

# Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards

## Part 6: Final Rule

# Outline of Presentation



⌘ Advantages to Part 6

⌘ Current Approval Process

⌘ Discussion of 1994 Proposed Rule

⌘ Discussion of Final Rule

# Outline of Presentation



⌘ Effect on Approval Process

⌘ Benefits of Part 6

⌘ Effect on manufacturers and mine operators

# Advantages to Part 6

- ⌘ Contributes to improved safety and health for the miners.
- ⌘ Eliminates duplicative testing and evaluation by MSHA

# Advantages to Part 6



- ⌘ Increases non-mining manufacturers incentives to enter the mining market
- ⌘ Offers domestic manufacturers increased competitiveness opportunities in global markets

# Current Approval Process



- ⌘ 30 CFR parts 7 through 36
- ⌘ technical design, construction, and test requirements for permissible products used in underground mines
- ⌘ testing and evaluation for approval based on those requirements.

# 1994 Proposed Rule



⌘ The following two elements were included in the original 1994 proposal:

- ☑ mandated that testing and evaluation had to be performed by independent laboratories and that the labs had to be recognized through the OSHA NRTL program.
- ☑ MSHA acceptance of equivalent non-MSHA product safety standards.

# 1994 Proposed Rule



⌘ Commenters were concerned with:

☒ mandatory nature of proposal

☒ loss of MSHA expertise in testing and evaluation of mining equipment

☒ increased fees and turn-around times, and monopolies imposed by NRTLs



# 1994 Proposed Rule



⌘ Commenters were concerned with:

- ☒ increased field audit requirements imposed by NRTLs
- ☒ foreign mining equipment being used in domestic mines without adequate testing/evaluation
- ☒ unfair advantage for foreign manufacturers

# New Part 6



- ☒ § 6.1 Purpose and Effective Date
- ☒ § 6.2 Definitions
- ☒ § 6.10 Use of Independent Laboratories
- ☒ § 6.20 MSHA Acceptance of Equivalent non-MSHA product safety standards (equivalency)

# Revised Part 7



## ⌘ Testing by Applicant or Third Party

☑ § 7.2 Definitions

☑ § 7.10 Part 7 Equivalency

⌘ Does not include independent laboratory provision

# Part 6 vs. Part 7



- ⌘ Part 6 requires use of independent laboratories
- ⌘ Part 7 permits testing by applicant
- ⌘ Part 7 product lines are those whose tests require little or no subjective analysis

# Part 6 vs. Part 7



- ⌘ Part 7 demonstrated that MSHA could remove themselves from testing with no negative impact on product safety
- ⌘ Part 6 includes more MSHA control due to subjective nature of evaluations involved.

# Definitions



⌘ Definitions included in the rule include:

☑ Equivalent non-MSHA product safety standards

☑ Independent laboratory

☑ Product Safety Standard

# Independent Labs



- ☒ If the applicant chooses to use an independent laboratory, they must submit:
  - ☒ evidence of the laboratory's independence and recognition as an accredited laboratory
  - ☒ technical explanation of how the product complies with approval requirements
  - ☒ identification of critical characteristics of the product
  - ☒ all documentation submitted to the independent laboratory

# Independent Labs



- ⌘ Testing and evaluation performed by independent laboratories must comply with MSHA product approval requirements.
- ⌘ Testing and evaluation must be conducted or witnessed by the laboratory's personnel.



# Independent Labs



- ⌘ MSHA would notify the applicant if additional information and/or testing is required.
- ⌘ After approval, the approval holder must notify us of all product defects of which they are aware.

# Equivalency



- ⌘ MSHA would accept non-MSHA product safety standards, or groups of standards, as equivalent after determining that they:
  - ☑ Provide at least the same degree of protection as our approval requirements, or
  - ☑ can be modified to provide at least the same degree of protection as our requirements.

# Equivalency



- ⌘ MSHA will publish in the FR its intent to review any non-MSHA product safety standard for equivalency to solicit public input.
- ⌘ FR notice will be published of all equivalency determinations.
- ⌘ After publication in the FR, applicants may seek MSHA product approval based on the equivalent requirements.

# Effect on Approval Process



- ⌘ MSHA retains full authority to issue, deny and revoke approval for any product covered.
- ⌘ MSHA requires recognition by a laboratory accrediting organization to ensure that independent laboratories are capable of performing the specific technical evaluation and tests necessary.

# Effect on Approval Process



- ⌘ MSHA will review, accept and document all changes to an approved product before the changes could be made to the product.

# Benefits of Part 6



- ⌘ Encourages non-MSHA applicants with products that could be applicable to mining to apply for MSHA approval.
- ⌘ Expedites the introduction of technologically-advanced products into the mines, thus improving miner safety.

# Benefits of Part 6



- ⌘ Increase A&CC's expertise in laboratory testing, international and domestic standards and increasing involvement with other mining product testing experts.
- ⌘ Assists US manufacturers in entering the global market

# Effect on Manufacturers



- ⌘ the rule would give them the option of using independent labs rather than requiring it as the original proposal did
- ⌘ they could go to a single product line (meeting both MSHA and foreign market requirements)
- ⌘ they could save time and costs from the elimination of repeat testing



# Effect on Mine Operators



- ⌘ Potential for a wider variety of mining products, and, potentially lower costs

# Questions

