

relating to permissible equipment, for the information of State mine inspection departments, compensation bureaus, mine operators, miners, and others interested in safety equipment for mines.

§ 23.2 Definitions.

(a) *Adequate* means appropriate and sufficient, as determined by mutual agreement of the manufacturer, operators, and MSHA.

(b) *Approval* means official notification by letter, from MSHA to a responsible organization, stating that the device under consideration has been judged to meet the requirements of this part.

(c) *Normal operation* means the performance by each part of the device of those functions for which the part was designed.

(d) *Permissible* as used in this part means completely assembled and conforming in every respect with the design formally approved by MSHA under this part. (Approvals under this part are given only to equipment for use in gassy and dusty mines.)

(e) *Protected* means effectively covered, enclosed, or otherwise guarded by adequate covers.

(f) *Signaling device*. As used in this part, a signaling device is one that gives visual or audible signals.

(g) *MESA* means the United States Department of the Interior, Mining Enforcement and Safety Administration. Predecessor organization to MSHA, prior to March 9, 1978.

(h) *MSHA* means the U.S. Department of Labor, Mine Safety and Health Administration.

NOTE: Paragraph (f) of this section is issued under the authority of Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811). All other paragraphs in this section continue under the original authority.

[Sched. 9B, 4 FR 1555, Apr. 11, 1939, as amended by Supp. 1, 20 FR 2975, May 4, 1955; 39 FR 24001, June 28, 1974; 43 FR 12315, Mar. 24, 1978; 47 FR 11370, Mar. 16, 1982]

§ 23.3 Application procedures and requirements.

(a) Before MSHA will undertake an active investigation leading to approval of any telephone or signaling de-

vice, the applicant shall make application by letter for an investigation leading to approval of the device. This application shall be sent to: U.S. Department of Labor, Mine Safety and Health Administration, Approval and Certification Center, RR #1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059, together with the required drawings, one complete telephone or signaling device, and instructions for its operation. Fees calculated in accordance with part 5 of this title shall be submitted in accordance with § 5.40.

(b) Where the applicant for approval has used an independent laboratory under part 6 of this chapter to perform, in whole or in part, the necessary testing and evaluation for approval under this part, the applicant must provide to MSHA as part of the approval application:

(1) Written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization;

(2) Complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements;

(3) Identification of components or features of the product that are critical to the safety of the product; and

(4) All documentation, including drawings and specifications, as submitted to the independent laboratory by the applicant and as required by this part.

(c) An applicant may request testing and evaluation to non-MSHA product safety standards which have been determined by MSHA to be equivalent, under § 6.20 of this chapter, to MSHA's product approval requirements under this part.

[68 FR 36421, June 17, 2003, as amended at 70 FR 46343, Aug. 9, 2005; 70 FR 48872, Aug. 22, 2005]

§ 23.4 [Reserved]

§ 23.5 Conditions governing investigations.

(a) One complete device together with assembly and detail drawings that show its construction and the materials of which the parts are made, shall be submitted preferably at the time the application for test is made. These