

upon may observe the tests conducted. The MSHA and the National Institute for Occupational Safety and Health shall hold as confidential, and shall not disclose, principles of patentable features prior to certification, nor shall MSHA or Institute disclose any details of the applicant's drawings or specifications or other related material. After the issuance of a certificate of approval, MSHA or the National Institute for Occupational Safety and Health may conduct such public demonstrations and tests of the approved coal mine dust personal sampler unit as MSHA or Institute deems appropriate. The conduct of all investigations, tests, and demonstrations shall be under the sole direction of the National Institute for Occupational Safety and Health and MSHA and any other persons shall be present only as observers.

[35 FR 4326, Mar. 11, 1970, as amended at 37 FR 26712, Dec. 15, 1972]

#### § 74.6 Applications.

(a) Testing of a coal mine dust personal sampler unit will be undertaken by the National Institute for Occupational Safety and Health, and testing of the pump unit of such a sampler unit will be undertaken by MSHA, only pursuant to a written application in duplicate, each copy accompanied by complete scale drawings, specifications and description of materials. The applications, together with the drawings and specifications and any other related documents shall be sent to National Institute for Occupational Safety and Health, Department of Health and Human Services, Box 4256, 944 Chestnut Ridge Road, Morgantown, WV 26505, and the U.S. Department of Labor, Mine Safety and Health Administration, Approval and Certification Center, 765 Technology Drive, Triadelphia, WV 26059.

(b) Ten complete coal mine dust personal sampler units must be sent to the National Institute for Occupational Safety and Health in connection with an application. One pump unit must be sent to MSHA in connection with an application.

(c) Drawings and specifications shall be adequate in number and fully detailed to identify the design of the coal

mine dust personal sampler unit or pump unit thereof and to disclose the dimensions and materials of all component parts.

(d) An application shall describe the way in which each lot of components will be sampled and tested to maintain their quality prior to assembly of each sampler unit. In order to ensure that the quality of the coal dust personal sampler unit will be maintained in production through adequate quality control procedures, the National Institute for Occupational Safety and Health and MSHA reserve the right to have their qualified personnel inspect each applicant's control-test equipment procedures, and records and to interview the employees who conduct the control tests. Two copies of the results of any tests made by the applicant on the coal mine dust personal sampler unit or the pump unit thereof shall accompany an application.

[35 FR 4326, Mar. 11, 1970, as amended at 37 FR 26712, Dec. 15, 1972; 43 FR 12319, Mar. 24, 1978; 47 FR 28095, June 29, 1982; 52 FR 17516, May 8, 1987; 60 FR 35695, July 11, 1995; 73 FR 52213, Sept. 9, 2008]

#### § 74.7 Certificate of approval.

(a) Upon completion of the testing of a coal mine dust personal sampler unit or the pump unit thereof, the National Institute for Occupational Safety and Health or MSHA, as appropriate, shall issue to the applicant either a certificate of approval or a written notice of disapproval, as the case may require. The National Institute for Occupational Safety and Health shall not issue a certificate of approval for a coal mine dust personal sampler unit unless MSHA has issued a certificate of approval for the pump unit thereof. No informal notification of approval will be issued. If a certificate of approval is issued, no test data or detailed results of tests will accompany such approval. If a notice of disapproval is issued, it will be accompanied by details of the defects, resulting in disapproval, with a view to possible correction.

(b) A certificate of approval will be accompanied by a list of the drawings and specifications, covering the details of design and construction of the coal mine dust personal sampler unit or the

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pump unit thereof upon which the certificate of approval is based. The applicant shall keep exact duplicates of the drawings and specifications submitted to the National Institute for Occupational Safety and Health and to MSHA relating to the sampler unit or pump unit thereof which has received a certificate of approval. The approved drawings and specifications shall be adhered to exactly in the production of the certified sampler unit, including the pump unit thereof, for commercial purposes. In addition, the applicant shall observe such procedures for, and keep such records of, the control of component parts as either MSHA or Institute may in writing require as a condition of certification.

[35 FR 4326, Mar. 11, 1970, as amended at 37 FR 26712, Dec. 15, 1972]

## § 74.8 Approval labels.

(a) Certificates of approval will be accompanied by photographs of designs for the approval labels to be affixed to each coal mine dust personal sampler unit.

(b) The labels showing approval by the National Institute for Occupational Safety and Health and by MSHA shall contain such information as MSHA or Institute may require and shall be reproduced legibly on the outside of a sampler unit as directed by the appropriate bureau.

(c) The applicant shall submit full-scale designs or reproductions of approval labels and a sketch or description of the position of the labels on each unit.

(d) Use of the approval labels obligates the applicant to whom the certificates of approval were issued to maintain the quality of the complete coal mine dust personal sampler unit and to guarantee that the complete sampler unit is manufactured or assembled according to the drawings and specifications upon which the certificates of approval were based. Use of the approval labels is authorized only on sampler units which conform strictly with the drawings and specifications upon which the certificates of approval were based.

[35 FR 4326, Mar. 11, 1970, as amended at 37 FR 26712, Dec. 15, 1972]

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## § 74.9 Material required for record.

(a) As part of the permanent record of the investigation, the National Institute for Occupational Safety and Health will retain a complete coal mine dust personal sampler unit, and MSHA will retain a pump unit, that has been tested and certified. Material not required for record purposes will be returned to the applicant at his request and at his expense on written shipping instructions to MSHA or Institute.

(b) As soon as a coal mine dust personal sampler unit is commercially available, the applicant shall deliver a complete unit free of charge to the National Institute for Occupational Safety and Health, Department of Health and Human Services, Box 4256, 944 Chestnut Ridge Road, Morgantown, WV 26505.

[35 FR 4326, Mar. 11, 1970, as amended at 37 FR 26712, Dec. 15, 1972; 47 FR 28095, June 29, 1982]

## § 74.10 Changes after certification.

(a) If the applicant desires to change any feature of a certified coal mine dust personal sampler unit, he shall first obtain the approval of the National Institute for Occupational Safety and Health pursuant to the following procedures:

(1) Application shall be made as for an original certificate of approval, requesting that the existing certification be extended to encompass the proposed change. The application shall be accompanied by drawings, specifications and related material, as in the case of an original application.

(2) The application and accompanying material will be examined by the National Institute for Occupational Safety and Health to determine whether testing of the modified sampler unit or components will be required. Testing will be necessary if there is a possibility that the modification may affect the performance of the sampler unit adversely. The National Institute for Occupational Safety and Health will inform the applicant whether such testing is required.

(3) If the proposed modification meets the pertinent requirements of these regulations, a formal extension