

ENVIRONMENTAL QUALITY

CHAPTER 4

PROCEDURAL RULES

Subchapter 7

Environmental Impact Statement--Fees

- | | | |
|------|----------|---|
| Rule | 17.4.701 | Fees: Determination of Authority to Impose |
| | 17.4.702 | Fees: Determination of Amount |
| | 17.4.703 | Use of Fee |
| | | Rules 17.4.704 through 17.4.719 reserved |
| Rule | 17.4.720 | Fee Assessment Categories: General Requirement |
| | 17.4.721 | Fee Assessment Categories: Hard Rock |
| | 17.4.722 | Fee Assessment Categories: Open Cut |
| | 17.4.723 | Fee Assessment Categories: Strip and Underground Mine Siting |
| | 17.4.724 | Fee Assessment Categories: Strip and Underground Mine Reclamation |
| | 17.4.725 | Fee Assessment: Departmental Assistance to Applicants |

Subchapter 7

Environmental Impact Statement--Fees

17.4.701 FEES: DETERMINATION OF AUTHORITY TO IMPOSE

(1) Whenever an application for a lease, permit, contract, license, or certificate is expected to result in the agency incurring expenses in excess of \$2,500 to compile an EIS, the applicant is required to pay a fee in an amount the agency reasonably estimates, as set forth in this rule, will be expended to gather information and data necessary to compile an EIS.

(2) The agency shall determine within 30 days after a completed application is filed whether it will be necessary to compile an EIS and assess a fee as prescribed by this rule. If it is determined that an EIS is necessary, the agency shall make a preliminary estimate of its costs. This estimate must include a summary of the data and information needs and the itemized costs of acquiring the data and information, including salaries, equipment costs and any other expense associated with the collection of data and information for the EIS.

(3) Whenever the preliminary estimated costs of acquiring the data and information to prepare an EIS total more than \$2,500, the agency shall notify the applicant that a fee must be paid and submit an itemized preliminary estimate of the cost of acquiring the data and information necessary to compile an EIS. The agency shall also notify the applicant to prepare and submit a notarized and detailed estimate of the cost of the project being reviewed in the EIS within 15 days. In addition, the agency shall request the applicant to describe the data and information available or being prepared by the applicant which can possibly be used in the EIS. The applicant may indicate which of the agency's estimated costs of acquiring data and information for the EIS would be duplicative or excessive. The applicant must be granted, upon request, an extension of the 15-day period for submission of an estimate of the project's cost and a critique of the agency's preliminary EIS data and information accumulation cost assessment. (History: 75-1-202, MCA; IMP, 75-1-202, 75-1-203, 75-1-205 through 75-1-207, MCA; NEW, 1989 MAR p. 398, Eff. 1/27/89; TRANS, from DHES, 1996 MAR p. 1497.)

17.4.702 FEES: DETERMINATION OF AMOUNT (1) After receipt of the applicant's estimated cost of the project and analysis of an agency's preliminary estimate of the cost of acquiring information and data for the EIS, the agency shall notify the applicant within 15 days of the final amount of the fee to be assessed. The fee assessed must be based on the projected cost of acquiring all of the information and data needed for the EIS.

If the applicant has gathered or is in the process of gathering information and data that can be used in the EIS, the agency shall only use that portion of the fee that is needed to verify the information and data. Any unused portion of the fee assessed may be returned to the applicant within a reasonable time after the information and data have been collected or the information and data submitted by the applicant have been verified, but in no event later than the deadline specified in these rules. The agency may extend the 15-day period provided for review of the applicant's submittal but not to exceed 45 days if it believes that the project cost estimate submitted is inaccurate or additional information must be obtained to verify the accuracy of the project cost estimate. The fee assessed must not exceed the limitations provided in 75-1-203(2), MCA.

(2) If an applicant believes that the fee assessed is excessive or does not conform to the requirements of this rule or Title 75, chapter 1, part 2, MCA, the applicant may request a hearing pursuant to the contested case provisions of the Montana Administrative Procedure Act. If a hearing is held on the fee assessed as authorized by this subsection, the agency shall proceed with its analysis of the project wherever possible. The fact that a hearing has been requested is not grounds for delaying consideration of an application except to the extent that the portion of the fee in question affects the ability of the department to collect the data and information necessary for the EIS. (History: 75-1-202, MCA; IMP, 75-1-202, 75-1-203, 75-1-205 through 75-1-207, MCA; NEW, 1989 MAR p. 398, Eff. 1/27/89; TRANS, from DHES, 1996 MAR p. 1497.)

17.4.703 USE OF FEE (1) The fee assessed hereunder may only be used to gather data and information necessary to compile an EIS. No fee may be assessed if an agency intends only to compile an EA or a programmatic review. If a department collects a fee and later determines that additional data and information must be collected or that data and information supplied by the applicant and relied upon by the agency are inaccurate or invalid, an additional fee may be assessed under the procedures outlined in these rules if the maximum fee has not been collected.

(2) Whenever the agency has completed work on the EIS, it shall submit to the applicant a complete accounting of how any fee was expended. If the money expended is less than the fee collected, the remainder of the fee shall be refunded to the applicant without interest within 45 days after work has been completed on the final EIS. (History: 75-1-202, MCA; IMP, 75-1-202, 75-2-203, 75-1-205 through 75-1-207, MCA; NEW, 1989 MAR p. 398, Eff. 1/27/89; TRANS, from DHES, 1996 MAR p. 1497.)

Rules 17.4.704 through 17.4.719 reserved

17.4.720 FEE ASSESSMENT CATEGORIES: GENERAL REQUIREMENT

(1) The overall estimated cost of a project submitted by the applicant, as required by this rule shall include an itemized list of related costs showing the various component cost breakdown and how the costs were calculated for each component category. The functions of the department have been broken into two categories: reclamation and state lands, below. If any of the categories listed are not applicable it shall be so noted and explained if necessary. The list of categories is not exclusive but is intended as a basic guide. (History: 75-1-202, MCA; IMP, 75-1-202, MCA; NEW, Eff. 4/15/76; TRANS, from DSL, 1996 MAR p. 1497.)

17.4.721 FEE ASSESSMENT CATEGORIES: HARD ROCK The Hard Rock Act fee assessment categories are as follows:

(1) Exploration related categories include, but are not limited to: access rights; land acquisition; application information and preparation; bonding; license fees; resource data inventories; professional services and evaluations; prospecting facilities and construction; equipment; associated disturbance including road construction and renovations; blasting; core drilling; removal and deposition of overburden or other materials; mineral extraction and haulage; water and erosion control measures; and all other exploration activities.

(2) Reclamation related categories include, but are not limited to: equipment; topsoil and spoil handling; backfilling; regrading; revegetation activities; water and erosion control measures; bulkheads and safety features; and all other reclamation activities.

(3) Contingency costs associated with the project include, but are not limited to the categories listed below: salaries, wages, insurance, fringe benefits, retainers, rents, premiums, and all other costs associated with the project.

(4) Mining related activities include, but are not limited to: access rights; land acquisition; application information and preparation; permit fee; bonding; resource data inventories; professional services and evaluations; mining facilities and equipment; blasting; removal and deposition of overburden mine wastes or other materials; associated disturbances including road construction and renovations, leach dumps, conveyor systems, mineral excavation, and haulage; water and air pollution controls and all other mining activities. (History: 75-1-202, MCA; IMP, 75-1-202, MCA; NEW, Eff. 4/15/76; TRANS, from DSL, 1996 MAR p. 1497.)

17.4.722 FEE ASSESSMENT CATEGORIES: OPEN CUT The Open Cut Mining Act categories are as follows:

(1) Costs associated with mining, include but are not limited to: pre-mining activities; access rights; land acquisition; application information and preparation; contract fees; resource data inventories; professional services and evaluations; bonding; equipment; road construction and renovation; core drilling; blasting; removal and deposition of overburden and other materials; mineral extraction and haulage and all other mining activities.

(2) Costs associated with reclamation, include but are not limited to: equipment; topsoil salvage, haulage and redistribution; problem spoil or waste handling procedures; backfilling; regrading; revegetation activities; erosion control measures and all other reclamation activities.

(3) Contingency costs associated with the project, include but are not limited to: salaries; wages; fringe benefits; insurance; retainers; rents; premiums and all other costs associated with the project. (History: 75-1-202, MCA; IMP, 75-1-202, MCA; NEW, Eff. 4/15/76; TRANS, from DSL, 1996 MAR p. 1497.)

17.4.723 FEE ASSESSMENT CATEGORIES: STRIP AND UNDERGROUND MINE SITING The Strip and Underground Mine Siting Act categories are as follows:

(1) Costs associated with the siting of facilities include but are not limited to: land acquisition; construction and other disturbance activities; blasting; equipment; all facilities, railroad loops and spurs; road construction and renovation; power and transmission lines; resource data inventories covering the proposed mining acreage for the life of the operation; erection of equipment; professional services and evaluations; application information and preparation; permit fee; bonding; waste disposal areas; treatment ponds; water and pollution control measures and all other cost categories related to facility siting projects.

(2) Costs associated with dismantling and removal of facilities and reclamation of all disturbances shall be identified and itemized. The categories include but are not limited to: facility removal activities; necessary equipment; topsoil salvage storage, haulage, and redistribution; problem material burial; waste disposal areas; backfilling; regrading; water and pollution control measures; revegetation activities; testing and monitoring for bond release; and all other facility and associated disturbance reclamation activities.

(3) Contingency costs associated with the project, include but are not limited to: salaries; wages; fringe benefits; insurance; rents; premiums; retainers; and all other costs associated with the project. (History: 75-1-202, MCA; IMP,

75-1-202, MCA; NEW, Eff. 4/15/76; TRANS, from DSL, 1996 MAR p. 1497.)

17.4.724 FEE ASSESSMENT CATEGORIES: STRIP AND UNDERGROUND MINE RECLAMATION The Strip and Underground Mine Reclamation Act categories are as follows:

(1) Prospecting categories include, but are not limited to: access rights; land acquisition; application information and preparation; bonding; license fees; resource data inventories; professional services and evaluations; equipment; all disturbances including road construction and renovations; core drilling; blasting; removal and deposition of overburden and other materials; mineral extraction and haulage; water and pollution control measures; and all other prospecting activities.

(2) Costs associated with prospecting reclamation include, but are not limited to: equipment; topsoil salvage, haulage and redistribution; problem spoil; cuttings or waste handling procedures; backfilling; regrading; core hole plugging; sealing of artesian wells or other aquifers; subsidence controls; water and pollution control measures; revegetation activities and all other reclamation activities.

(3) Contingency costs associated with the prospecting project include, but are not limited to: salaries; wages; fringe benefits; insurance; rents; premiums; retainers; and all other costs associated with the project.

(4) Costs associated with facility construction include, but are not limited to: land acquisition; construction and other disturbance activities; blasting; equipment; all facilities, railroad loops and spurs; road construction and renovation; power and transmission lines; resource data inventories on the proposed facility; professional services and evaluations; application information and preparation; erection sites; waste disposal areas; treatment ponds; water and pollution control measures; and other facility related component costs.

(5) Costs associated with mining include, but are not limited to: land acquisition; application information and preparation; permit fee; bonding; resource data inventories covering the future mining acreage; professional services and evaluations; equipment; road construction and renovation; waste disposal areas; treatment ponds; water and erosion control measures; blasting; overburden removal and deposition; mineral extraction, haulage, and further processing prior to shipment; and all other mining related activities.

(6) Costs associated with mining reclamation include, but are not limited to: equipment; topsoil salvage; haulage and redistribution; problem soil; spoil and debris burial; treatment procedures; highwall reduction; backfilling and subsidence

controls; regrading; revegetation activities; water and erosion control measures; post mining spoil, vegetation, and wildlife testing and monitoring for bond release; dismantling and removal of facilities; and all other costs associated with reclamation of facility site and mining disturbance.

(7) Contingency costs associated with the mining project include but are not limited to: salaries; wages; fringe benefits; insurance; rents; premiums; retainers; and all other costs associated with the project.

(8) Coal conservation costs are any additional costs to the mining project incurred because of the coal conservation requirements shall be submitted by the applicant. The various costs should be broken down and itemized under the various categories. All categories, including but not limited to those listed below, should be addressed. The categories are: mining of additional seams; removal of pit wedges; change in mining plans and all other related coal conservation categories. (History: 75-1-202, MCA; IMP, 75-1-202, MCA; NEW, Eff. 4/15/76; TRANS, from DSL, 1996 MAR p. 1497.)

17.4.725 DEPARTMENTAL ASSISTANCE TO APPLICANTS (1) The department will make every effort to assist the applicant in preparing an estimated cost of a project. Furthermore, the department will make appropriate personnel available to the applicant to discuss the department's estimated cost of compiling the information and data necessary for the EIS. After a fee has been collected and work on the compilation of data and information necessary for the EIS is begun, it is the intention of the department to return all unused or unneeded portions of the fee as promptly as possible. (History: 75-1-202, MCA; IMP, 75-1-202, MCA; NEW, Eff. 4/15/76; TRANS, from DSL, 1996 MAR p. 1497.)

