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**Song-ae Aromie Noe,**

*Director, Office of Standards, Regulations, and Variances.*

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**BILLING CODE 4520–43–P**

## 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 Kingston Mining, Inc.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before December 18, 2024.

**ADDRESSES:** You may submit comments identified by Docket No. MSHA–2024–0066 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA–2024–0066.

2. *Fax:* 202–693–9441.

3. *Email:* [petitioncomments@dol.gov](mailto: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](mailto: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–2024–043–C.

*Petitioner:* Kingston Mining, Inc., 300 Running Right Way, Julian, WV 25529.

*Mine:* Kingston No. 2 Mine, MSHA ID No. 46–08932, located in Fayette County, West Virginia.

*Regulation Affected:* 30 CFR 75.1002(a), Permissible electric equipment.

*Modification Request:* The petitioner requests a modification of 30 CFR 75.1002(a) to permit alternative methods of compliance to allow the use of additional respirable dust protection. Specifically, the petitioner is requesting to permit the use of the 3M Versaflo TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator motor/blower and battery.

The petitioner states that:

(a) Kingston Mining, Inc., does not currently use a battery powered respirator unit but would like to add a Powered Air Purifying Respirator (“PAPR”) to the units available to miners in certain situations.

(b) Currently there are no battery powered respirators that meet applicable U.S. Mine Safety and Health Administration (MSHA) standards for permissibility. Electronic equipment used in underground mines in potentially explosive atmospheres is required to be approved by MSHA per 30 CFR. 3M and other competitor manufacturers do offer alternative products for many other environments and applications.

(c) One of the main benefits of a PAPR 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 warm working environments.

(d) A strict application of the standard (*i.e.*, objecting to the use of the requested PAPR) results in a diminution of safety at the mine.

(e) Kingston Mining, Inc., petitions to permit the use of the 3M Versaflo TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator motor/blower and battery.

(f) The Versaflo TR–800–HIK motor/blower and battery qualifies as intrinsically safe in the U.S., Canada, and any other countries accepting IECEx reports. (IECEx is the International Electrotechnical Commissions System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres). The TR–800–HIK PAPR has a blower that is UL-certified with an intrinsically safe (IS) rating of Division I: IS Class I, II, III; Division I (includes Division 2) Groups C, D, E, F, G; T4, under the most current standard (UL 60079, 6th Edition, 2013), and ATEX-certified with an intrinsically safe (IS) rating of “ia”. The TR–800 is rated and marked with Exia I Ma, Exia IIB T4 Ga, Ex ia IIIC 135°C Da, –20 °C ≤ Ta ≤ +55 °C, under the current standard (IEC 60079).

(g) The 3M Versaflo TR–800 Intrinsically Safe Powered Air Purifying Respirator is not MSHA approved as permissible, and 3M is not pursuing approval to our knowledge.

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

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) Affected mine employees shall be trained in the proper use and maintenance of the Versaflo TR–800 PAPR in accordance with established manufacturer guidelines. This training shall alert the affected employee that the Versaflo TR–800 PAPR is approved under 30 CFR part 18 and shall be de-energized when 1.0 percent or more percent methane is detected. The training shall also include the proper method to de-energize the PAPR. In addition to manufacturer guidelines, Kingston Mining, Inc. 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 this petition.

(b) The PAPR, battery pack, and all associated wiring and any 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) The operator shall maintain a separate logbook for the 3M Versaflo TR-800 PAPR 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 PAPR.

(d) All 3M Versaflo TR-800 PAPRs to be used on the longwall face or within 150 feet of pillar workings, 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 to operate 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. The examinations for the 3M Versaflo TR-800 PAPRs 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. The pre-use examination is limited to inspecting the equipment for indications of physical damage.

(e) The operator shall ensure that all 3M Versaflo TR-800 units 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.

(f) The 3M Versaflo TR-800 units that will be used in the face or within 150 feet of pillar workings, 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 in compliance with all the terms and conditions of the Proposed Decision and Order (PDO) granted by MSHA.

(g) Prior to energizing the 3M Versaflo TR-800 in by the last open crosscut, methane tests shall be made in accordance with 30 CFR 75.323(a).

(h) 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.

(i) 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 PAPR in the face or within 150 feet of pillar workings or in areas where methane may enter the air current.

(j) The 3M Versaflo TR-800 PAPR 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 Versaflo TR-800 is being used, the equipment shall be de-energized immediately and the equipment withdrawn outby the last open crosscut.

(k) Kingston Mining, Inc. 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 PAPR.

(l) The battery packs shall be "changed out" in intake air outby the last open crosscut. Before each shift when the 3M Versaflo TR-800 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.

(m) 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. The 3M TR-830 Battery Pack may not 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 batteries shall not be allowed to get wet. This does not preclude incidental exposure of sealed battery packs.

(iv) 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.

(n) Personnel engaged in the use of the 3M Versaflo TR-800 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 PAPR. 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.

(o) Within 60 days after the PDO granted by MSHA becomes final, the operator 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.

(p) All personnel who will be involved with or affected by the use of the 3M Versaflo TR-800 PAPR 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 can be used in the face or within 150 feet of pillar workings. The operator shall keep a record of such training and provide such record to MSHA upon request.

(q) The operator shall provide annual retraining to all personnel who will be involved with or affected by the use of the 3M Versaflo TR-800 PAPR 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.

(r) The operator 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.

(s) The miners at Kingston Mining, Inc., Kingston No. 2 Mine, are not represented by a labor organization and there are no representatives of miners at the mine and a copy of this petition has been posted on the bulletin board on September 4, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

**Song-ae Aromie Noe,**

*Director, Office of Standards, Regulations, and Variances.*

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**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Kingston Mining, Inc.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before December 18, 2024.

**ADDRESSES:** You may submit comments identified by Docket No. MSHA-2024-0065 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2024-0065.

2. *Fax:* 202-693-9441.

3. *Email:* [petitioncomments@dol.gov](mailto: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.

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**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.

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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-2024-042-C.

*Petitioner:* Kingston Mining, Inc., 300 Running Right Way, Julian, WV 25529.

*Mine:* Kingston No. 2 Mine, MSHA ID No. 46-08932, located in Fayette 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 permit alternative methods of compliance to allow the use of additional respirable dust protection. Specifically, the petitioner is requesting to permit the use of the 3M Versaflo TR-800-HIK Intrinsically Safe Powered Air Purifying Respirator motor/blower and battery.

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