

(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

§ 90.301

30 CFR Ch. I (7-1-02 Edition)

§ 90.101 (Respirable dust standard when quartz is present) by reducing the respirable dust level in the position of the part 90 miner, the operator shall submit a written respirable dust control plan for that part 90 miner in that position within 15 calendar days after the citation is terminated to the District Manager for approval. The respirable dust control plan and revisions thereof shall be suitable to the conditions and the mining system of the coal mine and shall be adequate to continuously maintain respirable dust within the permissible concentration for the part 90 miner in the position identified in the citation.

(b) Each respirable dust control plan shall include at least the following:

(1) The mine identification number assigned by MSHA, the operator's name, mine name, mine address, and mine telephone number and the name, address and telephone number of the principal officer in charge of health and safety at the mine;

(2) The name and Social Security number of the part 90 miner and the position at the mine to which the plan applies;

(3) A detailed description of the specific respirable dust control measures used to abate the violation of the respirable dust standard; and

(4) A detailed description of how each of the respirable dust control measures described in response to paragraph (b)(3) of this section will continue to be used by the operator, including at least

the specific time, place and manner the control measures will be used.

§ 90.301 Respirable dust control plan; approval by District Manager; copy to part 90 miner.

(a) The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the District Manager shall consider whether:

(1) The respirable dust control measures would be likely to maintain compliance with the respirable dust standard; and

(2) The operator's compliance with all provisions of the respirable dust control plan could be objectively ascertained by MSHA.

(b) MSHA may take respirable dust samples to determine whether the respirable dust control measures in the operator's plan effectively maintain compliance with the respirable dust standard.

(c) The operator shall comply with all provisions of each respirable dust control plan upon notice from MSHA that the respirable dust control plan is approved.

(d) The operator shall provide a copy of the current respirable dust control plan required under this part to the part 90 miner. The operator shall not post the original or a copy of the plan on the mine bulletin board.

(e) The operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.