

aerosol that will continue until the filter efficiency declines to its lowest level, the P-series may require neither aerosol-use nor time-use limitations. As for any filter, service time will be limited by considerations of hygiene and increased breathing resistance due to filter loading.

Guidelines for the use and selection of part 84 particulate respirators, as described in V. Administrative and Procedural Matters of Final Rule, B. User's Guide, are to be developed with public input. The user's guide will include detailed guidance concerning use limitations for these three filter series.

D. Section-by-Section Discussion.

All sections redesignated to 42 CFR part 84 without modification from 30 CFR part 11 are excluded in this discussion of the final rule. The sections redesignated without modification will be revised, where appropriate, to:

(1) remove references to MSHA, except for those related to certain mining applications,

(2) update the NIOSH certifying organization to the Certification and Quality Assurance Branch, Division of Safety Research, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505-2888,

(3) remove references to subpart M, pesticide respirators, and tests for protection during abrasive blasting,

(4) correct nonsubstantive typographical errors and reference the new part 84 section designations, and

(5) update references to incorporation-by-reference documents.

The sections redesignated without modification are as follows:

84.1, 84.11, 84.12, 84.21, 84.22, 84.30, 84.31, 84.32, 84.34, 84.35, 84.36, 84.40, 84.41, 84.42, 84.43, 84.50, 84.51, 84.53, 84.60, 84.62, 84.63, 84.64, 84.65, 84.66, 84.70, 84.71, 84.72, 84.73, 84.74, 84.75, 84.76, 84.77, 84.78, 84.79, 84.80, 84.81, 84.82, 84.83, 84.84, 84.85, 84.86, 84.87, 84.88, 84.89, 84.90, 84.91, 84.92, 84.93, 84.94, 84.95, 84.96, 84.97, 84.98, 84.99, 84.100, 84.101, 84.102, 84.103, 84.104, 84.110, 84.111, 84.112, 84.113, 84.114, 84.115, 84.116, 84.117, 84.118, 84.119, 84.120, 84.121, 84.122, 84.123, 84.124, 84.126, 84.130, 84.131, 84.132, 84.133, 84.134, 84.135, 84.136, 84.137, 84.138, 84.139, 84.140, 84.141, 84.142, 84.143, 84.144, 84.145, 84.146, 84.147, 84.148, 84.149, 84.150, 84.151, 84.152, 84.153, 84.154, 84.155, 84.156, 84.157, 84.158, 84.159, 84.160, 84.161, 84.162, 84.163, 84.172, 84.173, 84.174, 84.175, 84.176, 84.178, 84.182, 84.190, 84.191, 84.192, 84.193, 84.194, 84.195, 84.196, 84.197, 84.198, 84.199, 84.200, 84.201, 84.202, 84.204, 84.205, 84.207, 84.250, 84.251,

84.252, 84.253, 84.254, 84.255, 84.256, 84.257, and 84.258.

The following section-by-section analysis discusses each new or revised section to 42 CFR part 84. All part and section references for part 11 are to Title 30 of the Code of Federal Regulations (30 CFR). All part and section references for part 84 are to Title 42 of the Code of Federal Regulations (42 CFR).

Subpart A—General Provisions

Section 84.2—Definitions

This section is redesignated and revised from § 11.3. This section is unmodified from the proposal.

The existing definitions for air contamination level, Bureau, concentration limits for radionuclides, DOP, MESA, pesticide, radionuclides, and smoke are deleted. These terms are used in provisions that are modified or deleted as a result of the filter penetration test changes included in this final rule. These definitions have, therefore, become unnecessary.

The existing definition for Testing and Certification Laboratory is modified to reflect the present name of the organization as the Certification and Quality Assurance Branch. One commenter suggested the definition of respirator be modified to require a respirator to have one-way airflow with inspiratory and expiratory valves, able to be properly positive and negative fit-checked under usual working conditions. Additionally, this commenter recommended adding a definition for mask as any device that protects the wearer against inhalation of a hazardous atmosphere.

The primary purpose of a respirator is to provide respiratory protection for the wearer. Neither requiring inhalation and exhalation valves nor reclassifying respirators as masks would enhance worker protection. Thus NIOSH retained the current definition.

Section 84.3 Respirators For Mine Rescue or Other Emergency Use In Mines

This section is new and maintains MSHA's role in the approval of respirators designed for mine rescue or other mine emergency use. This section is unmodified from the proposal. Under this provision, MSHA and NIOSH will conduct joint review and certification of respirators used for mine emergencies and mine rescue. This provision recognizes MSHA's expertise in identifying the special needs and considerations for respirators used in the mining environment. This role replaces MSHA's existing role as a joint approver of all respirators. Several

commenters, while endorsing the transfer of the authority for the regulation, recognized MSHA's unique expertise relating to mine-specific respiratory protective devices. These commenters strongly supported MSHA's continued close involvement in this equipment including, but is not limited to, filter self-rescuers, self-contained self-rescuers, and emergency rescue equipment.

Paragraph (a) specifies that NIOSH and MSHA will jointly certify any respirator designed for mine emergencies, mine rescue or other emergency use in mines. This joint review and certification includes any associated service-life plans, user's manuals, and other supporting documentation. This paragraph further specifies that certifications for these respirators include any identified use limitations related to mine safety and health as a condition of certification.

Paragraph (b) specifies NIOSH and MSHA will jointly address recall and retrofit matters arising from field complaints or identified deficiencies concerning any respirators used in the mining environment. A new Memorandum of Understanding is to further delineate MSHA's role in such matters, including participation in any related field or manufacturing site audits.

Subpart B—Application for Approval

Section 84.10 Application Procedures

This section is redesignated from existing § 11.10 with only paragraph (e) modified. This section is unmodified from the proposal. Paragraph (e) retains the existing requirement for inspection, examination, and testing by MSHA of electrical and electronic components to be permissible in accordance with 30 CFR part 18 for respirators intended for use in mining environments and having permissible electrical or electronic components. MSHA will continue to conduct this testing and issue a separate MSHA approval number for those respirators found acceptable. The process for conducting the permissibility evaluation of these components and their identification remains unchanged from the existing policies and practices.

Subpart C—Fees

Section 84.20 Examination, Inspection, and Testing of Complete Respirator Assemblies; Fees

This section is redesignated from existing § 11.20, and modified only to reflect the new particulate filter classification scheme. This section is unmodified from the proposal.