

## § 23.4

this part, the applicant must provide to MSHA as part of the approval application:

(1) Written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization;

(2) Complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements;

(3) Identification of components or features of the product that are critical to the safety of the product; and

(4) All documentation, including drawings and specifications, as submitted to the independent laboratory by the applicant and as required by this part.

(c) An applicant may request testing and evaluation to non-MSHA product safety standards which have been determined by MSHA to be equivalent, under § 6.20 of this chapter, to MSHA's product approval requirements under this part.

[68 FR 36421, June 17, 2003]

## § 23.4 [Reserved]

### § 23.5 Conditions governing investigations.

(a) One complete device together with assembly and detail drawings that show its construction and the materials of which the parts are made, shall be submitted preferably at the time the application for test is made. These shall be sent prepaid to Approval and Certification Center, Box 201B Industrial Park Road, Dallas Pike, Triadelphia, W. Va. 26059.

(b) After the device has been inspected by MSHA, the applicant will be notified as to the amount of material that he will be required to supply for the tests and of the date on which testing will be started.

(c) *Observers at formal investigations and demonstrations.* No one shall be present during any part of the formal investigation conducted by MSHA which leads to approval for permissibility except the necessary Government personnel, representatives of the applicant, and such other persons as may be mutually agreed upon by the applicant and MSHA. Upon granting approval for permissibility, MSHA will

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announce that such approval has been granted to the device and may thereafter conduct, from time to time in its discretion, public demonstrations of the tests conducted on the approved device. Those who attend any part of the investigation, or any public demonstration, shall be present solely as observers; the conduct of the investigation and of any public demonstration shall be controlled by MSHA. Results of chemical analyses of material and all information contained in the drawings, specifications, and instructions shall be deemed confidential and their disclosure will be appropriately safeguarded by MSHA.

(d) Formal tests will not be made unless the device has been completely developed and is in a form that can be marketed.

(e) The results of the tests shall be regarded as confidential by all present at the tests and shall not be made public in any way prior to the formal approval of the device by MSHA.

(f) No verbal report of approval or disapproval will be made to the applicant. After MSHA has considered the results of the inspections and tests, a formal written report of the approval or disapproval will be made to the applicant by MSHA. The applicant shall not advertise his device as being permissible or approved, or as having passed the tests, prior to receipt of the formal notice of approval.

[Sched. 9B, 4 FR 1555, Apr. 11, 1939, as amended by Supp. 1, 20 FR 2975, May 4, 1955; 43 FR 12315, Mar. 24, 1978]

### § 23.6 General requirements for approval.

Telephones and signaling devices shall be durable in construction, practical in operation, and suitable for conditions of underground service. They shall offer no probable explosion hazard under normal operation if use in gassy or dusty mine atmospheres.

### § 23.7 Specific requirements for approval.

(a) The circuits external to telephones and signal devices shall be intrinsically safe; that is, the electrical design and construction of telephones and signal devices shall be such that