Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards

Part 6: Final Rule
Outline of Presentation

- Advantages to Part 6
- Current Approval Process
- Discussion of 1994 Proposed Rule
- Discussion of Final Rule
Outline of Presentation

- Effect on Approval Process
- Benefits of Part 6
- Effect on manufacturers and mine operators
Advantages to Part 6

- Contributes to improved safety and health for the miners.

- Eliminates duplicative testing and evaluation by MSHA
Advantages to Part 6

- Increases non-mining manufacturers incentives to enter the mining market

- Offers domestic manufacturers increased competitiveness opportunities in global markets
Current Approval Process

- 30 CFR parts 7 through 36

- technical design, construction, and test requirements for permissible products used in underground mines

- testing and evaluation for approval based on those requirements.
1994 Proposed Rule

The following two elements were included in the original 1994 proposal:

- Mandated that testing and evaluation had to be performed by independent laboratories and that the labs had to be recognized through the OSHA NRTL program.

- MSHA acceptance of equivalent non-MSHA product safety standards.
1994 Proposed Rule

- Commenters were concerned with:
  - mandatory nature of proposal
  - loss of MSHA expertise in testing and evaluation of mining equipment
  - increased fees and turn-around times, and monopolies imposed by NRTLs
1994 Proposed Rule

- Commenters were concerned with:
  - increased field audit requirements imposed by NRTLs
  - foreign mining equipment being used in domestic mines without adequate testing/evaluation
  - unfair advantage for foreign manufacturers
New Part 6

- § 6.1 Purpose and Effective Date
- § 6.2 Definitions
- § 6.10 Use of Independent Laboratories
- § 6.20 MSHA Acceptance of Equivalent non-MSHA product safety standards (equivalency)
Revised Part 7

Testing by Applicant or Third Party

§ 7.2 Definitions

§ 7.10 Part 7 Equivalency

Does not include independent laboratory provision
Part 6 vs. Part 7

- Part 6 requires use of independent laboratories

- Part 7 permits testing by applicant

- Part 7 product lines are those whose tests require little or no subjective analysis
Part 6 vs. Part 7

- Part 7 demonstrated that MSHA could remove themselves from testing with no negative impact on product safety.

- Part 6 includes more MSHA control due to subjective nature of evaluations involved.
Definitions

Definitions included in the rule include:

- Equivalent non-MSHA product safety standards
- Independent laboratory
- Product Safety Standard
Independent Labs

If the applicant chooses to use an independent laboratory, they must submit:

- evidence of the laboratory’s independence and recognition as an accredited laboratory
- technical explanation of how the product complies with approval requirements
- identification of critical characteristics of the product
- all documentation submitted to the independent laboratory
Independent Labs

- Testing and evaluation performed by independent laboratories must comply with MSHA product approval requirements.

- Testing and evaluation must be conducted or witnessed by the laboratory’s personnel.
Independent Labs

- MSHA would notify the applicant if additional information and/or testing is required.

- After approval, the approval holder must notify us of all product defects of which they are aware.
Equivalency

- MSHA would accept non-MSHA product safety standards, or groups of standards, as equivalent after determining that they:
  - Provide at least the same degree of protection as our approval requirements, or
  - can be modified to provide at least the same degree of protection as our requirements.
Equivalency

- MSHA will publish in the FR its intent to review any non-MSHA product safety standard for equivalency to solicit public input.

- FR notice will be published of all equivalency determinations.

- After publication in the FR, applicants may seek MSHA product approval based on the equivalent requirements.
Effect on Approval Process

- MSHA retains full authority to issue, deny and revoke approval for any product covered.

- MSHA requires recognition by a laboratory accrediting organization to ensure that independent laboratories are capable of performing the specific technical evaluation and tests necessary.
Effect on Approval Process

- MSHA will review, accept and document all changes to an approved product before the changes could be made to the product.
Benefits of Part 6

- Encourages non-MSHA applicants with products that could be applicable to mining to apply for MSHA approval.

- Expedites the introduction of technologically-advanced products into the mines, thus improving miner safety.
Benefits of Part 6

- Increase A&CC's expertise in laboratory testing, international and domestic standards and increasing involvement with other mining product testing experts.

- Assists US manufacturers in entering the global market
Effect on Manufacturers

- the rule would give them the option of using independent labs rather than requiring it as the original proposal did.

- they could go to a single product line (meeting both MSHA and foreign market requirements).

- they could save time and costs from the elimination of repeat testing.
Effect on Mine Operators

- Potential for a wider variety of mining products, and, potentially lower costs
Questions