

jointly approved respirators and will invite joint participation in such activities. Care will be taken to prevent duplication or repetition of audit activities.

2. The results of NIOSH or MSHA audits of jointly approved respirators will be shared immediately with the other Agency through established procedures.

3. Discrepancies or nonconformances identified in audits of jointly approved respirators and/or manufacturing sites for jointly approved respirators will be resolved jointly by MSHA and NIOSH.

4. NIOSH will notify MSHA of all respirator discrepancies and nonconformances identified with any respirator bearing the NIOSH certification. If MSHA determines that the respirator in question has significant mine use, MSHA will consult with NIOSH and jointly participate in resolution of mine use problems.

IV. Post-Approval Complaints

1. Reports of discrepancies or nonconformances involving jointly approved respirators will be shared immediately between the two agencies and investigations of such discrepancies and nonconformances will be jointly conducted by NIOSH and MSHA.

2. MSHA and NIOSH will jointly participate in the planning and resolution of complaints involving MSHA/NIOSH approved respirators. Such joint participation will include all activities related to product

retrofit, recalls, stop sale notices, user notices, and revocation of prior certifications.

3. MSHA and NIOSH will promptly notify each other of respirator field complaints received by either Agency. MSHA will participate with NIOSH in resolution of such complaints only if MSHA determines that the cause of the complaint or its resolution has an impact on the mining industry.

V. Respirators With Electrical Components

1. Respirators having electrical components and intended for use in mines where methane may be present must be permissible and are subject to the requirements of 30 CFR Part 18. These respirators will be approved for permissibility solely by MSHA. MSHA will independently conduct the examinations, inspections and tests of respirators submitted for certification pursuant to the requirements of 30 CFR Part 18. NIOSH will provide consultation as requested by MSHA.

2. MSHA will independently conduct audits, nonconformance investigations, and resolve nonconformances associated with the electrical components of respirators approved in accordance with 30 CFR Part 18 requirements. A report of all such audit results will be promptly provided to NIOSH by MSHA.

3. MSHA will notify NIOSH in advance of the intent to audit Part 18 respirators. Care will be taken to coordinate audit activities

and prevent duplication or unnecessary repetition of audit efforts.

VI. Administration

This MOU will be administered on behalf of MSHA by the Chief, Approval and Certification Center or by such other representative as the Assistant Secretary for Mine Safety and Health designates in writing to NIOSH.

This MOU will be administered on behalf of NIOSH by the Chief, Certification and Quality Assurance Branch or by such other representative as the Director of NIOSH designates in writing to MSHA.

VII. Effective Date, Amendment and Termination

This MOU will become operative on the effective date of 42 CFR part 84 and upon execution of this MOU by both parties. It may be modified or terminated only upon written agreement executed by both parties.

Dated: May 4, 1995.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

Dated: May 4, 1995.

Linda Rosenstock,

Director, National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services.

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