

(c) Upon issuance of a citation for a violation of §90.100 (Respirable dust standard) or §90.101 (Respirable dust standard when quartz is present), paragraphs (a) and (b) of this section shall not apply to that part 90 miner until the violation is abated in accordance with §90.201(d) (Sampling; general requirements).

**§90.209 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.

(c) A person certified in accordance with §90.202 (Certified person; sampling) shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person and shall include that person's certification number. Respirable dust samples with data cards not properly completed will be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of part 70, 71 or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by part 70, 71 or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by

this part shall be considered invalid samples.

(Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.))

[45 FR 80769, Dec. 5, 1980, as amended at 58 FR 63529, Dec. 2, 1993; 60 FR 33723, June 29, 1995; 60 FR 35696, July 11, 1995]

**§90.210 Respirable dust samples; report to operator.**

(a) The Secretary shall provide the operator with a report of the following data on respirable dust samples as soon as practicable:

- (1) The mine identification number;
- (2) The mechanized mining unit, if any, within the mine from which the samples were taken;
- (3) The concentration of respirable dust, expressed in milligrams per cubic meter of air, for each valid sample;
- (4) The average concentration of respirable dust, expressed in milligrams per cubic meter of air, for all valid samples;
- (5) The occupation code;
- (6) The reason for voiding any samples; and,
- (7) The Social Security Number of the part 90 miner.

(b) Upon receipt, the operator shall provide a copy of this report to the part 90 miner. The operator shall not post the original or a copy of this report on the mine bulletin board.

**§90.220 Status change reports.**

If there is a change in the status of a part 90 miner that affects the respirable dust sampling requirements of this part (such as entering a terminated, injured or ill status, or returning to work), the operator shall report the change in the status of the part 90 miner to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing within 3 working days after the status change has occurred.

**Subpart D—Respirable Dust Control Plans**

**§90.300 Respirable dust control plan; filing requirements.**

(a) If an operator abates a violation of §90.100 (Respirable dust standard) or