

## SUBCHAPTER B—TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS

### PART 5—FEES FOR TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS

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AUTHORITY: 30 U.S.C. 957.

SOURCE: 52 FR 17516, May 8, 1987, unless otherwise noted.

#### § 5.10 Purpose and scope.

(a) This part establishes a system under which MSHA charges a fee for services provided under this subchapter. This part includes the management and calculation of these fees.

(b) The services for which fees are charged are—

(1) Application processing by engineers, technicians and other specialists (investigators), including administrative review of applications, analysis of drawings, technical evaluation, testing, test set up and tear down, consultation on applications and investigator travel, where necessary to process the application;

(2) Clerical services, computer tracking and status reporting, records control and security and document preparation directly supporting application processing;

(3) A proportionate share of management, administration and operation of the Approval and Certification Center which is in support of application processing; and

(4) Amortization of facility improvements and depreciation of buildings and equipment used for testing and evaluation or otherwise directly associated with application processing.

(c) Fees are not charged for:

(1) Technical assistance not related to processing an approval application;

(2) Technical programs including development of new technology programs;

(3) Participation in research conducted by other government agencies or private organizations;

(4) Regulatory review activities, including participation in the development of health and safety standards, regulations and legislation; and

(5) Post-approval product audits.

[52 FR 17516, May 8, 1987, as amended at 70 FR 46342, Aug. 9, 2005]

#### § 5.30 Fee calculation.

(a) MSHA bases fees under this subchapter on the direct and indirect costs of the services provided, except that part 15 fees for services provided to MSHA by other organizations may be set by those organizations.

(b) Except as provided in paragraphs (b)(1) and (2) of this section, upon completion of an initial administrative review of the application, the Approval and Certification Center will prepare a maximum fee estimate for each application and will begin the technical evaluation once the applicant authorizes the fee estimate.

(1) The applicant may pre-authorize an expenditure for services under this subchapter, and may further choose to pre-authorize either a maximum dollar amount or an expenditure without a specified maximum amount. All applications containing a pre-authorization statement will immediately be put in the queue for the technical evaluation upon completion of an initial administrative review. MSHA will concurrently prepare a maximum fee estimate for applications containing a statement pre-authorizing a maximum dollar amount, and will provide the applicant with this estimate. Where MSHA's estimated maximum fee exceeds the pre-authorized maximum dollar amount, the applicant has the choice of cancelling the action and paying for all work done up to the time of the cancellation, or authorizing MSHA's estimate.

(2) Under the Revised Acceptance Modification Program (RAMP), MSHA expedites applications for acceptance of minor changes to previously approved, certified, accepted, or evaluated products. The applicant must pre-