

In addition to showing that the particular circumstances necessitating use of PAPRs occur occasionally and are beyond the control of the operator, proposed paragraph (b) requires the operator to revise the previously approved plan provisions to incorporate the provisions proposed in § 70.210(a)(1), (2) and (3).

Once approval is granted by the district manager, proposed paragraph (c)(1) through (3) sets out the requirements for the use of PAPRs. The operator will be required to notify, in writing or by electronic means, the district manager and the representative of miners within 24 hours of determining that current operating conditions necessitate use of PAPRs. This would enable MSHA to follow-up with an in-mine visit to verify the operating conditions under which PAPRs are being used and whether the operator is in full compliance with the letter of approval and with the provisions of proposed § 70.211(b)(1) and (2). It is the responsibility of mine management to ensure that PAPRs are worn for all required periods and to see that the conditions stipulated in the plan, which are necessary to protect miner health, are followed.

When PAPRs are used during MSHA compliance sampling, the determination of compliance with the applicable dust standard will be made in accordance with proposed § 70.218(a). For occupations under a PAPR protection program, compliance would be assumed if the equivalent concentration measurement, as determined in accordance with § 70.2 and as discussed under § 70.211, is less than the citation threshold value (CTV) listed in Table 70-2 that corresponds to the applicable dust standard in effect.

Unusual operating circumstances do not normally last for an extended period of time. Therefore, use of PAPRs for compliance purposes is limited to 30 consecutive days. The district manager may revoke the operator's authority to use PAPRs under special circumstances for failure to comply with this requirement. If the operator exceeds this time period or if respirable dust samples taken by either the operator or MSHA indicate miners are being overexposed, the operator must revise and verify the adequacy of the proposed plan parameters under the prevailing operating conditions. Comments are specifically requested on this issue.

Permitting the use of PAPRs to supplement existing engineering controls to protect individual miners under special circumstances as proposed is consistent with the intent of

the Mine Act and is in the best interest for miner health.

Section 70.213 through 70.214

Use of Administrative Controls

These sections would establish the requirements for using administrative controls as a supplementary control to maintain the personal work environment of the affected miners at a safe exposure level when MSHA has determined that further reduction in respirable dust concentrations cannot be achieved using all feasible engineering or environmental controls.

Section 70.213 Administrative Controls; Requirements for Approval

If the operator chooses to use administrative controls as a supplementary control measure, this proposed section would require the operator to submit a revision to the plan parameters to the district manager within five days of receipt of MSHA's written approval in accordance with proposed § 70.209(b). The proposed revision would specify the engineering controls that are capable of maintaining the environment of any occupation under administrative controls and the DO or another occupation designated by the district manager at or below the verification limits.

In addition to specifying all feasible engineering controls to be used, proposed paragraph (a)(2) would require the operator to include a detailed description of each specific administrative control to be implemented. Because the effectiveness of administrative controls is based on adherence to strict time periods, work schedules, and/or other administrative controls, the revision must explain how the operator would verify compliance with the prescribed administrative control. The district manager may require the operator to modify the administrative controls before granting provisional approval of the proposed plan revision incorporating the use of such measures as a supplementary control.

Proposed paragraph (b) would require the operator to verify, in accordance with proposed § 70.206(b) through (e), the adequacy of the revised plan parameters incorporating the use of administrative controls within 30 calendar days of obtaining provisional approval from the district manager. Accordingly, respirable dust samples would be collected in the environment of (1) The occupation(s) under administrative controls, (2) the DO, and (3) other occupation(s) that may be designated by the district manager.

Section 70.214 Administrative Controls; Approval and Conditions for Continued Use; Revocation of Approval

This proposed section establishes the criteria that the district manager would use to determine whether to approve the operator's proposed revision to the plan parameters incorporating the use of administrative controls as a supplementary control. As previously discussed under proposed § 70.207, approval of the proposed revisions would depend on the results of verification sampling and the operating conditions in effect during the time each sample is collected. The district manager would approve the revisions if (1) no valid equivalent concentration measurement exceeds the critical values listed in Table 70-1 that correspond to the number of shifts sampled, and (2) the revision incorporates the dust control parameters and administrative controls that were in effect during verification sampling. For the district manager to approve the revised plan parameters for a MMU based on only one shift of sampling, no valid concentration measurement can exceed 1.71 mg/m³ for respirable coal mine dust or 87 µg/m³ for respirable quartz.

Proposed paragraph (b) establishes the requirements for the continued use of administrative controls as a supplementary control. To continue to use administrative controls and operate under the same conditions that were in effect during verification sampling, the operator would be required to comply with the approved revised plan on each production shift, and particularly with the prescribed administrative controls. Since miners must actively comply for administrative controls to be effective in reducing dust exposure, the operator must train the affected miners to follow prescribed administrative controls and require their cooperation for them to be effective.

In addition, the operator would be required to ensure that no occupation is exposed to concentrations of respirable dust that exceed the applicable dust standard. MSHA will evaluate the effectiveness of the dust control parameters and the operator's performance in complying with all provisions of the approved plan.

Since the use of administrative controls as a supplementary control is not intended to be permanent and their use could be permitted only until feasible engineering controls become available, proposed paragraph (b)(3) would require the operator to continue to seek and implement additional improvements when they become available. To ensure compliance with