

finder and cassette to assure that they are rigid, in alignment, and firmly in contact.

(e) MSHA Informational Report IR 1240 (1996) referenced in paragraph (a) of this section is incorporated-by-reference. This incorporation-by-reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected or obtained at MSHA, Coal Mine Safety and Health, 1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209-3939 and at each MSHA Coal Mine Safety and Health district and subdistrict office. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

[45 FR 80757, Dec. 5, 1980, as amended at 64 FR 43286, Aug. 10, 1999; 67 FR 38385, June 4, 2002]

EDITORIAL NOTE: At 71 FR 16668, Apr. 3, 2006, § 71.204(e) was amended by removing the words "Coal Mine Health and Safety District and Subdistrict Office." and adding, in their place, the words "MSHA Coal Mine Safety and Health district office."; however, the amendment could not be incorporated because that phrase does not exist in the section.

§ 71.205 Approved sampling devices; operation; air flowrate.

(a) Sampling devices approved in accordance with part 74 (Coal Mine Dust Personal Sampler Units) of this title shall be operated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for the particular device.

(b) Each approved sampling device shall be examined each shift by a person certified in accordance with § 71.202 (Certified person; sampling) during the second hour after being put into operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person.

(c) Each sampling device shall be examined each shift by a person certified in accordance with § 71.202 (Certified person; sampling) during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the dust data card stating that the proper flowrate was not maintained.

§ 71.206 Approved sampling devices; equivalent concentrations.

The concentration of respirable dust shall be determined by dividing the weight of dust in milligrams collected on the filter of an approved sampling device by the volume of air in cubic meters passing through the filter and then converting that concentration to an equivalent concentration as measured with an MRE instrument. To convert a concentration of respirable dust as measured with an approved sampling device to an equivalent concentration of respirable dust as measured with an MRE instrument, the concentration of respirable dust measured with the approved sampling device shall be multiplied by the constant factor prescribed by the Secretary for the approved sampling device used, and the product shall be the equivalent concentration as measured with an MRE instrument.

§ 71.207 [Reserved]

§ 71.208 Bimonthly sampling; designated work positions.

(a) Each operator shall take one valid respirable dust sample from each designated work position during each bimonthly period beginning with the bimonthly period of February 1, 1981. The bimonthly periods are:

- February 1–March 31
- April 1–May 31
- June 1–July 31
- August 1–September 30
- October 1–November 30
- December 1–January 31

(b) When the respirable dust standard is changed in accordance with § 71.101 (Respirable dust standard when quartz is present), respirable dust sampling of

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designated work positions shall begin on the first normal work shift during the next bimonthly period following notification of such change from MSHA.

(c) Upon notification from MSHA that any respirable dust sample taken from a designated work position to meet the requirements of paragraph (a) or (b) of this section exceeds the applicable standard in § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present), the operator shall take five valid respirable dust samples from that designated work position within 15 calendar days. The operator shall begin such sampling on the first day on which there is a normal work shift following the day of receipt of notification.

(d) Upon issuance of a citation for a violation of § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present) involving a designated work position, paragraphs (a), (b), and (c) of this section shall not apply to that designated work position until the violation is abated in accordance with § 71.201(d) (Sampling; general requirements).

(e) The District Manager shall designate the work positions at each surface coal mine and surface work area of an underground coal mine for respirable dust sampling under this section. The District Manager shall designate for sampling each work position at the mine where an average concentration of respirable dust exceeding 1.0 milligram per cubic meter of air has been measured by one or more samples. Where the respirable dust standard is below 1.0 milligram per cubic meter of air in accordance with § 71.101 (Respirable dust standard when quartz is present), the District Manager shall designate for sampling each work position where an average concentration of respirable dust exceeding the applicable standard has been measured by one or more samples.

(f) The District Manager shall withdraw the designation of a work position for sampling upon finding that the operator is able to maintain continuing compliance with the applicable respirable dust standard under § 71.100 (Respirable dust standard) or § 71.101

(Respirable dust standard when quartz is present). This finding shall be based on the results of samples taken during at least a one-year period under this part and by MSHA.

(g) Unless otherwise directed by the District Manager, designated work position samples shall be taken by placing the sampling device as follows:

(1) Equipment operator. On the equipment operator or on the equipment within 36 inches of the operator's normal working position;

(2) Non-equipment operators. On the miner assigned to the designated work position or at a location that represents the maximum concentration of dust to which the miner is exposed.

(h) Each designated work position sample shall be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample shall be transmitted to MSHA with a notation by the person certified in accordance with § 71.202 (Certified person; sampling) that the sample was not taken on a normal work shift. When a normal work shift is not achieved, the sample for that shift may be voided by MSHA. However, any sample, regardless of whether a normal work shift was achieved, with a respirable dust concentration greater than 2.5 milligrams per cubic meter of air will be used to determine the average concentration for that designated work position.

§ 71.209 Respirable dust samples; transmission by operator.

(a) The operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochran Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.