

## 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-

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authorize a fixed dollar amount, set by MSHA, for processing the application.

(c) If unforeseen circumstances are discovered during the evaluation, and MSHA determines that these circumstances would result in the actual costs exceeding either the pre-authorized expenditure or the authorized maximum fee estimate, as appropriate, MSHA will prepare a revised maximum fee estimate for completing the evaluation. The applicant will have the option of either cancelling the action and paying for services rendered or authorizing MSHA's revised estimate, in which case MSHA will continue to test and evaluate the product.

(d) If the actual cost of processing the application is less than MSHA's maximum fee estimate, MSHA will charge the actual cost.

[70 FR 46342, Aug. 9, 2005]

### § 5.40 Fee administration.

Applicants will be billed for all fees, including actual travel expenses, if any, when processing of the application is completed. Invoices will contain specific payment instructions, including the address to mail payments and authorized methods of payment.

[70 FR 46342, Aug. 9, 2005]

### § 5.50 Fee revisions.

Each fee schedule shall remain in effect for at least one year and be subject to revision at least once every three years.

## PART 6—TESTING AND EVALUATION BY INDEPENDENT LABORATORIES AND NON-MSHA PRODUCT SAFETY STANDARDS

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AUTHORITY: 30 U.S.C. 957.

SOURCE: 68 FR 36417, June 17, 2003, unless otherwise noted.

## 30 CFR Ch. I (7–1–06 Edition)

### § 6.1 Purpose and effective date.

This part sets out alternate requirements for testing and evaluation of products MSHA approves for use in gassy underground mines. It permits manufacturers of certain products who seek MSHA approval to use an independent laboratory to perform, in whole or part, the necessary testing and evaluation for approval. It also permits manufacturers to have their products approved based on non-MSHA product safety standards once MSHA has determined that the non-MSHA standards are equivalent to MSHA's applicable product approval requirements or can be modified to provide at least the same degree of protection as those MSHA requirements. The provisions of this part may be used by applicants for product approval under parts 18, 19, 20, 22, 23, 27, 33, 35, and 36. This rule is effective August 18, 2003.

### § 6.2 Definitions.

The following definitions apply in this part.

*Applicant.* An individual or organization that manufactures or controls the assembly of a product and applies to MSHA for approval of that product.

*Approval.* A written document issued by MSHA which states that a product has met the applicable requirements of part 18, 19, 20, 22, 23, 27, 33, 35, or 36. The definition is based on the existing definitions of "approval" in the parts specified above. It is expanded to include "certification" and "acceptance" because these terms also are used to denote MSHA approval.

*Approval holder.* An applicant whose application for approval of a product under part 18, 19, 20, 22, 23, 27, 33, 35 or 36 of this chapter has been approved by MSHA.

*Equivalent non-MSHA product safety standards.* A non-MSHA product safety standard, or group of standards, that is determined by MSHA to provide at least the same degree of protection as the applicable MSHA product approval requirements in parts 18, 19, 20, 22, 23, 27, 33, 35, and 36, or which in modified form provide at least the same degree of protection.

*Independent laboratory.* A laboratory that: