

### § 74.13

as may be mutually agreed upon may observe the tests conducted. MSHA and NIOSH shall hold as confidential, and shall not disclose, principles of patentable features, nor shall MSHA or NIOSH disclose any details of the applicant's drawings or specifications or other related material.

(b) After the issuance of a certificate of approval, MSHA or NIOSH will conduct such public demonstrations and tests of the approved device as MSHA or NIOSH deem appropriate, and may reveal the protocols and results of testing considered for the approval of the device. The conduct of any additional investigations, tests, and demonstrations shall be under the sole direction of MSHA and NIOSH and any other persons shall be present only as observers.

### § 74.13 Applications.

(a) Testing of a CMDPSU will be performed by NIOSH, and testing of the pump unit of the CMDPSU will be conducted by MSHA. The applicant must submit a written application in duplicate to both NIOSH and MSHA. Each copy of the application must be accompanied by complete scale drawings, specifications, and a description of materials. Ten complete CMDPSUs must be submitted to NIOSH with the application, and one pump unit must be submitted to MSHA.

(b) Testing of a CPDM will be performed by the applicant as specified under § 74.11. The applicant must submit a written application in duplicate to both NIOSH and MSHA. Each copy of the application must be accompanied by complete scale drawings, specifications, a description of materials, and a copy of the testing protocol and test results which were provided by an independent testing entity, as specified in § 74.11(a). Three complete CPDM units must be sent to NIOSH with the application, and one CPDM device must be sent to MSHA.

(c) Complete drawings and specifications accompanying each copy of the application shall be fully detailed to identify the design of the CMDPSU or pump unit thereof or of the CPDM and to disclose the dimensions and materials of all component parts.

### 30 CFR Ch. I (7-1-11 Edition)

### § 74.14 Certificate of approval.

(a) Upon completion of the testing of a CMDPSU or the pump unit or after review of testing protocols and testing results for the CPDM, NIOSH or MSHA, as appropriate, shall issue to the applicant either a certificate of approval or a written notice of disapproval. NIOSH will not issue a certificate of approval unless MSHA has first issued a certificate of approval for either the pump unit of a CMDPSU or for the CPDM. 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 CMDPSU and the pump unit, or of the CPDM, as appropriate, upon which the certificate of approval is based. The applicant shall keep exact duplicates of the drawings and specifications submitted to NIOSH and to MSHA relating to the CMDPSU, the pump unit thereof, or the CPDM, which has received a certificate of approval. The approved drawings and specifications shall be adhered to exactly in the production of the certified CMDPSU, including the pump unit or of the CPDM, 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 NIOSH may in writing require as a condition of approval.

### § 74.15 Approval labels.

(a) Certificate of approval will be accompanied by photographs of designs for the approval labels to be affixed to each CMDPSU or CPDM, as appropriate.

(b) The labels showing approval by NIOSH and by MSHA shall contain such information as MSHA or NIOSH may require and shall be reproduced legibly on the outside of a CMDPSU or CPDM, as appropriate, as directed by NIOSH or MSHA.

(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 sampling device.

(d) Use of the approval labels obligates the applicant to whom the certificate of approval was issued to maintain the quality of the complete CMDPSU or CPDM, as appropriate, and to guarantee that the complete CMDPSU or CPDM, as appropriate, is manufactured or assembled according to the drawings and specifications upon which the certificate of approval was based. Use of the approval labels is authorized only on CMDPSUs or CPDMs, as appropriate, that conform to the drawings and specifications upon which the certificate of approval was based.

**§ 74.16 Material required for record.**

(a) As part of the permanent record of the approval application process, NIOSH will retain a complete CMDPSU or CPDM, as appropriate, and MSHA will retain a CMDPSU or CPDM, as appropriate, that has been tested and certified. Material not required for record purposes will be returned to the applicant at the applicant's request and expense upon receipt of written shipping instructions by MSHA or NIOSH.

(b) As soon as a CMDPSU or CPDM, as appropriate, is commercially available, the applicant shall deliver a complete sampling device free of charge to NIOSH at the address specified on the NIOSH Web page: <http://www.cdc.gov/niosh/mining>.

**§ 74.17 Changes after certification.**

(a) If the applicant desires to change any feature of a certified CMDPSU or a certified CPDM, the applicant shall first obtain the approval of NIOSH 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.

(2) The application and accompanying material will be examined by NIOSH to determine whether testing of the modified CMDPSU or CPDM or components will be required. Testing

will be necessary if there is a possibility that the modification may adversely affect the performance of the CMDPSU or CPDM. NIOSH will inform the applicant whether such testing is required.

(3) If the proposed modification meets the pertinent requirements of these regulations, a formal extension of certification will be issued, accompanied by a list of new and revised drawings and specifications to be added to those already on file as the basis for the extension of certification.

(b) If a change is proposed in a pump unit of a certified CMDPSU or in electrical components of a CPDM, the approval of MSHA with respect to intrinsic safety shall be obtained in accordance with the procedures set forth in § 74.11(d).

**§ 74.18 Withdrawal of certification.**

Any certificate of approval issued under this part may be revoked for cause by NIOSH or MSHA which issued the certificate.

**PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES**

**Subpart A—General**

- Sec.
- 75.1 Scope.
- 75.2 Definitions.

**Subpart B—Qualified and Certified Persons**

- 75.100 Certified person.
- 75.150 Tests for methane and for oxygen deficiency; qualified person.
- 75.151 Tests for methane; qualified person; additional requirement.
- 75.152 Tests of air flow; qualified person.
- 75.153 Electrical work; qualified person.
- 75.154 Repair of energized surface high voltage lines; qualified person.
- 75.155 Qualified hoisting engineer; qualifications.
- 75.156 AMS operator, qualifications.
- 75.159 Records of certified and qualified persons.
- 75.160 Training programs.
- 75.161 Plans for training programs.

**Subpart C—Roof Support**

- 75.200 Scope.
- 75.201 Definitions.
- 75.202 Protection from falls of roof, face and ribs.