

BEFORE THE MONTANA STATE LIBRARY
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULES I through IV, the amendment) PROPOSED ADOPTION,
of ARM 10.102.1158, 10.102.1160,) AMENDMENT, AND REPEAL
10.102.4003, 10.102.9101,)
10.102.9102, 10.102.9104,)
10.102.9105, and the repeal of ARM)
10.102.9103 and 10.102.9106)
pertaining to updating rules to comply)
with recent legislation)

TO: All Concerned Persons

1. On December 1, 2023, at 1:00 p.m., the Montana State Library Commission will hold a public hearing on Zoom to consider the proposed adoption, amendment, and repeal of the above-stated rules. Interested parties may access the Zoom meeting in the following way: <https://mt-gov.zoom.us/j/83743258712?pwd=a25zQmtQdm85NU9CSk5JUjFIRTBZNz09>

Meeting ID: 837 4325 8712
Password: 033539

Dial by Telephone
+1 646 558 8656
Meeting ID: 837 4325 8712
Password: 033539
Find your local number: <https://mt-gov.zoom.us/u/kc5Bg8R53I>

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 the Montana State Library no later than 5:00 p.m. on November 22, 2023, to advise us of the nature of the accommodation that you need. Please contact Genevieve Lighthiser, Montana State Library, 1201 11th Avenue, Helena, Montana 59620; telephone (406) 444-3384; fax (406) 444-0266; TTY/TDD: (406) 444-4799; or email glighthiser@mt.gov

3. The rules proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS For the purposes of this subchapter, the following definitions apply:

(1) "Additional population" means the population count that is to be credited to each public library based on the proportion of that municipality's population to the total population of the county.

(2) "Additional square miles" means the number of square miles credited to each public library based on the proportion of that municipality's population to the total population of the county.

(3) "Leftover population" means the population count remaining in each county after the population counts of each municipality with library service are subtracted.

(4) "Leftover square miles" means the number of square miles left in each county after the square miles of each municipality with public library service are subtracted from the total number of square miles in the county.

(5) "Population" means those official, final figures from the most recent decennial census of population produced by the U.S. Census Bureau.

(6) "Public library" means those libraries as defined in 22-1-303 through 22-1-317, MCA, 22-1-701 through 22-1-716, MCA, or an accredited tribal college library that provides services to the public. All libraries must comply with the standards set forth in ARM 10.102.1158 through 10.102.1162.

(7) "State funding" means state aid per capita funding and funding received through a library federation. To receive state funding, libraries must meet the public library standards set forth in ARM 10.102.1158 through 10.102.1161 or be granted a deferral as set forth in ARM 10.102.1162.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: The definitions are proposed as a new rule as they apply to the chapter rather than the specific rule.

NEW RULE II INTRODUCTION (1) The following rules apply to the administration of a state reference network to provide real-time geospatial location data from any location within the network.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: These rules are required by statute and necessary to implement a subscription rate to fund the Montana Real Time Network.

NEW RULE III DEFINITIONS For the purposes of this subchapter, the following definitions apply:

(1) "Contributing organization" means an individual or organization that contributes equipment, equipment maintenance, network connectivity, or other comparable service to the state reference network of value equal to or greater than cost of an individual subscription rate. Contributing organizations may receive credit for multiple logins based on the value of the contributions to the state reference network as established in a contributing organization agreement.

(2) "Contributing organization agreement" is an agreement between the Montana State Library and a contributing organization that depicts the value of the contribution and any credit the contributing organization will receive.

(3) "Educational use" means any use directly related to learning, teaching, training, research, and development that is part of the instructional functions performed by a qualified educational institution and, in the case of students, uses related to learning, training, research or development. "Educational use" does not include commercial, professional, or any other for-profit purposes.

(4) "Educational use agreement" is a document between the Montana State Library and a faculty member of a Montana K-12 school, college, or university that documents the project, number of logins required, and period required to complete the project.

(5) "Login" is a username and password that is licensed to access the state reference network. A login is associated with an individual or an organization.

(6) "Operating funds" means the amount of revenue necessary to operate the state reference network for the upcoming biennium.

(7) "State reference network" means a real time positioning network operated by the Montana State Library.

(8) "Subscription rate" means the annual cost per login.

(9) "Total logins" means the count of current logins as of December 1 of each even-numbered year plus an estimate of new logins in the coming biennium, minus the number of logins for contributing organizations.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: These rules are required by statute and necessary to implement a subscription rate to fund the Montana Real Time Network.

NEW RULE IV DETERMINATION OF OPERATING FUNDS AND RATE SETTING PROCESS

(1) Each even-numbered year the State Library, in consultation with the Governor's Office of Budget and Program Planning, will determine the amount of operating funds necessary to operate the state reference network in the forthcoming biennium.

(2) The subscription rate will be set in accordance with procedures set forth by the Office of Budget and Program Planning.

(3) By January 1 of each odd-numbered year, the State Library will publicize the new rate.

(4) New subscription rates take effect July 1 of each odd-numbered year.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: These rules are required by statute and necessary to implement a subscription rate to fund the Montana Real Time Network.

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

10.102.1158 LIBRARY BOARD, GOVERNANCE, AND WORKING WITH THE DIRECTOR (1) The library is established per Title 7, MCA, Title 22, MCA, or through the legal process practiced by a tribal council an accredited tribal college library that provides services to the public.

(2) through (6) remain the same.

~~(7) The library budget shows year-to-year growth reflecting community needs. The director and library board routinely present the library to the community and local government in a manner to maintain and increase the library's ability to meet their community's needs. Public library boards and directors will identify the requisite financial resources necessary to provide adequate library services pursuant to the library's mission and will regularly communicate with community and local government leaders about financial needs and ability to meet community needs.~~

(8) through (12) remain the same.

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: These amendments are proposed to update the language of the rule to reflect changes to 22-1-327, MCA, in the 2023 Legislative Session and to clarify public library standards for securing financial resources for the operation of public libraries.

10.102.1160 PERSONNEL (1) through (6) remain the same.

~~(7) Directors of libraries that serve over 25,000 people have a Master of Library Science or equivalent degree.~~

REASON: This amendment is proposed to reflect the commission's opinion that local boards should be given responsibility to set library director qualifications as the size of the community may require a different skillset or knowledge base for the library director.

10.102.4003 DIRECT STATE AID TO PUBLIC LIBRARIES FOR PER CAPITA AND FOR PER SQUARE MILE SERVED (1) ~~Definitions used in this section include:~~

~~(a) "Public library" means those libraries as defined in 22-1-303 through 22-1-317, MCA, and in Title 7, MCA.~~

~~(b) "Population" means those official, final figures from the most recent decennial census of population produced by the U.S. Bureau of the Census.~~

~~(c) "Leftover population" means the population count remaining in each county after the population counts of each municipality with library service are subtracted.~~

~~(d) "Additional population" means the population count which is to be credited to each public library based on the proportion of that municipality's population to the total population of the county.~~

~~(e) "Leftover square miles" means the number of square miles left in each county after the square miles of each municipality with public library service are subtracted from the total number of square miles in the county.~~

~~(f) "Additional square miles" means the number of square miles credited to each public library, based on the proportion of that municipality's population to the total population of the county.~~

(2) through (6) remain the same but are renumbered (1) through (5).

AUTH: 22-1-103, MCA

IMP: 22-1-103, MCA

REASON: These amendments are proposed to update the language of the rule to reflect changes to 22-1-327, MCA, in the 2023 Legislative Session.

10.102.9101 INTRODUCTION (1) The following rules define the development of ~~an annual land~~ a geospatial information plan, the application and granting processes, the grant monitoring process, and the process for coordination of technological standards for creating ~~land~~ geospatial information as provided in 90-1-404, MCA.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

REASON: These changes are required by statute and mirror the revised language and terms as used in the statute.

10.102.9102 DEFINITIONS In addition to the definitions found in 90-1-403, MCA, the following definitions apply:

(1) ~~"Available grant funds" means the balance of the Montana land information account on March 31 of each fiscal year, plus an estimate of not yet deposited state funds held by counties as of that date, less the state library's budget associated with duties and responsibilities defined in 90-1-404, MCA, for the fiscal year and any funds committed to grants.~~ "Council" means the Montana Geospatial Information Advisory Council as defined in 90-1-405, MCA.

(2) "Grant criteria" mean any specific grant conditions set forth by the state library, with the advice of the council, pertaining to subject matter of grant applications, applicable standards, submittal of applications, or other conditions that define the nature of applications that will be accepted.

~~(3) "Grant review subcommittee" means a subcommittee established by the council that, together with the state library, will formulate grant criteria consistent with the purpose of the Montana Land Information Act, and review grant applications.~~

~~(4) "Land information plan subcommittee" means a subcommittee established by the council that, together with the state library, will formulate land information plans.~~

~~(5)~~ (3) "Montana spatial data infrastructure" or "MSDI" means digitally formatted ~~land~~ geospatial information, policies, best practices, and data products that ~~is~~ are identified by the council as necessary to meet the ~~land~~ geospatial information needs of the state of Montana and its citizens. The MSDI can and does include data themes identified in the National Spatial Data Infrastructure and where

collaborative opportunities exist, presents an opportunity to support framework data for the nation.

~~(6)~~ (4) "State agency" means any entity of the executive branch, legislative branch, or judicial branch, including the university system as defined in 2-15-102, MCA.

(7) remains the same but is renumbered (5).

~~(8)~~ (6) "Theme stewards" means those agencies or organizations recognized by the council as having responsibility for leading and promoting land geospatial information, geospatial technology, and/or geographic information systems (GIS) that is are considered part of the Montana spatial data infrastructure.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

REASON: These changes are required by statute and mirror the revised language and terms as used in the statute.

10.102.9104 ANNUAL LAND GEOSPATIAL INFORMATION PLAN

(1) ~~Annual land~~ A geospatial information plans will be developed to meet the purpose of the Montana ~~Land Geospatial~~ Information Act, including the coordination, creation, collection, maintenance, integration, or dissemination of MSDI themes, geospatial standards, or other associated work.

(2) Theme stewards may provide to the ~~land information plan subcommittee council~~ suggested specific goals and objectives relating to the theme they represent ~~for the next fiscal year~~.

~~(3)~~ (4) If a rewrite or updates are necessary, the state library will shall prepare ~~its suggested goals and objectives for the same time period~~, and shall provide the land geospatial information plan subcommittee and the budget necessary to carry out these duties and responsibilities. ~~During the same period the state library will ask seek for public comment on changes to the plan. goals and objectives for the next fiscal year's land plan. By November 1 of each fiscal year, the state library with advice from the land information plan subcommittee, shall develop a draft land information plan for the next fiscal year.~~ The plan will shall include specific goals and objectives based upon input from theme stewards, the state library and comments received during the public comment period along with a budget for the state library's duties and responsibilities as defined in 90-1-404, MCA. ~~The state library shall submit the draft plan to the council and the council shall advise the state library on recommended changes to the draft plan and the library's budget.~~

~~(4)~~ (3) By ~~December 15~~ September 1 of each fiscal year, the state library will shall complete a review of the land geospatial information plan, and submit the plan to the state library commission for approval. ~~Upon approval by the library commission the state library shall publish the final plan on the library's web site.~~

(5) The state library will seek public comment on the plan.

(6) The state library will submit the draft plan to the council and the council will advise the state library on recommended changes to the draft plan and the library's budget.

AUTH: 90-1-413, MCA
IMP: 90-1-404, MCA

REASON: Revised legislation no longer requires the State Library to draft an annual land plan. The proposed rules allow more flexibility.

10.102.9105 ESTABLISHING THE GRANT APPLICATION AND GRANTING PROCESS (1) ~~By January 15 of each fiscal year, the state library, with advice from the grant review subcommittee, shall will~~ develop the grant criteria for the fiscal year ~~beginning on the following July 1,~~ based upon the goals and objectives from the land geospatial information plan, and ~~shall will~~ publish the grant criteria, grant application forms, and instructions for submitting grant applications to the library's web site. Grant criteria ~~may will~~ allow for two-year funding and may allow for multiyear projects.

(2) Grant applications received by the state library ~~before 5:00 p.m. on February 15~~ will be considered for funding.

~~(3) Upon receipt, the state library will advise applicants of incomplete grant applications. Applications initially incomplete, but completed and received by March 1, will be evaluated for possible funding.~~

(4) ~~(3)~~ By May 1 of each fiscal even-numbered year, the state library, based on grant criteria and with advice of the grant review subcommittee council, will shall identify and prioritize grant applications that meet the grant criteria and warrant approval ~~and shall rank them in priority order~~. Previously approved multiyear projects ~~may must~~ be placed at the top of the priority list. The ~~grant review subcommittee chair~~ state library shall will distribute the results to the council, ~~consider additional comments, and report those comments to the state library if necessary.~~

~~(5)~~ ~~(4)~~ By May 15 of each fiscal even-numbered year, the state library commission, with advice of the council ~~grant review subcommittee~~, will shall finalize the ~~priority order of the~~ award grants.

~~(6) The state library shall disburse available grant funds to grant applicants in the order of priority set forth under (5). Available grant funds in excess of the funding necessary for the applications that meet the grant criteria shall be added to the available grant funds for the subsequent grant period.~~

AUTH: 90-1-413, MCA
IMP: 90-1-404, MCA

REASON: Revised rules will allow for a biennial grant application period rather than requiring grants to be awarded annually. This change is more efficient of staff and applicants and by reducing the work required to administer a grant application process and eliminates the work required to grant extensions to grantees who typically require two years to complete grants.

5. The State Library proposes to repeal the following rules:

10.102.9103 APPOINTMENT OF LAND INFORMATION PLAN AND GRANT
REVIEW SUBCOMMITTEES

AUTH: 90-1-413, MCA
IMP: 90-1-404, MCA

REASON: A subcommittee is no longer necessary given the new make-up of the committee.

10.102.9106 MONITORING THE MONTANA LAND INFORMATION
ACCOUNT FUNDS

AUTH: 90-1-413, MCA
IMP: 90-1-404, MCA

REASON: This rule serves no practical purpose.

6. 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: Genevieve Lighthiser, Montana State Library, 1201 11th Avenue, Helena, Montana, 59620; telephone (406) 444-3384; fax (406) 444-0266; TTY/TDD: (406) 444-4799; or email glighthiser@mt.gov, and must be received no later than 5:00 p.m., December 1, 2023.

7. Robyn Scribner, Montana State Library Commission Chair, has been designated to preside over and conduct this hearing.

8. 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 paragraph 6 or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by Jennie Stapp, State Librarian on October 4, 2023.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Jennie Stapp
Jennie Stapp
Rule Reviewer

/s/ Robyn Scribner
Robyn Scribner
Commission Chair
Montana State Library

Certified to the Secretary of State October 24, 2023.