

the frequency with which the exposure measurements will be read and the types of action to be taken and by whom. The operator would need to specify how and by whom will the end-of-shift measurements be recorded and certified. The operator should also detail the role of the miner in this process. To ensure the continued reliability of the information supplied by the instrument, the operator must follow the calibration and maintenance procedures prescribed by the manufacturer. MSHA technical assistance would be available to assist any operator who elects to use this technology in developing an effective and reliable exposure monitoring program.

Proposed paragraph (c) would require the operator to demonstrate, as prescribed by proposed § 70.204, the adequacy of the proposed plan in controlling respirable dust by monitoring each miner's exposure under the operating conditions specified in proposed § 70.201(e). Since the objective is to verify the effectiveness of the operator's respirable dust control program, the PCDM would remain with a miner portal-to-portal and be operational for the entire shift or for 12 hours, whichever time is less to reflect maximum length of an extended shift.

Since the device is not designed to assess the quartz exposure of individual miners, the operator would be required to collect separate samples for quartz analysis. Samples would be collected in the same way as for individual miners assigned to the occupations identified in proposed § 70.206(a). Additionally, in accordance with proposed § 70.201(d), the operator would be required to use a control filter when collecting samples for quartz analysis. As discussed under proposed § 70.201(d), the weight gain of each exposed filter cassette will be adjusted by subtracting the weight gain or loss of the control filter cassette. These samples would be transmitted to MSHA in accordance with proposed § 70.216. Also, the end-of-shift exposure information for each miner along with production data must be posted on the mine bulletin board for 7 calendar days following completion of the shift.

As previously discussed under proposed § 70.207, approval of the operator's plan incorporating the use of PCDMs would depend on the results of verification sampling and the operating conditions in effect for each shift monitored. The district manager would approve the plan if (1) no valid equivalent concentration measurement exceeds the critical values listed in Table 70-1 that correspond to the number of shifts monitored, and (2) it

incorporates the parameters that were in effect during verification sampling.

When approval is granted by the district manager, the operator would be required to monitor the exposure of each miner on a MMU on every shift under the prevailing conditions, unless the operator demonstrated during verification sampling that the exposure of each miner working on the same shift is represented by sampling only the DO and/or another occupation specified in § 70.206(a). If approved by the district manager, the operator would be permitted to conduct representative personal monitoring. Each PCDM would be operated portal-to-portal and remain operational the entire shift or for 12 hours, whichever time is less.

The end-of-shift exposure measurements would not be used by MSHA to cite an operator for exceeding the applicable dust standard. Instead, the operator would be required to take the actions required by proposed § 70.215(c), (d) and (e) whenever a valid end-of-shift measurement exceeds the applicable dust standard by at least 0.10 mg/m<sup>3</sup>. Violations of either § 70.100(a) or § 70.101 would be cited when a valid sample taken by MSHA met or exceeded the citation threshold value (CTV) listed in Table 70-2 that corresponds to the applicable dust standard in effect. When cited, the operator would be required to take the actions required by § 70.218(b). The district manager will consider the citation abated if the operator meets the requirements of proposed § 70.218(c).

Comments are solicited on the proposed monitoring approach and other alternative approaches using PCDMs to limit exposure of miners to respirable coal mine dust. Specifically, under what conditions should MSHA permit its use as part of the approved ventilation plan without requiring the adequacy of the operator's proposed exposure control program to be verified? If implementation of this technology is permitted as an alternative to plan verification, what specific provisions should be included in the ventilation plan to ensure that miners will not be overexposed on any particular shift? Should all miners be required to wear PCDMs or only specific occupations and, if so, which occupations? How frequently should PCDMs be used (*e.g.*, every shift, *etc.*)? Should the end-of-shift measurements be used by MSHA to enforce compliance with the applicable dust standard? Is it appropriate to use PCDMs only in the face areas or in outby areas as well? Is there an alternative to a continuous monitoring program that could provide equivalent protection? Should there be an alternative approach tailored to small

mines? If so, what should it consist of (*e.g.*, monitor one shift each week)?

Since the PCDMs is capable of supplying timely information on dust levels, how should engineering and administrative decisions be based on readings of the PDM? For example, should a PCDMs reading trigger an immediate check of the dust control parameters or adjustments to operating conditions, such as the amount of air being delivered to the working faces? Who should be responsible for deciding on the proper course of action to be taken based on a PCDMs reading (*e.g.*, miner being monitored, section foreman, *etc.*)? Who should be empowered to make the determination to remove an individual so that their end-of-shift exposure is not above the applicable dust standard?

#### B. Part 75

##### Section 75.370 Mine Ventilation Plan; Submission and Approval

This proposed rule would amend § 75.370 by adding a new paragraph (h) that reflects the proposed change in § 70.2 and paragraph (d) of § 70.201 of this part. Under proposed paragraph (h), the operator would be required to record and maintain records of the total amount of material produced each production shift by each MMU during the previous six-month period, which would be made available for inspection by authorized representatives of the Secretary and the miners' representative. This is the same type of production information that the operator is currently reporting on the dust data card accompanying each bimonthly sample and which is subsequently posted by MSHA on the Internet. Paragraph (h) would not require an operator to record and maintain other information such as recovery and reject rate, inherent moisture of the product, sulfur content or other variables associated with each production level.

These production records are essential to demonstrate the adequacy of the dust control parameters in controlling respirable dust as required by § 75.370(a)(1) of this title. The records are needed to establish the verification production level (VPL), in accordance with revised § 70.2, under proposed § 75.371(f), and to confirm that the 30-shift period on which the VPL is based represents typical production conditions for the MMU. Additionally, MSHA and the miners' representative need these records to monitor changes in production levels as it directly impacts the continued effectiveness of the plan's dust control