



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Mingo Logan Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2024-0117 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2024-0117.
2. *Fax:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2024-089-C

Petitioner: Mingo Logan Coal, LLC, Sharples, WV 25183.

Mine: Mountaineer II Mine, MSHA ID No. 46-09029, located in Logan County, West Virginia.

Regulation Affected: 30 CFR 75.507-1(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.507-1(a) to allow the use of an alternative method of respirable dust protection. Specifically, the petitioner is requesting to use the 3M Versaflo TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR) and the CleanSpace EX PAPR in return air outby the last open crosscut.

The petitioner states that:

(a) Mountaineer II Mine has previously used the 3M Airstream Headgear-Mounted PAPR System to provide additional protection for its miners against exposure to respirable coal mine dust. There are clear long-term health benefits from using such technology. One of the benefits of PAPRs is that they provide a constant flow of air inside the headtop or helmet. This constant airflow helps to provide both respiratory protection and comfort in hot working environments.

(b) 3M elected to discontinue the 3M Airstream helmet, replacing it with the 3M Versaflo TR-800, which benefits from additional features and reduced weight. Because of its reduced weight, it provides significant ergonomic benefits.

(c) For more than 40 years the 3M Airstream has been used by many mine operators to help protect their workers. During those years there have been technological advancements in products and services for industrial applications. 3M indicated that they faced multiple key component supply disruptions for the Airstream product line that created issues with providing acceptable supply service levels. Because of those issues, 3M discontinued the Airstream in June 2020, and that discontinuation was global.

(d) 3M announced that February 2020 was the final time to place an order for systems and components and that June 2020 was the final date to purchase Airstream components.

(e) Currently there are no replacement 3M PAPRs that meet applicable MSHA standards for permissibility. Electronic equipment used in underground mines in potentially explosive atmospheres are required to be approved by MSHA in accordance with 30 CFR. 3M and other manufacturers offer alternative products for many other environments and applications.

(f) Following the discontinuation, mines that currently use the Airstream do not have an MSHA-approved alternative PAPR to provide to miners.

(g) Application of the standard results in a diminution of safety at the mine.

(h) The 3M Versaflo TR-800 motor/blower and battery qualify as intrinsically safe in the U.S., Canada, and any other country accepting IECEx (International Electrotechnical

Commission System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres) reports. The 3M Versaflo TR-800 has a blower that is UL-certified with an intrinsically safe (IS) rating of Division 1: IS Class I, II, III; Division 1 (includes Division 2) Groups C, D, E, F, G; T4, under the most current standard (UL 60079, 6th Edition, 2013). It is ATEX-certified with an IS rating of "ia." (ATEX refers to European directives for controlling explosive 2 atmospheres.) It is rated and marked with Ex ia I Ma, Ex ia IIB T4 Ga, Ex ia IIIC 135 °C Da, $-20\text{ °C} \leq T_a \leq +55\text{ °C}$, under the current standard (IEC 60079).

(i) Mountaineer II Mine seeks modification to also permit the use of the CleanSpace EX powered respirator under the same conditions as it proposes with respect to the 3M Versaflo TR-800. It too has been determined to be intrinsically safe.

(j) The 3M Versaflo TR-800 is not MSHA approved as permissible, and 3M is not pursuing approval.

(k) The CleanSpace EX Power Unit is not MSHA approved as permissible, and CleanSpace is not pursuing approval.

(l) The standards for approval of these respirators are an acceptable alternative to MSHA's standards and provide an equivalent level of protection.

(m) The alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) Affected mine employees shall be trained in the proper use and maintenance of the 3M Versaflo TR-800 and the CleanSpace EX in accordance with established manufacturer guidelines. This training shall alert the affected employee that neither the 3M Versaflo TR-800 nor the CleanSpace EX is approved under 30 CFR part 18 and shall be deenergized when 1.0 or more percent methane is detected. The training shall also include the proper method to deenergize these PAPRs. In addition to manufacturer guidelines, the petitioner shall require that mine employees be trained to inspect the units before use to determine if there is any damage to

the units that would negatively impact intrinsic safety as well as all stipulations in the Proposed Decision and Order (PDO) granted by MSHA.

(b) The PAPRs, battery packs, and all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) Mountaineer II Mine shall maintain a separate logbook for the 3M Versaflo TR-800 and CleanSpace EX PAPRs that shall be kept with the equipment or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512-1 and the examination results recorded in the logbook. Since float coal dust is removed by the air filter prior to reaching the motor, the PAPR user shall conduct regular examinations of the filter and perform periodic testing for proper operation of the "high filter load alarm" on the 3M Versaflo TR-800 and the "blocked filter" alarm on the CleanSpace EX. Examination entries may be expunged after one year.

(d) All 3M Versaflo TR-800 and CleanSpace EX PAPRs to be used in the return air outby the last open crosscut shall be physically examined prior to initial use, and each unit shall be assigned a unique identification number. Each unit shall be examined by the person who will be operating the equipment prior to taking the equipment underground to ensure the equipment is being used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition.

(e) The examination for the 3M Versaflo TR-800 shall include:

- (1) Check the equipment for any physical damage and the integrity of the case;
- (2) Remove the battery and inspect for corrosion;
- (3) Inspect the contact points to ensure a secure connection to the battery;
- (4) Reinsert the battery and power up and shut down to ensure proper connections;

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened; and

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

(f) The CleanSpace EX does not have an accessible/removable battery. The battery and motor/blower assembly are both contained within the sealed four power pack assembly and cannot be removed, reinserted, or fastened. The pre-use examination is limited to inspecting the equipment for indications of physical damage.

(g) Mountaineer II Mine shall ensure that all 3M Versaflo TR-800 and CleanSpace EX PAPRs are serviced according to the manufacturer's recommendations. Dates of service shall be recorded in the equipment's logbook and shall include a description of the work performed.

(h) The 3M Versaflo TR-800 and CleanSpace EX PAPRs that will be used in the return air outby the last open crosscut, or in areas where methane may enter the air current, shall not be put into service until MSHA has initially inspected the equipment and determined that it is following all the terms and conditions of the PDO granted by MSHA.

(i) Prior to energizing the 3M Versaflo TR-800 or the CleanSpace EX in the return air outby the last open crosscut, methane tests shall be made in accordance with 30 CFR 75.323(a).

(j) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors shall provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) A qualified person as defined in 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of the 3M Versaflo TR-800 or CleanSpace EX in the return air outby the last open crosscut or in areas where methane may enter the air current.

(l) Neither the 3M Versaflo TR-800 nor the CleanSpace EX shall be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more of methane is

detected while the 3M Versaflo TR-800 or CleanSpace EX is being used, the equipment shall be deenergized immediately and the equipment withdrawn outby the last open crosscut.

(m) Mountaineer II Mine shall use only the 3M TR-830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133 in the 3M Versaflo TR-800. The petitioner shall use only the CleanSpace EX Power 5 Unit which meets lithium battery safety standard UL 1642 or IEC 62133 in the CleanSpace EX.

(n) The battery packs shall be "changed out" in intake air outby the last open crosscut. Before each shift when the 3M Versaflo TR-800 or CleanSpace EX is to be used, all batteries and power units for the equipment shall be charged sufficiently so that they are not expected to be replaced on that shift.

(o) The following maintenance and use conditions shall apply to equipment containing lithium-type batteries:

(1) Always correctly use and maintain the lithium-ion battery packs. Neither the 3M TR-830 Battery Pack nor the CleanSpace EX Power Unit may be disassembled or modified by anyone other than persons permitted by the manufacturer of the equipment.

(2) The 3M TR-830 Battery Pack shall only be charged in an area free of combustible material, readily monitored, and located on the surface of the mine. The 3M TR-830 Battery Pack is to be charged by either:

(i) 3M Battery Charger Kit TR-641N, which includes one 3M Charger Cradle TR-640 and one 3M Power Supply TR-941N, or

(ii) 3M 4-Station Battery Charger Kit TR-644N, which includes four 3M Charger Cradles TR-640 and one 3M 4-Station Battery Charger Base/Power Supply TR-944N.

(iii) The CleanSpace EX Power Unit is to be charged only by the CleanSpace Battery Charger EX, Product Code PAF-0066.

(iv) The batteries shall not be allowed to get wet. This does not preclude incidental exposure of sealed battery packs.

(v) The batteries shall not be used, charged, or stored in locations where the manufacturer's recommended temperature limits are exceeded. The batteries shall not be placed in direct sunlight or used or stored near a source of heat.

(p) Personnel engaged in the use of the 3M Versaflo TR-800 and CleanSpace EX PAPRs shall be properly trained to recognize the hazards and limitations associated with the use of the equipment in areas where methane could be present. Additionally, personnel shall be trained regarding proper procedures for donning Self-Contained Self Rescuers (SCSRs) during a mine emergency while wearing the 3M Versaflo TR-800 or CleanSpace EX. The mine operator shall submit proposed revisions to update the Mine Emergency Evacuation and Firefighting Program of Instruction under 30 CFR 75.1502 to address this issue.

(q) Within 60 days after the PDO granted by MSHA becomes final, Mountaineer II Mine shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Mine Safety and Health Enforcement District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO granted by MSHA. When training is conducted on the terms and conditions in the PDO granted by MSHA, an MSHA Certificate of Training (Form 5000-23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the 3M Versaflo TR-800 or CleanSpace EX.

(r) All personnel who will be involved with or affected by the use of the 3M Versaflo TR-800 or CleanSpace EX shall receive training in accordance with 30 CFR 48.7 on the requirements of the PDO granted by MSHA within 60 days of the date the PDO granted by MSHA becomes final. Such training shall be completed before any 3M Versaflo TR-800 or CleanSpace EX can be used in return air outby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(s) Mountaineer II Mine shall provide annual retraining to all personnel who will be involved with or affected by the use of the 3M Versaflo TR-800 or CleanSpace EX in accordance with 30

CFR 48.8. The operator shall train new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5 and shall train experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide such record to MSHA upon request.

(t) Mountaineer II Mine shall post the PDO granted by MSHA in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted for a period of not less than 60 consecutive days.

(u) There are no representatives of miners at Mingo Logan Coal, LLC, Mountaineer II Mine. A copy of this petition has been posted on the bulletin board as of November 11, 2024.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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