



ADMINISTRATIVE RULES OF MONTANA



8.104.211 IMPLEMENTATION OF APPROVED IMPACT PLAN

- (1) The Hard-Rock Mining Impact Account may receive direct industry monies, in accordance with the commitments made by the developer in an approved impact plan, and may receive money from the developer's financial guarantee to ensure payments consistent with the developer's commitments. If an approved plan provides that impact payments are to be made through the board, or if the board receives monies through the financial guarantee, the board will deposit these monies into the account, and will distribute the monies as provided by the impact plan to the county treasurer in the affected county to be credited to the impact fund of the affected local government unit. If the entire sum is not requested by, or under the plan committed to, the affected local government units, the board will revert the remainder, if any, to the developer.
- (2) In implementing an approved impact plan, the affected local government units and the mineral developer shall establish procedures acceptable to the board for transmitting payments and providing information required by statute or rule. The procedures and information must include the following:
 - (a) Each local government unit entitled to receive grants or tax prepayments from a mineral developer as provided by an approved impact plan must establish an impact fund within its budget. The fund must be established and maintained in a manner consistent with accepted budgeting and accounting practices. The impact fund budget must reflect tax prepayments, grants or other impact revenues to be received from the developer and the expenditures contemplated by the approved impact plan. Within the fund, tax prepayments must be distinguished from grants or contributions by a separate account, for purposes of identifying future tax crediting obligations.
 - (b) The governing body shall provide the board with a copy of that portion of the adopted budget or budget amendment that is related to the impact plan and includes the impact fund, a copy of the resolution by which the governing body adopted the budget or budget amendment, and, upon request, the year-end budget report.
 - (c) The affected local governing body may request that the developer make the payments provided for in the approved impact plan and in the budget or budget amendment of the local government unit. The governing body shall send to the board a copy of each payment request. Each request must identify the name of the local government unit making the request; the date of the request; the name of the mineral developer responsible for making the payment; the amount of the requested payment; whether the request is for a tax prepayment, grant, or other funds; the purpose of the payment as specified in the approved impact plan; and the subaccount within the impact fund for which the payment is intended. The request must refer to the item on the payment schedule or to the page or pages in the approved impact plan on which the financial commitment and the purpose of the

expenditure are specified. The request must bear the signatures of the governing body of the affected local government unit.

- (d) The board will transmit payments made through the board upon written request from the governing body of the affected local government unit and upon receipt of that documentation specified in (c) and in ARM 8.104.211B.
 - (e) If the plan provides that payment is to be made by the developer directly to the county treasurer to be credited to the affected local government unit, the developer shall notify the board when the payment is made and the county treasurer shall notify the board when the payment is received. Each notice must contain or reference the information required in (c). Forms for requesting, making or acknowledging receipt of payment are available from the board.
 - (f) The mineral developer and the governing body of the affected local government unit shall provide the board with a copy of any facility impact bond agreement and guarantee entered into as a result of an approved impact plan within 15 days of their executing the agreement and guarantee. The agreement and guarantee become part of the approved impact plan.
- (3) As required by 90-6-307(11) and (15), MCA, the board will notify the Department of Environmental Quality if the mineral developer fails to comply, or resumes compliance, with the terms of the approved impact plan or with the requirements of Title 90, chapter 6, parts 3 and 4 of the Montana Code Annotated.

Authorizing statute(s): 90-6-305, MCA

Implementing statute(s): 90-6-307, 90-6-310, MCA

History: NEW, 1982 MAR p. 2140, Eff. 12/17/82; AMD, 1986 MAR p. 1826, Eff. 10/31/86; AMD, 1994 MAR p. 3010, Eff. 10/14/94; AMD, 2008 MAR p. 945, Eff. 5/9/08.