

or 1/6, 1/4, which is not considered agreement.

[77 FR 56734, Sept. 13, 2012, as amended at 79 FR 45119, Aug. 4, 2014]

§ 37.54 Notification of abnormal radiographic findings.

(a) Findings of, or findings suggesting, abnormality of cardiac shape or size, tuberculosis, lung cancer, or any other significant abnormal findings other than pneumoconiosis must be communicated by the first physician to interpret the radiograph to the miner indicated on the Miner Identification Document or to the miner's designated physician. A notice of the communication must be submitted to NIOSH. When significant abnormal findings are reported, NIOSH will also notify the miner to contact his or her physician.

(b) In addition, when NIOSH has more than one radiograph of a miner in its files and the most recent examination was found by the first physician to interpret the radiograph or subsequently by NIOSH B Readers to show an abnormality of cardiac shape or size, tuberculosis, cancer, complicated pneumoconiosis, and any other significant abnormal findings, NIOSH will arrange for a licensed physician to compare the most recent image and interpretation to older images and NIOSH will inform the miner of any significant changes or progression of disease or other findings.

(c) All final findings regarding pneumoconiosis will be sent to the miner by MSHA in accordance with section 203 of the Act (see 30 CFR part 90). Positive findings with regard to pneumoconiosis will be reported to the miner or to the miner's designated physician by NIOSH.

(d) NIOSH will make every reasonable effort to process the findings described in paragraph (c) of this section within 60 days of receipt of the information described in § 37.60 in a complete and acceptable form. The information forwarded to MSHA will be in a form intended to facilitate prompt dispatch of the findings to the miner. The results of an examination made of a miner may not be processed by NIOSH if the examination was made within 6

months of the date of a previous acceptable examination.

[77 FR 56744, Sept. 13, 2012]

§ 37.60 Submitting required chest radiograph classification and miner identification documents.

(a) Each chest radiograph required to be made under this subpart, together with the completed Chest Radiograph Classification Form and the completed Miner Identification Document, must be submitted together for each miner to NIOSH within 14 calendar days after the radiographic examination is given and become the property of NIOSH.

(1) When the radiograph is digital, the image file for each radiograph, together with either hard copy or electronic versions of the completed Chest Radiograph Classification Form and the completed Miner Identification Document, must be submitted to NIOSH using the software and format specified by NIOSH either using portable electronic media, or a secure electronic file transfer within 14 calendar days after the radiographic examination. NIOSH will notify the submitting facility when it has received the image files and forms from the examination. After this notification, the facility will permanently delete, or if this is not technologically feasible for the imaging system used, render permanently inaccessible all files and forms from its electronic and physical files.

(2) [Reserved]

(b) If NIOSH deems any submission under paragraph (a) of this section inadequate, it will notify the operator of the deficiency. The operator must promptly make appropriate arrangements for the necessary reexamination.

(c) Failure to comply with paragraph (a) or (b) of this section will be cause to revoke approval of a plan or any other approval as may be appropriate. An approval that has been revoked may be reinstated at the discretion of NIOSH after it receives satisfactory assurances and evidence that all deficiencies have been corrected and that effective controls have been instituted to prevent a recurrence.

(d) Chest radiographs and other required documents must be submitted only for miners.

§ 37.70

(e) If a miner refuses to participate in all phases of the examination prescribed in this subpart, no report need be made. If a miner refuses to participate in any phase of the examination prescribed in this subpart, all the forms shall be submitted with his or her name and social security account number on each. If any of the forms cannot be completed because of the miner's refusal, it shall be marked "Miner Refuses," and shall be submitted. No submission shall be made, however, without a completed miner identification document containing the miner's name, address, social security number and place of employment.

[43 FR 33715, Aug. 1, 1978, as amended at 77 FR 56735, Sept. 13, 2012; 79 FR 45119, Aug. 4, 2014]

REVIEW AND AVAILABILITY OF RECORDS

§ 37.70 Review of interpretations.

(a) Any miner who believes the classification for pneumoconiosis reported to him or her by MSHA is in error may file a written request with NIOSH that his or her radiograph be reevaluated. If the classification was based on agreement between an A Reader and a B Reader, NIOSH will obtain one or more additional classifications by B Readers as necessary to obtain agreement in accordance with § 37.53, and MSHA must report the results to the miner together with notification from MSHA of any rights which may accrue to the miner in accordance with § 37.7. If the reported classification was based on agreement between two (or more) B Readers, the reading will be accepted as conclusive and the miner must be so informed by MSHA.

(b) Any operator who is directed by MSHA to transfer a miner to a less dusty atmosphere based on the most recent examination may file a written request with NIOSH to review its findings. The standards set forth in paragraph (a) of this section apply and the operator and miner will be notified by MSHA whether the miner is entitled to the option to transfer.

[77 FR 56735, Sept. 13, 2012, as amended at 79 FR 45119, Aug. 4, 2014]

42 CFR Ch. I (10–1–14 Edition)

§ 37.80 Availability of records for radiographs.

(a) Medical information and radiographs on miners will be released by NIOSH only with the written consent from the miner, or if the miner is deceased, written consent from the miner's widow or widower, next of kin, or legal representative.

(b) To the extent authorized, radiographs will be made available for examination only at NIOSH.

[77 FR 56735, Sept. 13, 2012]

Subpart—Spirometry Examinations

SOURCE: 79 FR 45119, Aug. 4, 2014, unless otherwise noted.

§ 37.90 Scope.

Under this subpart, coal mine operators are required to provide spirometry examinations to each current and new coal miner, using medical facilities approved by NIOSH in accordance with standards established in this subpart.

§ 37.91 Definitions.

Definitions provided in § 37.2 will have the same meaning in this subpart. Any term defined in the Federal Mine Safety and Health Act of 1977 and not defined in § 37.2 or this section will have the meaning given it in the Act. As used in this subpart:

ATS means American Thoracic Society.

ERS means European Respiratory Society.

Facility means a facility or organization licensed to provide health care by the State or Territory in which services are provided, such as a hospital, a clinic, or other provider that performs spirometry examinations.

FET means forced expiratory time, which is the time from the beginning of exhalation (the back-extrapolated "time zero") to the end of the expiratory maneuver.

FEV1 means forced expiratory volume in the first second, which is the volume of air that can forcibly be blown out in one second, after full inspiration.

FEV6 means forced expiratory volume in the first six seconds, which is the volume of air that can forcibly be