

(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.

Post-approval product audit. The examination, testing, or both, by MSHA of approved products selected by MSHA to determine whether those products meet the applicable product approval requirements and have been manufactured as approved.

Product safety standard. A document, or group of documents, that specifies the requirements for the testing and evaluation of a product for use in explosive gas and dust atmospheres, and, when appropriate, includes documents addressing the flammability properties of products.

§ 6.10 Use of independent laboratories.

(a) MSHA will accept testing and evaluation performed by an independent laboratory for purposes of MSHA product approval provided that MSHA receives as part of the application:

(1) Written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization;

(2) Complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements;

(3) Identification of components or features of the product that are critical to the safety of the product; and

(4) All documentation, including drawings and specifications, as submitted to the independent laboratory by the applicant and as required by the applicable part under this chapter.

(b) Product testing and evaluation performed by independent laboratories for purposes of MSHA approval must comply with the applicable MSHA product approval requirements.

(c) Product testing and evaluation must be conducted or witnessed by the laboratory's personnel.

(d) After review of the information required under paragraphs (a)(1) through (a)(4) of this section, MSHA will notify the applicant if additional

information or testing is required. The applicant must provide this information, arrange any additional or repeat tests and notify MSHA of the location, date, and time of the test(s). MSHA may observe any additional testing conducted by an independent laboratory. Further, MSHA may decide to conduct the additional or repeated tests at the applicant's expense. The applicant must supply any additional components necessary for testing and evaluation.

(e) Upon request by MSHA, but not more than once a year, except for cause, approval holders of products approved based on independent laboratory testing and evaluation must make such products available for post-approval audit at a mutually agreeable site at no cost to MSHA.

(f) Once the product is approved, the approval holder must notify MSHA of all product defects of which they become aware.

§ 6.20 MSHA acceptance of equivalent non-MSHA product safety standards.

(a) MSHA will accept non-MSHA product safety standards, or groups of standards, as equivalent after determining that they:

(1) Provide at least the same degree of protection as MSHA's product approval requirements in parts 18, 19, 20, 22, 23, 27, 33, 35 and 36 of this chapter; or

(2) Can be modified to provide at least the same degree of protection as those MSHA requirements.

(b) MSHA will publish its intent to review any non-MSHA product safety standard for equivalency in the FEDERAL REGISTER for the purpose of soliciting public input.

(c) A listing of all equivalency determinations will be published in this part 6 and the applicable approval parts. The listing will state whether MSHA accepts the non-MSHA product safety standards in their original form, or whether MSHA will require modifications to demonstrate equivalency. If modifications are required, they will be provided in the listing. MSHA will notify the public of each equivalency determination and will publish a summary of the basis for its determination.

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MSHA will provide equivalency determination reports to the public upon request to the Approval and Certification Center.

(d) After MSHA has determined that non-MSHA product safety standards are equivalent and has notified the public of such determinations, applicants may seek MSHA product approval based on such non-MSHA product safety standards.

§ 6.30 MSHA listing of equivalent non-MSHA product safety standards.

MSHA evaluated the following non-MSHA product safety standards and determined that they provide at least the same degree of protection as current MSHA requirements with or without modifications as indicated:

(a) The International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres, Part 0, General Requirements (IEC 60079-0, Fourth Edition, 2004-01) and Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" (IEC 60079-1, Fifth Edition, 2003-11) must be modified in order to provide at least the same degree of protection as MSHA explosion-proof enclosure requirements included in parts 7 and 18 of this chapter. Refer to §§ 7.10(c)(1) and 18.6(a)(3)(i) for a list of the required modifications. The IEC standards may be inspected at MSHA's Electrical Safety Division, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059 and may be purchased from International Electrical Commission, Central Office 3, rue de Varembe, P.O. Box 131, CH-1211 GENEVA 20, Switzerland.

(b) [Reserved]

[71 FR 28583, May 17, 2006]

PART 7—TESTING BY APPLICANT OR THIRD PARTY

Subpart A—General

Sec.

- 7.1 Purpose and scope.
- 7.2 Definitions.
- 7.3 Application procedures and requirements.
- 7.4 Product testing.
- 7.5 Issuance of approval.

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- 7.6 Approval marking and distribution record.
- 7.7 Quality assurance.
- 7.8 Post-approval product audit.
- 7.9 Revocation.
- 7.10 MSHA acceptance of equivalent non-MSHA product safety standards.

Subpart B—Brattice Cloth and Ventilation Tubing

- 7.21 Purpose and effective date.
- 7.22 Definitions.
- 7.23 Application requirements.
- 7.24 Technical requirements.
- 7.25 Critical characteristics.
- 7.26 Flame test apparatus.
- 7.27 Test for flame resistance of brattice cloth.
- 7.28 Test for flame resistance of rigid ventilation tubing.
- 7.29 Approval marking.
- 7.30 Post-approval product audit.
- 7.31 New technology.

Subpart C—Battery Assemblies

- 7.41 Purpose and effective date.
- 7.42 Definitions.
- 7.43 Application requirements.
- 7.44 Technical requirements.
- 7.45 Critical characteristics.
- 7.46 Impact test.
- 7.47 Deflection temperature test.
- 7.48 Acid resistance test.
- 7.49 Approval marking.
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- 7.51 Approval checklist.
- 7.52 New technology.

Subpart D—Multiple-Shot Blasting Units

- 7.61 Purpose and effective date.
- 7.62 Definitions.
- 7.63 Application requirements.
- 7.64 Technical requirements.
- 7.65 Critical characteristics.
- 7.66 Output energy test.
- 7.67 Construction test.
- 7.68 Firing line terminals test.
- 7.69 Approval marking.
- 7.70 Post-approval product audit.
- 7.71 Approval checklist.
- 7.72 New technology.

Subpart E—Diesel Engines Intended for Use in Underground Coal Mines

- 7.81 Purpose and effective date.
- 7.82 Definitions.
- 7.83 Application requirements.
- 7.84 Technical requirements.
- 7.85 Critical characteristics.
- 7.86 Test equipment and specifications.
- 7.87 Test to determine the maximum fuel-air ratio.
- 7.88 Test to determine the gaseous ventilation rate.