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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 Crimson Oak Grove Resources, 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 and informational materials, identified by Docket No. MSHA-2026-1024, electronically at the Federal eRulemaking Portal, *https://www.regulations.gov.* Follow the online instructions for making electronic submissions. You should not include personal or proprietary information that you do not wish to disclose publicly. If you mark parts of a comment as "business confidential" information, MSHA will not post those parts of the comment. Otherwise, MSHA will post all comments without change, including any personal information provided. MSHA cautions against submitting personal information.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Acting Director, 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, 30 CFR 44.10 and 30 CFR 44.11 establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2026-024-C

Petitioner: Crimson Oak Grove Resources, LLC, 8800 Oak Grove Mine Road, Adger, AL 35006.

Mine: Oak Grove Mine, MSHA ID No. 01-00851, located in Jefferson County, AL.

Regulation Affected: 30 CFR 75.1002(a), Installation of electric equipment and conductors; permissibility.

Modification Request: The petitioner requests modification of the application of 30 CFR 75.1002(a) to permit the use of non-permissible electronic testing or diagnostic equipment located within 150 feet of pillar workings or longwall faces (subject area).

The petitioner states that:

(a) The equipment allowed under this Petition (low voltage or battery-powered non-permissible electronic testing and diagnostic equipment) shall be limited to: AMS 2140

Machinery Health Analyzer; laptop computers; oscilloscopes; insulation testers (meggers); signal analyzer devices; ultrasonic measuring devices; electronic component testers; and electronic tachometers for testing or troubleshooting mining equipment. Fault detectors are not allowed in the subject area.

(b) Where commercially available, the operator must use equipment that meets IEC 60079-11 or the ANSI/UL 60079-11 for two-fault IS (marked ia), one-fault IS (marked ib), or no-fault IS (marked ic) in that order of preference. The equipment must have an IP 66 rating or higher when available. When an IP 66 rating is not available, the highest IP rating available must be used. When equipment contains lithium batteries, the equipment must meet lithium battery safety standard UL1642 or IEC 62133. All other equipment in the subject area must be permissible.

(c) A record for this equipment shall be maintained on mine property either in a secure book or electronically in a secure computer system not susceptible to alteration. The record will contain the date of manufacture and/or purchase of each particular piece of electronic testing and diagnostic equipment and include proof of compliance with any lithium battery safety standard. The original equipment manufacturers' user and maintenance manuals shall be followed and maintained on mine property. The record and manuals shall be made available to Authorized Representatives of the Secretary and miners at the mine.

(d) This equipment shall be used only:

(1) until MSHA-approved permissible electronic testing and diagnostic equipment is available;

(2) if mechanical equipment is not commercially available that can perform the work; or

(3) when the mining equipment being tested cannot be towed or moved under its own power to intake air, out of the subject area.

The petitioner proposes the following alternative method:

(a) The equipment to be used in the subject area shall be examined by a qualified person, as set forth in 30 CFR 75.153, prior to taking the equipment underground to ensure the equipment is

being maintained in a safe operating condition. At a minimum, the qualified person conducting the exam shall:

(1) Check the instrument 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 the lithium cells and/or pack are not damaged or swelled in size.

(b) The equipment shall be examined at least weekly by a qualified person as required by 30 CFR 75.512-2 and the exam results shall be recorded weekly in the equipment's record. Examination entries in the record may be expunged after one year.

(c) The equipment shall be serviced according to the manufacturers' recommendations. Dates of service shall be recorded and include a description of the work performed.

(d) The equipment shall not be put into service until MSHA has initially inspected the equipment and determined it is in compliance with all the terms and conditions of this Petition. The equipment shall be tested for potential adverse effects of Radio Frequency Interference (RFI) and Electromagnetic Interference (EMI) for any disturbances with performance of remote control transmitters, atmospheric monitoring systems, fire sensors, machine-mounted methane monitors, hand-held detectors, miner's cap lamps, tracking and communication systems, proximity detection systems, etc. A record of the test performed similar to those conducted by NIOSH shall be maintained on mine property for the service life of the equipment and made available to MSHA upon request. MSHA should be notified at least 5 working days before such testing will be performed.

(e) The equipment shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the equipment is being used, the equipment shall be de-energized immediately and withdrawn out of the subject area to fresh air. Batteries shall not be removed to de-energize equipment because removing the battery exposes battery contacts to accidental short-circuiting. All requirements of 30 CFR 75.323 must be met before returning the equipment to the subject area.

(f) For additional safety, prior to taking the equipment to the subject area or energizing the equipment in the subject area, a certified person (as set forth by 30 CFR 75.100) shall conduct a visual examination of the location where the equipment will be used for:

(1) Evidence that the subject area appears to be sufficiently rock-dusted; and

(2) The presence of accumulated combustible material including float coal dust in suspension. If the rock-dusting appears insufficient, or the presence of float coal dust is observed in suspension, the equipment may not be energized until sufficient rock dust has been applied and/or the accumulations of combustible materials including float coal dust in suspension have been cleaned-up or removed.

(g) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as set forth by 30 CFR 75.320. Measurement devices shall be calibrated or bump tested before each shift to verify proper operation. In addition, all methane detectors must provide visual and audible warnings when methane is detected at and above 1.0 percent.

(h) Prior to energizing the equipment in the subject area, methane tests must be made at least 12 inches from the roof, face, ribs and floor, as set forth in 30 CFR 75.323(a).

(i) The subject area must be examined, as set forth by 30 CFR 75.360, prior to using the equipment. If the area has not been examined, a supplemental examination, as set forth by 30 CFR 75.361, must be performed before any non-certified person enters the area.

(j) Before using the equipment in the subject area, the air quantity on the section, for that shift, is at least the minimum quantity required by the mine's approved ventilation plan. A qualified person shall continuously monitor for methane immediately before and during the use of the equipment in the subject area. The qualified person shall have a hand-held methane detector and be strategically positioned in locations with the greatest potential to detect hazardous gas in the area where the equipment is being used. A qualified person shall also remain with the equipment while the equipment is used in the subject area.

(k) Batteries contained in the equipment must be "changed out" in intake air, out of the subject area. No work shall be performed on any testing and diagnostic equipment listed in this Petition while such equipment is in the subject area. Replacement batteries for the equipment shall not be brought in the subject area. On each entry into the mine, all batteries for the equipment must be fully charged and protected (i.e., carried only in the compartment provided for a spare battery in the equipment or the equipment carrying case). Batteries for the equipment listed within this Petition shall not be charged underground. The following maintenance and use conditions shall apply to equipment containing lithium-type batteries:

(1) The battery pack must not be disassembled or modified by anyone other than permitted by the manufacturer of the equipment;

(2) The battery pack must only be charged using the original equipment manufacturer’s recommended charger on the surface of the mine;

(3) The battery must not be exposed to water or allowed to get wet. This does not preclude incidental exposure of sealed battery packs;

(4) The battery must not be placed in direct sunlight or used or stored near a source of heat; and

(5) The battery must not be used at the end of its life cycle (e.g. when there is a performance decrease of greater than 20% in battery operated equipment). The battery must be disposed of properly.

(l) Personnel engaged in the use of the equipment shall be properly qualified, as specified in 30 CFR 75.153, and trained in accordance with the manufacturers' recommended safe use procedures and trained to recognize hazards associated with the use of the equipment where methane could be present.

(m) All qualified persons and miners affected shall receive specific training on the terms and conditions of this Petition before using the equipment in subject areas. A record of any training on this Petition shall be maintained and provided upon request by an Authorized Representative of the Secretary.

(n) The equipment used shall be no older than 10 years from date of manufacture or removed at the end of its service life as recommended by the manufacturer, whichever is shorter.

(o) The operator is responsible for ensuring that all persons, including contractors, are using the equipment in accordance with this Proposed Decision and Order. The conditions of use in this Proposed Decision and Order shall apply to all non-permissible electronic equipment used in the subject area, regardless of whether the equipment is used by an employee or by an independent contractor.

(p) The operator shall post this Proposed Decision and Order in unobstructed locations on mine 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.

(q) The subject equipment shall not be used when coal production is occurring on the section. All mining on the section shall cease prior to use of the equipment in the subject area. A positive means of preventing mobile equipment from tramming in the same entry or crosscut of the affected area shall be provided and addressed in the mine ventilation plan.

(r) Unless specifically mentioned herein, nothing in this Proposed Decision and Order changes or supersedes the requirements otherwise imposed by the Mine Act, other mandatory standards or regulations, or approved ventilation or other plans.

The miners at Oak Grove Mine are represented by the United Mine Workers of America (UMWA). The petition for modification was provided to UMWA representative, Blake Layton, on August 31, 2026.

In support of the petition, the petitioner submitted a product data sheet for the AMS 2140 Machinery Health Analyzer.

The petitioner asserts that the alternative method will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1002(a).

Corliss A. Josephs-Conway,

Acting Director,

Office of Standards, Regulations, and Variances.

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