(e) MSHA Informational Report IR 1240 (1996)referenced in paragraph (a) of this section is incorporated-by-reference. This incorporation-by-reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected or obtained at MSHA, Coal Mine Safety and Health, 1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939 and at each MSHA Coal Mine Safety and Health district office. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal__register/code__of__federal__regulations/ibr__locations.html.*

[45 FR 80769, Dec. 5, 1980, as amended at 64 FR 43286, Aug. 10, 1999; 67 FR 38386, June 4, 2002; 71 FR 16669, Apr. 3, 2006]

§ 90.205 Approved sampling devices; operation; air flowrate.

(a) Sampling devices approved in accordance with part 74 (Coal Mine Dust Personal Sampler Units) of this title shall be operated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for the particular device.

(b) Except as provided in paragraph (d) of this section, each approved sampling device shall be examined each shift by a person certified in accordance with §90.202 (Certified person; sampling) during the second hour after being put into operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person.

(c) Each sampling device shall be examined each shift by a person certified in accordance with §90.202 (Certified person; sampling) during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the dust data card stating that the proper flowrate was not maintained.

(d) Paragraph (b) of this section shall not apply if the approved sampling device is being operated in a breast or chamber of an anthracite coal mine where the full box mining method is used.

§ 90.206 Approved sampling devices; equivalent concentrations.

The concentration of respirable dust shall be determined by dividing the weight of dust in milligrams collected on the filter of an approved sampling device by the volume of air in cubic meters passing through the filter and then converting that concentration to an equivalent concentration as measured with an MRE instrument. To convert a concentration of respirable dust as measured with an approved sampling device to an equivalent concentration of respirable dust as measured with an MRE instrument, the concentration of respirable dust measured with the approved sampling device shall be multiplied by a constant factor prescribed by the Secretary for the approved sampling device used, and the product shall be the equivalent concentration as measured with an MRE instrument.

§ 90.207 Compliance sampling.

(a) The operator shall take five valid respirable dust samples for each part 90 miner within 15 calendar days after:

(1) The 20-day period specified for each part 90 miner in §90.100 (Respirable dust standard);

(2) Receipt of notification from MSHA that any respirable dust sample taken in accordance with §90.208 (Bimonthly sampling) exceeds 1.0 milligram per cubic meter of air or the respirable dust standard established by §90.101 (Respirable dust standard when quartz is present); and

(3) Implementing any transfer after the twentieth calendar day following receipt of notification from MSHA that a part 90 miner is employed at the mine.

§ 90.208 Bimonthly sampling.

(a) Each operator shall take one valid respirable dust sample for each part 90 miner during each bimonthly period