMENDMENT  
10.102.5105, and 10.102.5106 )  
pertaining to resource sharing and )  
allocation of federation funding )

TO: All Concerned Persons

1. On February 16, 2010, at 1:00 p.m., the Montana State Library will hold a public hearing in the Grizzly Conference room of the State Library, 1515 E 6th Ave, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Montana State Library will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana State Library no later than 5:00 p.m. on February 5, 2010, to advise us of the nature of the accommodation that you need. Please contact Marlys Stark, Montana State Library, PO Box 201800, Helena, Montana, 59620-1800; telephone (406) 444-3384; fax (406) 444-0266; TTY (406) 444-3005; or e-mail mstark2@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

Subchapter 40

Interlibrary Loan Reimbursement Resource Sharing

10.102.4001 REIMBURSEMENT TO LIBRARIES FOR INTERLIBRARY LOANS RESOURCE SHARING (1) ~~Definitions used in this subchapter include:~~ The Commission has established a statewide interlibrary resource-sharing program (hereinafter resource-sharing program) to support and facilitate resource-sharing among libraries in Montana. The resource-sharing program consists of those library services provided to participating libraries pursuant to the Group Services Contract between the Montana State Library and OCLC Online Computer Library Center, Inc., and the services provided to participating libraries through the licensing and maintenance of the Montana Shared Catalog. 50 percent of the funds appropriated by the legislature for the resource-sharing program shall be allocated to pay a portion of the cost of the Group Services Contract between the Montana State Library and OCLC Online Computer Library Center, Inc. The remaining 50 percent of the funds appropriated by the legislature for the resource-sharing program shall be allocated to pay a portion of the ongoing cost of licensing and maintaining the Montana Shared Catalog for participating libraries. The latter funds shall not be

used for the purpose of offsetting the cost of adding new-member libraries to the Montana Shared Catalog.

~~(a) "Interlibrary loan" means the loaning or provision of copies of library materials from one Montana library to another Montana library. Such materials are to include, but are not limited to, the following: book, copy in lieu of book, magazine/periodical, copy in lieu of magazine/periodical, audiovisual title, government document/technical report, and pamphlets, some of which are to be returned.~~

~~(b) "Libraries eligible for interlibrary loan reimbursement" are defined in 22-1-328(2), MCA.~~

~~(c) "Net loaning libraries" are those libraries whose interlibrary loans exceed their borrowing of library materials during the year for which they seek net loaning reimbursement, provided the libraries reported and requested reimbursement for the loans.~~

~~(2) Reimbursements will be made on an annual basis based on the following:~~

~~(a) Reimbursement will be made at a rate determined by the State Library.~~

~~(i) This rate is based upon an estimated number of annual interlibrary loans (ILL) in Montana and available funds.~~

~~(ii) Available funds for ILL reimbursement will be divided evenly in half.~~

~~(iii) Every eligible library will be reimbursed from one-half these total available funds. These funds, shared between every eligible library, shall be called "simple loaning reimbursement".~~

~~(iv) Simple loaning reimbursement will be computed by dividing the total available funds in half, and distributing that half of the funds in proportional amounts to every library eligible for simple loaning reimbursement. The total amount of money available to the State Library for simple loaning reimbursement will be divided by the total number of loans reported to obtain the per-loan rate of reimbursement. The rate of reimbursement will then be applied to each simple loan to determine the amount of reimbursement for each library.~~

~~(v) Only net loaning libraries are eligible for reimbursement from the remaining half of the total available funds after simple loaning reimbursement funds are distributed. These funds shall be called "net loaning reimbursement".~~

~~(vi) Net loaning reimbursement will be computed by dividing the total amount of money available to the State Library for net loaning reimbursement by the total number of net loans reported to obtain the per-loan rate of reimbursement. The rate of reimbursement will then be applied to each net loan to determine the amount of reimbursement for each library.~~

~~(vii) These rates may be adjusted if deemed necessary by the State Library by dividing any remaining funds by the number of interlibrary loans claimed for reimbursement.~~

~~(b) A form for requesting reimbursement will be issued by the State Library. No reimbursement shall be made to any library which does not use the reimbursement form to submit its reimbursement request, or which fails to meet specified submittal deadlines for such requests.~~

~~(c) Each annual payment shall be made only for interlibrary loans within the specified year for which reimbursement funding is available. No count of interlibrary loan transactions shall be carried over from one year to another.~~

~~(d) Reimbursements will be made within 30 working days after the submittal date.~~

~~(e) No library may levy service charges, handling charges, or use fees for interlibrary loans for which it is reimbursed under the provisions of 22-1-325 through 22-1-331, MCA and these rules.~~

~~(i) Actual charges for postage are discouraged but not expressly prohibited under these rules.~~

~~(ii) Costs for special postal handling of interlibrary loan requests, when requested by the borrowing library, are chargeable costs.~~

~~(iii) Interlibrary loans, when completed via electronic submission, also count as reimbursable interlibrary loans. Costs associated with such electronic submission are chargeable if the transmission was specified by the requesting library. Electronic submissions qualify as special handling.~~

~~(iv) Per page photocopying charges may not be separately charged to the borrowing library but are assumed to be covered by the reimbursement under these rules.~~

~~(f) Providers of interlibrary loan are expected to follow the law in relation to copyright.~~

~~(g) Libraries applying for interlibrary loan reimbursement under 22-1-325 through 22-1-331, MCA and these rules must retain certain records as follows:~~

~~(i) The library requesting reimbursement shall retain records of interlibrary loans which support and agree with the number submitted for reimbursement. These records must include both the number of items loaned to eligible libraries, and the number of items borrowed. Reimbursement requests will include library-by-library detail of items lent to, and borrowed from, as well as total items borrowed and lent.~~

~~(ii) Libraries requesting reimbursement shall retain their records of interlibrary loan transactions for a period of three years and must produce these records for auditing purposes.~~

~~(h) For any questions arising because of this rule, the final arbiter is the State Library Commission.~~

~~(3) For a library to receive reimbursement through the program, it must annually certify to the State Library that the appropriate member of its staff has demonstrated competence regarding the application of the standardized interlibrary loan protocols.~~

AUTH: 22-1-330, MCA

IMP: 22-1-328, MCA

REASON: The original name of the subchapter is no longer appropriate as interlibrary resource sharing is now the focus rather than interlibrary loan reimbursement. This change is necessary to respond to changes in technology and interlibrary loan processes which led to the statute change that was accomplished in the 2009 legislative session. The statute change allowed more options for resource sharing and therefore the rule needed to be amended to reflect different options. Use of these funds according to the proposed rule changes would allocate

legislatively appropriated funds in a more cost effective manner to more effectively support resource sharing.

10.102.5102 ALLOCATION OF FUNDING BETWEEN FEDERATIONS AND GRANT PROGRAMS (1) remains the same.

(a) Before funds are allocated among federations, the travel expenses for federation coordinators will be estimated and subtracted off the top of the funds federations receive. Each federation will receive travel funds for its coordinator. The remaining portion of the appropriation allocated to library federations shall be distributed among the six federations according to the following formula: 50 percent of the first \$250,000 shall be divided equally among the six federations and 50% percent shall be allocated on the basis of population within the six federations.

(b) Any appropriation in excess of \$250,000 shall be divided according to the following formula: 20% percent of the remainder shall be allocated equally among the six federations. 80% percent of the remainder shall be allocated among the six federations on the basis of population.

(2) remains the same.

(3) Each federation's annual plan of service shall be based upon direction given by the state library commission from its consideration of the state long range plan for libraries. The annual plan of service is submitted to the state library each ~~April~~ spring for consideration and action by the state library commission. Changes or appeals related to the plans of service are acted upon by the state library commission in May and June of each year.

(4) through (7) remain the same.

AUTH: 22-1-103, 22-1-413, MCA

IMP: 22-1-413, MCA

REASON: The first change is necessary to reflect the desire to more equitably share the cost of travel for coordinators and federations. The second change is necessary to more accurately reflect the timeline for the creation of federation plans of service and commission action. Some federations do not turn in their plan of service until they meet in May while others may turn in their plan of service before April.

10.102.5105 JOINING LIBRARY FEDERATIONS (1) Libraries eligible to join federations include any public, school, special, college, tribal, or university library.

(2) remains the same.

AUTH: 22-1-103, MCA

IMP: 22-1-103, 22-1-328, 22-1-330, 22-1-331, 22-1-402, 22-1-404, 22-1-413, MCA

REASON: Tribal libraries needed to be added to the list as they can be active in federations.

10.102.5106 BASE GRANTS (1) through (2)(a)(i)(A) remain the same.

(B) to increase the on-line availability of local bibliographical information. Libraries may purchase subscriptions to bibliographic databases ~~such as LaserCat and WorldCat~~, add and maintain holdings in these databases, and purchase the necessary equipment and software;

(C) through (E) remain the same.

AUTH: 22-1-103, MCA

IMP: 22-1-103, 22-1-328, 22-1-330, 22-1-331, 22-1-402, 22-1-404, 22-1-413, MCA

REASON: Making the rule more open ended captures the gist of the rule, but doesn't limit it to a particular product that may change or even disappear.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Marlys Stark, Montana State Library, PO Box 201800, Helena, Montana, 59620-1800; telephone (406) 444-3384; fax (406) 444-0266; or e-mail mstark2@mt.gov, and must be received no later than 5:00 p.m., February 24, 2010.

5. State Librarian Darlene Staffeldt, Montana State Library, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on November 13, 2009.

/s/ Darlene Staffeldt  
Darlene Staffeldt  
Rule Reviewer

/s/ Donald Allen  
Donald Allen  
Chairman  
Montana State Library

Certified to the Secretary of State January 4, 2010.