

parameters every 6 months to assure that the operator is using all feasible environmental controls and that the plan parameters continue to be effective under current operating conditions.

§ 70.215 Quarterly evaluation of approved plan parameters.

(a) For those MMUs designated by MSHA, one valid respirable dust sample from the DO and the occupation(s) under supplementary controls must be submitted to MSHA on a quarterly basis. The occupations must be sampled in accordance with paragraphs (b), (d) and (e) of § 70.206.

(1) MSHA designates an MMU for sampling when any MSHA equivalent concentration measurement exceeds the applicable dust standard by at least 0.1 mg/m³.

(2) Sampling is required until all MSHA and operator sample results remain at or below the applicable dust standard for at least four quarters.

(3) Sampling begins during the next quarterly period following MSHA designation of the MMU. The quarterly periods are:

- (i) January 1–March 31
- (ii) April 1–June 30
- (iii) July 1–September 30
- (iv) October 1–December 31.

(b) If any valid equivalent concentration measurement exceeds the applicable dust standard by 0.1 mg/m³ or more, the operator must, make approved respiratory equipment available to affected miners in accordance with § 70.300, unless already under a PAPR protection program; and within 15 calendar days after receipt of the respirable dust sample data report from MSHA:

(1) Determine the cause and take corrective action to reduce the equivalent concentration of respirable coal mine dust to within the applicable dust standard;

(2) Make a record of the reported excessive dust condition. The record must include the following:

- (i) Date of sampling;
- (ii) Location within the mine and the occupation where the sample was collected;
- (iii) Measured dust concentration of each sample collected;
- (iv) Corrective action being taken to reduce the concentration of respirable coal mine dust.

(c) If any valid equivalent concentration measurement exceeds the citation threshold value (CTV) listed in Table 70–2 that corresponds to the applicable dust standard, the district manager may require the operator to revise the plan parameters and verify their adequacy under the prevailing operating conditions.

(d) MSHA will cite an operator for failure to take corrective action to reduce the concentration of respirable dust in accordance with § 70.215(c)(1).

(e) Paragraph (a) of this section does not apply if using a personal continuous dust monitor under § 70.220.

§ 70.216 Respirable dust samples; transmission by operator.

(a) Within 24 hours after the end of the sampling shift, the operator must transmit, in containers provided by the manufacturer of the filter cassette, all samples collected to fulfill the requirements of this part, including the control filter cassettes if required to be used, to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochran Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236–0179, or to any other address designated by the district manager.

(b) The operator must not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used.

(c) A person certified to take respirable dust samples must properly complete the dust data card for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample or used as a control filter and be submitted to MSHA with the sample. Each card must be signed by the certified person and must include that person's certification number. Samples with data cards not properly completed will be voided by MSHA.

(d) All samples submitted by the operator must be considered taken to fulfill the sampling requirement of this part, unless the sample has been identified in writing by the operator to the district manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by this part.

(e) Paragraphs (a) through (d) of this section do not apply if using a PCDM under § 70.220, except when transmitting samples for quartz analysis along with the control filter cassette required by § 70.220(c).

§ 70.217 Respirable dust samples; report to operator; and posting.

(a) MSHA will provide the operator a report with the following data on all samples submitted in accordance with this part and samples collected by MSHA:

- (1) The mine identification number;
- (2) The location within the mine from which the samples were taken;
- (3) The result of each sample taken in accordance with this part and by MSHA;

(4) The occupation code, where applicable;

(5) The reason for voiding any sample; and

(6) The engineering controls and their measured quantities, including other dust control parameters that were being used in the MMU when sampled by MSHA.

(b) The operator must post the following information on the mine bulletin board:

(1) The report of the results of all samples described in paragraph (a) of this section and the end-of-shift exposure data if using a personal continuous dust monitor (PCDM) under § 70.220.

(2) The engineering controls and their measured quantities, including other dust control parameters that were being used in the MMU when sampled by the operator or by MSHA.

(3) All written notifications from the district manager regarding any aspect of the verification procedures, including all correspondence submitted by the operator in accordance with §§ 70.209 and 70.212.

(c) The operator may remove all information pertaining to the verification process, such as sample results, the information specified in paragraph (b)(3) of this section, and written correspondence, after the district manager approves the dust control parameters specified in the ventilation plan. The notification required under § 70.212(c)(1) of the occurrence of special circumstances requiring the use of PAPRs must be posted no longer than 30 calendar days or until such time when it is no longer necessary to continue to use PAPRs, whichever time period is less.

(d) Results of samples collected by the operator in accordance with § 70.215 or by MSHA must be posted for at least 31 calendar days following receipt, including the information specified in paragraph (b)(2) of this section. If using a PCDM, the end-of-shift exposure data and information specified in paragraph (b)(2) of this section must be posted for at least 7 calendar days.

§ 70.218 Violation of respirable dust standard; issuance of citation; action required by operator; and termination of citation.

(a) If a valid equivalent concentration measurement for any occupation sampled by MSHA meets or exceeds the citation threshold value (CTV) listed in Table 70–2 that corresponds to the applicable dust standard in effect, the operator will be cited for a violation of § 70.100 or § 70.101.

(b) Upon receipt of a citation issued in accordance with paragraph (a) of this