

## § 37.100

159(1):179–187, January 1999, into § 37.92(b).

(c) European Respiratory Journal, 442 Glossop Road, Sheffield, S10 2PX, UK. Phone: 44 114 267 28 60; Fax: 44 114 266 50 64. Email: [info@ersj.org.uk](mailto:info@ersj.org.uk). <http://erj.ersjournals.com/>.

(1) Standardisation of Spirometry (“2005 ATS/ERS Standardisation of Spirometry”). ATS/ERS Task Force: Standardization of Lung Function Testing. Miller MR, Hankinson J, Brusasco V, Burgos F, Casaburi R, Coates A, Crapo R, Enright P, van der Grinten CPM, Gustafsson P, Jensen R, Johnson DC, MacIntyre N, McKay R, Navajas D, Pedersen OF, Pellegrino R, Viegi G, and Wanger J. *European Respiratory Journal* 26(2):319–338, August 2005, into §§ 37.93(b); 37.95(b) and (c); and 37.96(d). The ATS/ERS Standardisation of Spirometry is also available on the ATS Web site at <https://foundation.thoracic.org/statements/resources/pft/PFT2.pdf>.

(2) Interpretative Strategies for Lung Function Tests (“ATS/ERS Interpretative Strategies for Lung Function Tests”). ATS/ERS Task Force: Standardisation of Lung Function Testing. Pellegrino R, Viegi G, Brusasco V, Crapo RO, Burgos F, Casaburi R, Coates A, van der Grinten CPM, Gustafsson P, Hankinson J, Jensen R, Johnson DC, MacIntyre N, McKay R, Miller MR, Navajas D, Pedersen OF, and Wanger J. *European Respiratory Journal* 26(5):948–968, November 2005, into § 37.96(a). The ATS/ERS Standardisation of Lung Function Testing is also available on the ATS Web site at <http://www.thoracic.org/statements/resources/pft/pft5.pdf>.

(3) Standardisation of Lung Function Testing, the Authors’ Replies to Readers’ Comments (“Standardisation of Lung Function Testing, Replies to Readers”). Miller MR, Hankinson J, Brusasco V, Burgos F, Casaburi R, Coates A, Enright P, van der Grinten C, Gustafsson P, Jensen R, MacIntyre N, McKay RT, Pedersen OF, Pellegrino R, Viegi G, and Wanger J. *European Respiratory Journal* 36(6):1496–1498, December 2010, into § 37.95(c). The Standardisation of Lung Function Testing, Replies to Readers is also available on the ATS Web site at <http://www.thoracic.org/statements/resources/pft/pft5.pdf>.

## 42 CFR Ch. I (10–1–14 Edition)

[www.thoracic.org/statements/resources/pft/clarification-12-2010.pdf](http://www.thoracic.org/statements/resources/pft/clarification-12-2010.pdf).

### Subpart—General Requirements

SOURCE: 79 FR 45123, Aug. 4, 2014, unless otherwise noted.

#### § 37.100 Coal mine operator plan for medical examinations.

(a) Each coal mine operator must submit and receive NIOSH approval of a plan for the provision of chest radiographs, occupational histories, spirometry examinations, and respiratory assessments of miners, using the appropriate forms provided by NIOSH.

(1) During the transition from August 1, 2014 until the time when spirometry facilities are approved by NIOSH, any person becoming a coal mine operator on or after August 1, 2014, or any coal mine operator without an approved plan as of that date must submit a plan within 60 days that provides for chest radiographs and occupational histories.

(2) Coal mine operators with previously approved plans for only chest radiographs and occupational histories, or with plans developed pursuant to paragraph (a)(1) of this section, will be notified by MSHA when the plans must be amended to include spirometry examinations and respiratory assessments. Amendments must be submitted to NIOSH within 60 days of MSHA’s notification.

(b) The coal mine operator’s plan must include:

(1) The name, address, and telephone number of the operator(s) submitting the plan;

(2) The name, MSHA identification number for respirable dust measurements, and address of the mine included in the plan;

(3) The proposed beginning and ending date of the 6-month period(s) for voluntary radiography and spirometry examinations (see § 37.3(a) and § 37.92(a)), the estimated number of miners to be given or offered examinations during the 6-month period under the plan, and a roster specifying the names and current home mailing addresses of each miner covered by the plan;

(4) The name and location of the approved X-ray and spirometry facility or facilities, and the approximate date(s) and time(s) of day during which the radiographs and spirometry tests will be given to miners to enable a determination of whether the examinations will be conducted at a convenient time and place;

(5) If a mobile medical examination facility is proposed to provide some or all of the surveillance tests specified in paragraph §37.100(a), the plan shall provide that each miner be given adequate notice of the opportunity to have the examination and that no miner shall have to wait for an examination more than 1 hour before or after his or her work shift. In addition, the plan shall include:

(i) The number of change houses at the mine.

(ii) One or more alternate non-mobile approved medical examination facilities for the reexamination of miners and for the mandatory examination of miners when necessary [see §§37.3(b) and 37.92(b)], or an assurance that the mobile facility will return to the location(s) specified in the plan as frequently as necessary to provide for medical surveillance examinations in accordance with these regulations.

(iii) The name and location of each change house at which examinations will be given. For mines with more than one change house, the examinations shall be given at each change house or at a change house located at a convenient place for each miner.

(6) Assurances that:

(i) The operator will not solicit a physician's spirometric, radiographic or other findings concerning any miner employed by the operator,

(ii) Instructions have been given to the person(s) giving the examinations that duplicate spiograms or copies of spiograms (including copies of electronic files) and radiographs or copies of radiographs (including, for digital radiographs, copies of electronic files) will not be made, and to the extent that it is technically feasible all related electronic files must be permanently deleted from the facility records or rendered permanently inaccessible following the confirmed transfer of such data to NIOSH, and that (except

as may be necessary for the purpose of this part) the physician's spirometric, radiographic and other findings, as well as the occupational history and respiratory assessment information obtained from a miner will not be disclosed in a manner that would permit identification of the individual with their information, and

(iii) The spirometry and radiographic examinations will be made at no charge to the miner.

(c) Operators may provide for alternate spirometry or radiography facilities in plans submitted for approval.

(d) The change of operators of any mine operating under a plan approved pursuant to §37.101(a) shall not affect the plan of the operator which has transferred responsibility for the mine. Every plan shall be subject to revision in accordance with paragraph (e) of this section.

(e) The operator must advise NIOSH of any change in its plan. Each change in an approved plan is subject to the same review and approval as the originally approved plan.

(f) The operator must promptly display in a visible location on the bulletin board at the mine its proposed plan or proposed change in plan when it is submitted to NIOSH. The proposed plan or change in plan must remain posted in a visible location on the bulletin board until NIOSH either grants or denies approval of it at which time the approved plan or denial of approval must be permanently posted. In the case of an operator who does not have a bulletin board, such as an operator that is a contractor, the operator must otherwise notify its employees of the examination arrangements. Upon request, the contractor must show NIOSH written evidence that its employees have been notified.

(g) Upon notification from NIOSH that sufficient time has elapsed since the previous period of examinations, the operator will resubmit its plan for each of its coal mines to NIOSH for approval for the next period of examinations (see §§37.3(a)(2) and 37.92(a)). The plan must include the proposed beginning and ending dates of the next period of examinations and all information required by paragraph (b) of this section.