

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 performed in connection with testing, evaluation and approval of products manufactured for use in underground mines. Included in this part is the method used to calculate the fees and the manner in which the fee system is administered.

(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.

§ 5.20 Effective date.

This part is effective October 1, 1987. Applications for approval received by MSHA on or after that date will be subject to this part. Applications in process on that date will be processed under the appropriate fee provision in effect on the date of its receipt by MSHA.

§ 5.30 Fee calculation.

(a) A standard application fee is charged for initial administrative review of each approval application. This fee will be calculated based on the hourly compensation cost to conduct the review. The fee will be non-refundable. However, payment will be fully credited against subsequent charges for services rendered.

(b) The fee for testing, evaluation and approval of a product is based on the costs of the services provided. Each service provided for a group of similar products is assessed an hourly rate to cover direct and indirect costs. Direct costs are based on current compensation and benefit costs for technical and support personnel directly involved in providing the service. Indirect costs are based on a proportionate share of the cost of activities which support the approval service, including management and administration of the Approval and Certification Center, facility operating costs and amortization and depreciation of facilities and equipment.

(c) Except as provided in paragraphs (d) and (e), fees are charged on an hourly basis. An estimated maximum fee (cap) is determined on an individual

basis before the start of technical evaluation. When unforeseen circumstances discovered during evaluation would result in the hourly fee exceeding the cap, the applicant will have the option to cancel the action or receive a new maximum fee estimate. If the actual hourly fee for processing the application is less than the cap, the lesser amount is charged.

(d) The Stamped Notification Acceptance Program (SNAP) and Stamped Revision Acceptance (SRA) program are expedited programs allowing manufacturers to submit minor changes to previously approved products. A flat fee is charged for these services.

(e) Tests conducted by the Bureau of Mines for MSHA under part 15 are flat rate items. However, these fees will be included with hourly evaluation rates and billed out at the conclusion of the processing.

§ 5.40 Fee administration.

(a) Applicants must submit a check or money order for the application fee to MSHA Finance Branch, P.O. Box 25367, Denver Federal Center, Denver, Colorado 80225, at the time the application is submitted to the Approval and Certification Center. The check or money order must bear the “company assigned application number” of the application for approval. The application for approval must bear the check or money order number, amount of check, the date the payment was mailed to MSHA Finance Branch, and the company-assigned application number identical to the number placed on the check or money order.

(b) Applicants for SNAP and SRA services must submit the full fee to MSHA Finance Branch at the above address at the time the application is submitted to the Approval and Certification Center.

(c) Applicants for services for which an hourly fee is charged will be billed for the fee when processing of the action is completed. Actual travel expenses, if any, incurred in processing the application will be added. Invoices will contain specific payment instructions.

§ 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

Sec.

6.1 Purpose and effective date.

6.2 Definitions.

6.10 Use of independent laboratories.

6.20 MSHA acceptance of equivalent non-MSHA product safety standards.

AUTHORITY: 30 U.S.C. 957.

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

§ 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