

## § 28.10

(f) *Fuse* means a device, no less effective than an automatic circuit breaker, for use with direct current which provides short-circuit protection for trailing cables in coal mines by interrupting an excessive current in the circuit.

[37 FR 7562, Apr. 15, 1972, as amended at 39 FR 24003, June 28, 1974; 43 FR 12316, Mar. 24, 1978]

### Subpart B—Application for Approval

#### § 28.10 Application procedures.

(a) Each applicant seeking approval of a fuse for use with direct current in providing short-circuit protection for trailing cables shall arrange for submission, at applicant's own expense, of the number of fuses necessary for testing to a nationally recognized independent testing laboratory capable of performing the examination, inspection, and testing requirements of this part.

(b) The applicant shall insure, at his own expense, that the examination, inspection, and testing requirements of this part are properly and thoroughly performed by the independent testing laboratory of his choice.

(c) Upon satisfactory completion by the independent testing laboratory of the examination, inspection, and testing requirements of this part, the data and results of such examination, inspection, and tests shall be certified by both the applicant and the laboratory and shall be sent for evaluation of such data and results to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059. Fees calculated in accordance with part 5 of this title shall be submitted in accordance with § 5.40.

(d) The certified data and results of the examinations, inspections, and tests required by this part and submitted to MSHA for evaluation shall be accompanied by a proposed plan for quality control which meets the minimum requirements set forth in Subpart D of this part.

(e) Each applicant shall deliver to MSHA at his own expense, three fuses of each size and type which may be necessary for evaluation of the exam-

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ination, inspection, and test results by the Bureau.

(f) Applicants or their representatives may visit or communicate with Approval and Certification Center in order to discuss the requirements for approval of any fuse, or to obtain criticism of proposed designs; no charge shall be made for such consultation and no written report shall be issued by MSHA as a result of such consultation.

[37 FR 7562, Apr. 15, 1972, as amended at 43 FR 12316, Mar. 24, 1978; 52 FR 17515, May 8, 1987; 60 FR 35694, July 11, 1995; 70 FR 46343, Aug. 9, 2005]

### Subpart C—Approval and Disapproval

#### § 28.20 Certificates of approval; scope of approval.

(a) MSHA shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely fabricated fuses which have been examined, inspected, and tested as specified in § 28.10, and have been evaluated by MSHA to ensure that they meet the minimum requirements prescribed in this part.

(b) MSHA shall not issue an informal notification of approval.

#### § 28.21 Certificates of approval; contents.

(a) Each certificate of approval shall contain a description of the fuse and a classification of its current-interrupting capacity and current rating.

(b) The certificate of approval shall specifically set forth any restrictions or limitations on the use of the fuse in providing short-circuit protection for trailing cables.

(c) Each certificate of approval shall be accompanied by a reproduction of the approval label or marking design, as appropriate, to be employed by the applicant with each approved fuse as provided in § 28.23.

(d) No test data or specific laboratory findings will accompany any certificate of approval; however, MSHA will release analyses of pertinent test data and specific findings upon receipt of a written request by the applicant, or when required by statute or regulation.

(e) Each certificate of approval shall also contain the approved quality control plan as specified in § 28.31.

**§ 28.22 Notice of disapproval.**

(a) If, upon completion of the evaluation by MSHA conducted in accordance with § 28.10, it is determined that the fuse does not meet the minimum requirements set forth in this part, MSHA shall issue a written notice of disapproval to the applicant.

(b) Each notice of disapproval shall be accompanied by all available findings with respect to the defects of the fuse for which approval was sought with a view to the possible correction of any such defects.

(c) MSHA shall not disclose, except to the applicant upon written request or when required by statute or regulation, any data, findings, or other information with respect to any fuse for which a notice of disapproval is issued.

**§ 28.23 Approval labels or markings; approval of contents; use.**

(a) Approval labels shall bear the emblem of the Mine Safety and Health Administration, an approval number, the restrictions, if any, placed upon the use of the fuse by MSHA, and where appropriate, the applicant's name and address.

(b) Upon receipt of a certificate of approval, the applicant shall submit to MSHA, for approval of contents, full-scale reproductions of approval labels or markings, as appropriate, and a sketch or description of the method of application and position on the fuse, together with instructions for the installation, use, and maintenance of the fuse.

(c) Legible reproductions or abbreviated forms of the label or markings approved by MSHA shall be attached to or printed on each fuse.

(d) Each fuse shall be marked with the rating of the Underwriters Laboratories, Inc.

(e) MSHA shall, where necessary, notify the applicant when additional labels, markings, or instructions will be required.

(f) Approval labels or markings shall only be used by the applicant to whom they were issued.

(g) The use of any MSHA approval label or marking obligates the applicant to whom it is issued to maintain or cause to be maintained the approved quality control sampling procedure and the acceptable quality level for each characteristic tested, and to guarantee that the approved fuse is manufactured according to the specifications upon which the certificate of approval is based.

(h) The use of any MSHA approval label or marking obligates the applicant to whom it is issued to retest the approved fuse within a 2-year period from the date of the certificate of approval, and every 2 years thereafter, in accordance with the provisions of § 28.10.

[37 FR 7562, Apr. 15, 1972, as amended at 43 FR 12316, Mar. 24, 1978; 45 FR 68935, Oct. 17, 1980]

**§ 28.24 Revocation of certificates of approval.**

MSHA reserves the right to revoke, for cause, any certificate of approval issued pursuant to the provisions of this part. Such causes include, but are not limited to, misuse of approval labels and markings, misleading advertising, violations of section 110(h) of the Federal Mine Safety and Health Act of 1977 and failure to maintain or cause to be maintained the quality control requirements of the certificate of approval.

[37 FR 7562, Apr. 15, 1972, as amended at 43 FR 12316, Mar. 24, 1978]

**§ 28.25 Changes or modifications of approved fuses; issuance of modification of certificate of approval.**

(a) Each applicant may, if he desires to change any feature of an approved fuse, request a modification of the original certificate of approval issued by MSHA for such fuse by filing an application for modification in accordance with the provisions of this section.

(b) Applications, including fees, shall be submitted as specified in § 28.10 for an original certificate of approval, with a request for a modification of the existing certificate to cover any proposed change.