

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 44.14.301, 44.14.302, and)
44.14.304 through 44.14.311)
pertaining to fees charged by the)
Records and Information)
Management Division)

TO: All Concerned Persons

1. On September 24, 2015, the Secretary of State published MAR Notice No. 44-2-210 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1473 of the 2015 Montana Administrative Register, Issue Number 18.

2. The Secretary of State has amended the following rules as proposed: ARM 44.14.302, 44.14.304 through 44.14.306, 44.14.308, and 44.14.311.

3. The Secretary of State has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

44.14.301 FEES FOR 16MM MICROFILM SERVICES (1) remains as proposed.

- | | |
|---|------------|
| (a) Auto Exposure <u>or Scanning</u> | \$.10 |
| <u>(b) Microfilm Services – Camera Rotary (all sizes)</u> | <u>.15</u> |
| (b) remains as proposed, but is renumbered (c). | |

AUTH: 2-15-405, MCA

IMP: ~~2-6-203, 2-6-211~~, 2-6-1101, 2-6-1114, MCA

44.14.307 FEES FOR JACKET LOADING/TITLING (1) remains as proposed.

- | | |
|--|--------------------|
| (a) 16mm, each 5 channel jacket | \$ 0.88 |
| (b) 35mm, 1 and 2 channel jacket (each) | 0.90 |
| (c) (a) jacket title (each) | \$0.90 |
| <u>(b) jacket loading (each)</u> | <u>.90</u> |

AUTH: 2-15-405, MCA

IMP: ~~2-6-203, 2-6-211~~, 2-6-1101, 2-6-1114, MCA

44.14.309 MISCELLANEOUS SUPPLIES (1) Fees for ~~the following filming~~ supplies and postage/freight will be as charged by the supplying vendor:

- (a) and (b) remain as proposed.
- ~~(c) fiche envelopes (1 box/1000)~~

~~(d)(c)~~ postage/freight
(d) miscellaneous supplies

AUTH: 2-15-405, MCA

IMP: ~~2-6-203, 2-6-211,~~ 2-6-1101, 2-6-1114, MCA

44.14.310 FEES FOR RECORDS CENTER SERVICES (1) remains as proposed.

(a) storage per cubic foot, per month \$ 0.33
(b) through (k) remain as proposed.

AUTH: 2-15-405, MCA

IMP: ~~2-6-211,~~ 2-6-1114, MCA

4. No member of the public commented on the rule notice. The Secretary of State received the following comments from Senator Dee L. Brown, the Chair of the State Administration and Veterans' Affairs Interim Committee.

COMMENT: Chair Brown asked, "[U]nder section 44.14.301 is there a reason for wild swings in some of the charges, in other words, why not just a solid percentage increase throughout the fee structure? Regarding the new \$25/hour charges, what happened previously in this category? What prompted this addition to fees when it wasn't in rule previously? Also, is this raising of fees normally through the rule making or disclosed during appropriations?"

RESPONSE: The Secretary of State undertook a full cost analysis that took several months. This cost analysis was completed for each line item at Records Management. The rates are based on calculations that included employee wages, the cost per square foot to lease the building, and the cost of materials.

The new fees are implemented because there is a service attached to each, and the Legislature mandates that the fees charged should be commensurate with costs.

The \$25/per hour fee is the average cost of Records Center staff labor. In many instances, the charge will be by the quarter hour (\$6.25 per 15 minutes).

Searches and file retrievals take much less than 15 minutes in most instances (\$1.20 per) and the Secretary of State still wanted those fees as low as, if not lower than, surrounding states.

In the cost analysis, the lease of the building was also a factor, and the charge for the lease has increased over the years. Some materials that are purchased from vendors (boxes, film supplies) have also increased nearly 200% in the last year alone. An average across-the-board increase in fees could not be justified because some materials did not increase as much as others. The Secretary of State tries to sell the materials for the price they are purchased in order to keep prices as low as possible for all agencies.

Since this agency is an enterprise fund, and has explicit authority to charge fees for services commensurate with costs, it is not part of the appropriations process.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 2nd day of November, 2015.