Copyright Warnings and Notices for Interlibrary Loan

Libraries must include a notice of copyright that appears on copies reproduced by the library under 17 U.S.C. Sec. 108.1

The wording is not given by law.

Suggested Notice to include when making copies for patrons

“The work from which this copy was made included the following copyright notice: ____________________”

[if available] OR

“The work from which this copy was made did not include a formal copyright notice. This work may be protected under U.S. Copyright Law (Title 17, U.S. Code), which governs reproduction, distribution, public display, and certain other uses of protected works. Uses may be allowed with permission from the rightsholder, or if the copyright on the work has expired, or if the use is “fair use” or within another exemption. The user of this work is responsible for determining lawful uses.”

Suggested wording from
the Copyright Management Center, Indiana University
http://www.copyright.iupui.edu/dmcanotice.html

Interlibrary Loan Code for the United States
http://www.ala.org/ala/rusa/rusaprotools/referenceguide/interlibrary.htm

Interlibrary Loan Code for the United States Explanatory Supplement
For Use with the Interlibrary Loan Code for the United States (January 2001)
http://www.ala.org/ala/rusa/rusaprotools/referenceguide/interlibraryloancode.htm

1 17 U.S.C. Sec. 108(3) "the reproduction or distribution of the work includes a notice of copyright that appears on the copy or phonorecord that is reproduced under the provisions of this section, or includes a legend stating that the work may be protected by copyright if no such notice can be found on the copy or phonorecord that is reproduced under the provisions of this section."
§ 201.14 Warnings of copyright for use by certain libraries and archives.

(a) Definitions. (1) A Display Warning of Copyright is a notice under paragraphs (d)(2) and (e)(2) of section 108 of title 17 of the United States Code as amended by Pub. L. 94–553. As required by those sections the “Display Warning of Copyright” is to be displayed at the place where orders for copies or phonorecords are accepted by certain libraries and archives.

(2) An Order Warning of Copyright is a notice under paragraphs (d)(2) and (e)(2) of section 108 of title 17 of the United States Code as amended by Pub. L. 94–553. As required by those sections the “Order Warning of Copyright” is to be included on printed forms supplied by certain libraries and archives and used by their patrons for ordering copies or phonorecords.

(b) Contents. A Display Warning of Copyright and an Order Warning of Copyright shall consist of a verbatim reproduction of the following notice, printed in such size and form and displayed in such manner as to comply with paragraph (c) of this section:

NOTICE WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of copies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

(c) Form and manner of use. (1) A Display Warning of Copyright shall be printed on heavy paper or other durable material in type at least 18 points in size, and shall be displayed prominently in such manner and location as to be clearly visible, legible, and comprehensible to a casual observer within the immediate vicinity of the place where orders are accepted.

(2) An Order Warning of Copyright shall be printed within a box located prominently on the order form itself, either on the front side of the form or immediately adjacent to the space calling for the name or signature of the person using the form. The notice shall be printed in type size no smaller than that used predominantly throughout the form, and in no case shall the type size be smaller than 8 points. The notice shall be printed in such manner as to be clearly legible, comprehensible, and readily apparent to a casual reader of the form.

[42 FR 59265, Nov. 16, 1977]

Notice at Interlibrary Loan Order Desk and on Order Forms for Copies

Libraries are required to include the exact notice show “Notice Warning Concerning Copyright Restrictions” at ILL desks or other desks where orders for copies are accepted and on order forms, of at least 18 point type, on durable material and prominently displayed. 37 C.F.R. 201.14
CONTU Guidelines on Photocopying under Interlibrary Loan Arrangements
["Rule of Five"]

National Commission on New Technological Uses of Copyright Works (CONTU)

Guidelines for the Proviso of Subsection 108(g)(2)
1. As used in the proviso of subsection 108(g)(2), the words "... such aggregate quantities as to substitute for a subscription to or purchase of such work" shall mean:
   (a) with respect to any given periodical (as opposed to any given issue of a periodical), filled requests of a library or archives (a "requesting entity") within any calendar year for a total of six or more copies of an article or articles published in such periodical within five years prior to the date of the request. These guidelines specifically shall not apply, directly or indirectly, to any request of a requesting entity for a copy or copies of an article or articles published in any issue of a periodical, the publication date of which is more than five years prior to the date when the request is made. These guidelines do not define the meaning, with respect to such a request, of "...such aggregate quantities as to substitute for a subscription to [such periodical]."
   (b) With respect to any other material described in subsection 108(d), including fiction and poetry), filled requests of a requesting entity within any calendar year for a total of six or more copies or phonorecords of or from any given work (including a collective work) during the entire period when such material shall be protected by copyright.

2. In the event that a requesting entity:
   (a) shall have in force or shall have entered an order for a subscription to a periodical, or
   (b) has within its collection, or shall have entered an order for, a copy of phonorecord of any other copyrighted work, materials from either category of which it desires to obtain by copy from another library or archives (the "supplying entity"), because the material to be copied is not reasonably available for use by the requesting entity itself, then the fulfillment of such request shall be treated as though the requesting entity made such copy from its own collection. A library or archives may request a copy or phonorecord from a supplying entity only under those circumstances where the requesting entity would have been able, under the other provisos of section 108, to supply such copy from materials in its own collection.

3. No request for a copy or phonorecord of any materials to which these guidelines apply may be fulfilled by the supplying entity unless such request is accompanied by a representation by the requesting entity that the request was made in conformity with these guidelines.

4. The requesting entity shall maintain records of all requests made by it for copies or phonorecords of any materials to which these guidelines apply and shall maintain records of the fulfillment of such requests, which records shall be retained until the end of the third complete calendar year after the end of the calendar year in which the respective request shall have been made.

5. As part of the review provided for in subsection 108(i), these guidelines shall be reviewed not later than five years from the effective date of this bill.

These guidelines do not have the force of law.
Sample permission request for additional ILL article copies (beyond "Rule of Five")

Dear Sir or Madam:

In reviewing our 2004 Interlibrary Loan periodical requests, we note that we have received copies of more than the allowable five (5) articles within a five-year publication period from several periodical titles you publish.

Guidelines from CONTU (National Commission on New Technological Uses of Copyrighted Works) indicate that libraries must pay a copyright royalty for receiving in excess of five copies of articles from a single periodical title over the last five years, if required by the publisher. Normally we pay copyright through the Copyright Clearance Center, but your journal is not in their database. Would you please indicate if we owe any copyright fee or what your royalty fees are and provide an invoice for the amount.

The references for which we need copyright royalty information are as follows:

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1.

For your convenience, you may fax this information to us at the above number or email the information to me at email address.

Sincerely,

__________________________________________________________

Copyright Clearance Center
(easy way to pay for most permissions)

http://www.copyright.com

- go to "services" to find Interlibrary Loan