

Fed. Mine Safety and Health Review Commission

§ 2702.7

(e) For purposes of paragraphs (b) through (d) of this section, whenever it reasonably appears that a requester, or a group of requesters acting in concert, is attempting to break down a single request into a series of requests relating to the same subject matter for the purpose of evading the assessment of fees, such requests will be aggregated and fees assessed accordingly.

[54 FR 3022, Jan. 23, 1989, as amended at 62 FR 55336, Oct. 24, 1997]

§ 2702.6 Fee schedule.

(a) *Search fee.* The fee for searching for information and records shall be \$15 per hour for clerical time and \$30 per hour for professional time. Fees for searches of computerized records shall be the actual cost to the Commission but shall not exceed \$300 per hour. This fee includes machine time and that of the operator and clerical personnel. The fee for computer printouts shall be \$.40 per page. If search charges are likely to exceed \$25, the requester shall be notified of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Time spent on unsuccessful searches shall be fully charged.

(b) *Review fee.* The review fee shall be charged for the initial examination by the Executive Director of documents located in response to a request in order to determine if they may be withheld from disclosure, and for the deletion of portions that are exempt from disclosure, but shall not be charged for review by the Chairman or the Commissioners. See § 2702.3. The review fee is \$45 per hour.

(c) *Duplicating fee.* The copy fee for each page of paper up to 8½"×14" shall be \$.15 per copy per page. Any private section services required will be assessed at the charge to the Commission. The fee for copying computer tapes or discs, photographs, and other nonstandard documents will be the actual direct cost incurred by the Commission. If duplication charges are likely to exceed \$25, the requester shall be notified of the estimated amount of fees, unless the requester has indicated

in advance his willingness to pay fees as high as those anticipated.

[54 FR 3022, Jan. 23, 1989, as amended at 62 FR 55336, Oct. 24, 1997]

§ 2702.7 No fees; waiver or reduction of fees.

(a) No fees shall be charged to any requester, including commercial use requesters, if the anticipated cost of processing and collecting the fee would be equal to or greater than the fee itself. Accordingly, the Commission has determined that fees of less than \$10 shall be waived.

(b) Documents shall be furnished without any charge, or at a charge reduced below the fees otherwise applicable, if disclosure of the information is determined to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(1) The following six factors will be employed in determining when such fees shall be waived or reduced:

(i) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";

(ii) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding";

(iv) The significance of contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;

(v) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(vi) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily

§ 2702.8

in the commerial interest of the requester.”

(2) The Executive Director, upon request, shall determine whether a waiver or reduction of fees is warranted. Requests shall be made concurrently with requests for information under § 2702.3. Appeals of adverse decisions may be made to the Chairman within 5 working days. Determination of appeals will be made by the Chairman within 10 working days of receipt.

[54 FR 3022, Jan. 23, 1989, as amended at 62 FR 55336, Oct. 24, 1997]

§ 2702.8 Advance payment of fees; interest; debt collection procedures.

(a) Advance payment of fees generally will not be required. However, an advance payment (before work is commenced or continued on a request) may be required if the charges are likely to exceed \$250.

(b) Requesters who have previously failed to pay a fee charged in timely fashion (i.e., within 30 days of the date of billing) may be required first to pay that amount plus any applicable interest (or demonstrate that the fee has been paid) and then make an advance payment of the full amount of the estimated fee before the new or pending request is processed.

(c) Interest charges may be assessed on any unpaid bill starting on the 31st day following the day on which the billing was sent at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of billing.

(d) The Debt Collection Act of 1982, Pub. L. 97-365, including disclosure to consumer credit reporting agencies and the use of collection agencies will be utilized to encourage payment where appropriate.

[54 FR 3023, Jan. 23, 1989]

PART 2703—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.

2703.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

2703.2 Designated agency ethics official and alternate designated agency ethics official.

AUTHORITY: 5 U.S.C. 7301; 5 CFR 2638.202.

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SOURCE: 61 FR 39872, July 31, 1996, unless otherwise noted.

§ 2703.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Members and employees of the Federal Mine Safety and Review Commission are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635; the Commission's regulations at 5 CFR part 8401, which supplement the executive branch-wide standards; and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

§ 2703.2 Designated agency ethics official and alternate designated agency ethics official.

The Chairman shall appoint an individual to serve as the designated agency ethics official, and an individual to serve in an acting capacity in the absence of the primary designated agency ethics official (alternate designated agency ethics official), to coordinate and manage the Commission's ethics program.

PART 2704—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN COMMISSION PROCEEDINGS

Subpart A—General Provisions

Sec.

- 2704.100 Purpose of these rules.
- 2704.101 Definitions.
- 2704.102 Applicability.
- 2704.103 Proceedings covered.
- 2704.104 Eligibility of applicants.
- 2704.105 Standards for awards.
- 2704.106 Allowable fees and expenses.
- 2704.107 Rulemaking on maximum rates for attorney fees.
- 2704.108 Awards.
- 2704.109 Delegations of authority.

Subpart B—Information Required From Applicants

- 2704.201 Contents of application—in general.
- 2704.202 Contents of application—where the applicant has prevailed.
- 2704.203 Contents of application—where the Secretary's demand is substantially in excess of the judgment finally obtained and unreasonable.
- 2704.204 Confidential financial information.
- 2704.205 Documentation of fees and expenses.