

## **COMPLIANCE GUIDE FOR PART 6, “TESTING AND EVALUATION BY INDEPENDENT LABORATORIES AND NON-MSHA PRODUCT SAFETY STANDARDS”**

### **1. Why did MSHA issue this new regulation?**

MSHA issued Part 6 to help expedite the introduction of technologically advanced products into the mining industry that could contribute to improved miner's safety into United States mines. MSHA also issued this rule to permit applicants to seek MSHA approval of their products that are designed to non-MSHA product safety standards, assuming MSHA determines that such standards are equivalent to the applicable product approval requirements or can be modified to provide at least the same degree of protection as those MSHA requirements.

### **2. What is an “independent laboratory?”**

A laboratory that (1) has been recognized by a laboratory accrediting organization to test and evaluate products to a product safety standard, and (2) is free from commercial, financial, and other pressures that may influence the results of the testing and evaluation process.

### **3. How can the acceptance of independent laboratory test and evaluation results contribute to improved miner safety?**

Acceptance of independent laboratory test and evaluation results will provide for faster and less costly approvals by eliminating the need to conduct duplicate tests and evaluations. This will encourage manufacturers of safety-enhancing products, not currently in the mining market, to pursue MSHA approval.

### **4. How will MSHA ensure that products tested and evaluated by independent laboratories are as safe as products tested and evaluated by MSHA?**

First, MSHA will determine whether the laboratory is an independent laboratory and is qualified to test and evaluate the product to the applicable product safety standard. Then, MSHA will review the laboratories test and evaluation results to ensure that the results verify compliance with the standard. MSHA will request additional information, including repeat or additional tests, if there is any reason to question any of the results. MSHA will also conduct annual post-approval product audits on all approved products.

### **5. How will MSHA determine if a laboratory is qualified to test and evaluate a product?**

MSHA will require the approval applicant to submit evidence that the laboratory has been recognized by a laboratory accrediting organization to test to the applicable product safety standard. Laboratory accrediting organizations include the Occupational Safety and Health Administration's (OSHA's) Nationally Recognized Testing Laboratory (NRTL) program and the International Electrotechnical Commission (IEC) IECEx Scheme.

### **6. What documentation must I submit to get a product approved based on independent laboratory test and evaluation?**

The manufacturer must submit evidence of the laboratory's independence and current recognition by a laboratory accrediting organization; a complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements; identification of components or features of the product that are critical to the safety of the product; and all other documentation, including drawings and specifications, as submitted to the independent laboratory by the applicant.

**7. Can I submit an independent laboratory test result for a single test and request that MSHA perform the other tests and evaluation?**

Yes. MSHA will accept independent laboratory test and evaluation results for a complete product evaluation or any portion of the required tests and evaluations.

**8. How can I get my product approved to non-MSHA product safety standards?**

MSHA must first evaluate the non-MSHA product safety standard to determine if it is equivalent. MSHA will compare the non-MSHA product safety standard to the applicable Title 30 Code of Federal Regulations (30 CFR) approval requirements and determine if it provides at least the same degree of protection as the applicable 30 CFR requirements. If it does, then it will be deemed equivalent. If it does not, then MSHA will determine if modifications can be made to the standard to make it equivalent. Once the equivalency determination has been made, MSHA will publish the decision in the Federal Register, along with any modifications that may be necessary to ensure that at least the same degree of protection is provided. A manufacturer could then apply for approval to that standard.

**9. Will MSHA require the marking of the independent laboratory that performs testing and evaluation of my product for MSHA approval?**

No. Only the MSHA marking will be required on products evaluated based on Part 6 requirements. However, this does not preclude the marking of an independent laboratory being placed on an MSHA approved product in addition to the MSHA marking.

**10. Can I provide input to MSHA's equivalency evaluations?**

Yes. Prior to conducting an equivalency determination, MSHA will publish its intent to review a standard or group of standards in the Federal Register for the purpose of seeking public input on the determination process. You will be given 60 days to provide your comments.

**11. Can I request MSHA to review a particular non-MSHA product safety standard for equivalency?**

Yes. MSHA will determine which standards to review based on industry demand and experience with that particular standard or group of standards. Insufficient demand for a non-MSHA product safety standard or inadequacy of the requirements of the requested standard may be grounds for delaying or denying a particular request.

**12. Will I receive a Part 6 approval number when I submit my product for approval based on an equivalent standard?**

No. Approvals will be issued under the applicable 30 CFR product approval part.

**13. How often will my product that was evaluated based on part 6 requirements be audited?**

MSHA will request that you make your product available at a mutually agreeable site at no cost to MSHA no more than once a year, unless MSHA has reason to suspect a problem with the product.

**14. What must I do if I uncover a defect in one of my products?**

You are required to notify MSHA when you become aware of defective products.