

## 1.0 PURPOSE

This is the Approval and Certification Center (A&CC) policy for canceling investigations of applications.

## 2.0 SCOPE

This policy applies to all investigations of approval applications.

## 3.0 REFERENCES

APOL1015 Prioritizing Approval Applications

ASOP1017 Processing Approval Applications with Open QA&MTD Field Complaints

MEMORANDUM FOR APPROVAL APPLICANTS Approval Application Evaluation Process, Dated September 23, 2019 (Attached)

NOTICE FOR APPROVAL APPLICANTS Clarification of Approval Application Evaluation Process, Dated November 21, 2019 (Attached)

Note: This policy should be referenced in each Standard Application Procedure (ASAP) and each Standard Operation Procedure (ASOP) for processing approval-type applications.

## 4.0 DEFINITIONS

4.1. Application - A request to the A&CC that Information Processing Services Office (IPSO) has assigned an approval Project Analysis Report (PAR) number.

4.2. Disapproval Letter - A document MSHA sends to the Applicant notifying them MSHA has canceled the application. The document includes details of the discrepancies found during the investigation.

4.3. Discrepancy - A disagreement between the documentation or design of the equipment and the administrative or technical requirements for approval.

4.4. Discrepancy Letter - A document MSHA sends to the Applicant listing what is needed for MSHA to continue investigating an application.

4.5. Positive Contact – Any means of communication where the Applicant’s representative acknowledges receipt of the message. Examples include a phone call to the Applicant, an email with a read receipt, etc.

- 4.6. Priority Application - An application that meets the criteria listed in Sections 5.1.1, 5.1.2, 5.1.3, or 5.1.4 of APOL 1015. All other applications are non-priority applications.
- 4.7. Sample Request – A requirement from MSHA to the Applicant for samples. Samples may include tests, test data, product/machine, test samples, components, or the complete assembly for inspection.

## 5.0 POLICY

### 5.1. For non-priority applications:

- 5.1.1. MSHA will cancel the investigation if the applicant does not provide the requested samples within 90 days.
- 5.1.2. MSHA will cancel the investigation if any discrepancies exist in the application package that cannot be resolved in a reasonable time period, typically one week (7 calendar days).
- 5.1.3. With the approval of the Division Chief or Team Leader, the cancellation date for approval actions required to resolve a QA Action will be coordinated with the time allowed under the QA Action as per ASOP1017.
- 5.1.4. After the technical evaluation of the application, the Investigator and/or the Team Leader and/or Division Chief will call the Applicant and thoroughly discuss the discrepancies to ensure the applicant completely understands the issues. They will inform the Applicant that they have one week to correct the discrepancies, or the application will be canceled. Additionally, if the application is canceled, the Applicant may reapply after the discrepancies are corrected.
- 5.1.5. MSHA will issue a disapproval letter (cancellation letter), including a complete list of discrepancies applicable to the application.
- 5.1.6. The Division Chief has the final authority to extend the cancellation period. An extension should only be granted for unusual circumstances. The Division Chief will consider this on a case-by-case basis.

### 5.2. For priority applications:

- 5.2.1. MSHA will cancel the investigation if any discrepancies exist in the application package that cannot be resolved within 90 days of the discrepancy letter date. The discrepancy letter will state this requirement, along with the cancellation date.

- 5.2.2. With the approval of the Division Chief or Team Leader, the cancellation date for approval actions required to resolve a QA Action will be coordinated with the time allowed under the QA Action as per ASOP1017.
- 5.2.3. The investigator should do a complete review of the application, and the discrepancy letter should contain all discrepancies applicable to the application.
- 5.2.4. If the Applicant responds to a discrepancy letter that does not correct all of the discrepancies or if the response creates a new discrepancy, the original cancellation date still applies.
- 5.2.5. The Investigator will make positive contact with the Applicant's representative a minimum of one week and a maximum of two weeks before issuing a cancellation letter to notify the Applicant of MSHA's intent to cancel the application.
- 5.2.6. The Division Chief has the final authority to extend the cancellation period. An extension should only be granted for unusual circumstances. The Division Chief will consider this on a case-by-case basis.

## TITLE: Application Cancellation Policy

MSHA Mine Safety and Health Administration, Approval &amp; Certification Center

U.S. Department of Labor

Mine Safety and Health Administration  
Approval and Certification Center  
765 Technology Drive  
Triadelphia, West Virginia 26059

September 23, 2019

## MEMORANDUM FOR APPROVAL APPLICANTS

FROM: DENNIS FERLICH  
Chief, MSHA Approval and Certification Center

SUBJECT: Approval Application Evaluation Process

MSHA has recently received many comments regarding the approval process in place for processing applications from equipment manufacturers. To address your concerns we are instituting changes to improve the efficiency and effectiveness of the application review process.

Effective October 1, 2019, the Approval and Certification Center (A&CC) will no longer continue the current practice of issuing multiple discrepancy letters for individual approval applications. After an applicant approves a fee estimate, we will conduct a thorough review of the complete application and conduct or observe any required performance tests. If we do not find any discrepancies and your product passes the performance tests, we will issue you an approval.

If we find discrepancies or your product fails the required performance tests, we will issue a letter of disapproval and provide a full list of discrepancies and/or test failures. The disapproval letter will state, "Your application has been canceled for failure to meet the requirements as detailed in the enclosed list of discrepancies. You may reapply after discrepancies have been addressed. Your application will be treated as a new application, and the order of precedence for investigation and testing will be based on the date you resubmit your application."

These changes in procedures will improve the efficiency and effectiveness of our approval application evaluation process. It will also result in quicker assignment and review of all applications, ensure equal and fair treatment of all applicants, and place a higher level of responsibility on the applicants to provide complete and accurate initial packages. We will no longer be providing multiple reviews and repeated feedback on applications.

The A&CC offers free consultation prior to submission of an application where you may discuss your proposed design and obtain assistance in understanding the approval application evaluation process. We recommend that you take advantage of this free service to help you avoid making common errors that we typically find during the technical evaluation process.

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November 21, 2019

## NOTICE FOR APPROVAL APPLICANTS

## Clarification of Approval Application Evaluation Process

On September 23, 2019, we sent notice to you and other current approval applicants about proposed changes for our approval application evaluation process. The primary change was to establish a new cancellation policy to streamline the processing of applications and allow new applications to be reviewed more promptly and to not extend the process indefinitely.

We received feedback suggesting to us that additional clarification was necessary. The primary concern expressed was that there was no opportunity for manufacturers to provide additional information in response to the discrepancies prior to cancellation of the application.

For approval reviews where minor discrepancies are identified, our staff will contact you to discuss necessary changes. We will determine a reasonable period of time, based on the nature of the discrepancies, to allow applicants to submit changes and modifications to correct discrepancies. Because the complexity of the applications vary, this time period will be determined on a case-by-case basis. If discrepancies are not corrected within the time period allowed, your application will be canceled.

We appreciate your feedback and look forward to providing the opportunity to all applicants to participate in the product approval process. Thank you for expressing your concerns and giving us the opportunity to improve the efficiency and effectiveness of the application process and to work with you to improve the safety and health of miners.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis Ferlich", is written above the typed name.

Dennis Ferlich  
Center Chief  
MSHA Approval and Certification Center