

the manufacturer's nominal voltage per cell value;

(2) Examination of all components of the cyclone to assure that they are clean and free of dust and dirt;

(3) Examination of the inner surface of the cyclone on the approved sampling device to assure that it is free of scoring;

(4) Examination of the external tubing on the approved sampling device to assure that it is clean and free of leaks; and

(5) Examination of the clamping and positioning of the cyclone body, vortex finder and cassette to assure that they are rigid, in alignment, and firmly in contact.

(e) In accordance with 5 U.S.C. 552(a) and 1 CFR, part 51, MSHA Informational Report No. 1240 (1996) referenced in paragraph (a) of this section is hereby incorporated-by-reference. Copies may be inspected or obtained at each Coal Mine Safety and Health office of MSHA.

§ 90.203 Approved sampling devices; operation; air flowrate.

(a) Sampling devices must be operated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for the particular device.

(b) Except as provided in paragraph (c) of this section each sampling device must be examined each shift by a person certified to sample during:

(1) The second hour after being put into operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments must be made by the certified person.

(2) The last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during sampling that may affect the validity of the sample must also be noted on the back of the dust data card.

(c) Paragraph (b)(1) of this section will not apply if the sampling device is being operated in a breast or chamber of an anthracite coal mine where the full box mining method is used.

§ 90.204 Respirable dust sampling.

(a) The operator must collect five valid samples for each Part 90 miner within 15 calendar days after:

(1) The 20-day period specified for each Part 90 miner in § 90.100; and

(2) Implementing any transfer after the 20th calendar day following receipt of notification from MSHA that a part 90 miner is employed at the mine; and

(b) When any valid sample collected in accordance with either paragraph (a) or (b) of this section exceeds the applicable dust standard by at least 0.1 mg/m³, the operator must, within 15 calendar days following receipt of notification from MSHA:

(1) Take corrective action by reducing the respirable dust level in the Part 90 miner's assigned work position or transferring the Part 90 miner to another work position that meets the applicable dust standard; and

(2) Sample the affected Part 90 miner until five valid samples are collected.

(c) When any valid sample taken in accordance with paragraph (b)(2) of this section exceeds the applicable dust standard by at least 0.1 mg/m³, the operator will be cited for a violation of paragraph (b)(1) of this section.

§ 90.205 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 to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochran's 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 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 requirements 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.

§ 90.206 Respirable dust samples; report to operator and Part 90 miner.

(a) MSHA will provide the operator a report with the following data on all

samples submitted by the operator 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 results of each sample taken in accordance with this part and by MSHA;

(4) The occupation code;

(5) The reason for voiding any sample;

(6) The Social Security Number of the Part 90 miner; and

(7) The respirable dust control measures that were being used in the position of the Part 90 miner sampled by MSHA and their measured quantities;

(b) Upon receipt, the operator must provide a copy of this report to the Part 90 miner. The operator must not post the original or a copy of this report on the mine bulletin board.

§ 90.207 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 Part 90 miner sampled by MSHA meets or exceeds the citation threshold value (CTV) listed in Table 70-2 to § 70.218 of this title that corresponds to the applicable dust standard in effect, the operator will be cited for a violation of § 90.100 or § 90.101.

(b) Upon receipt of a citation issued in accordance with paragraph (a) of this section, the operator must take the following action within the time for abatement fixed in the citation:

(1) Make approved respiratory protection equipment available to the affected Part 90 miner in accordance with § 70.300;

(2) Determine the cause and take corrective action to reduce the equivalent concentration of respirable coal mine dust to within the applicable dust standard. If the corrective action involves:

(i) Reducing the respirable dust level in the position of the Part 90 miner, the operator must notify the district manager, in writing or by electronic means, within 24 hours after implementing the control measures.

(ii) Transferring the Part 90 miner to another position at the mine to meet the applicable dust standard, the operator must comply with § 90.102(c) and then sample the affected miner until five valid samples are collected.

(c) The citation will be terminated when a valid equivalent concentration measurement taken by MSHA is at or below the applicable dust standard. If the violation was abated by: