

Complainant's motion for leave to amend the complaint and notice of investigation to add the two 12PanelMedical affiliates and update the address information for 12PanelMedical and AlcoPro. Order No. 8 (March 9, 2021). Specifically, the ID finds that amending the Complaint and Notice of Investigation to add the 12PanelMedical affiliates will aid in the development of the Investigation and is necessary to avoid prejudicing the public interest and rights of the parties to the Investigation. The subject ID finds that Complainant's motion is supported by good cause pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)) and that there is no prejudice to any party if the motion is granted. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. 12Panel Now, Inc. and Hospital Connect, Inc. are named respondents in this investigation and the address information for respondents 12PanelMedical and AlcoPro has been updated.

The Commission vote for this determination took place on March 24, 2021.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the complainant complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 24, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021-06465 Filed 3-29-21; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby

given that a proposed Consent Decree in *United States, et al. v. Chesapeake Appalachia, LLC*, Civil Action No. 4:21-00538-MWB, was lodged with the United States District Court for the Middle District of Pennsylvania on March 24, 2021.

This proposed Consent Decree concerns a complaint filed by the United States and the Commonwealth of Pennsylvania, Department of Environmental Protection, against Defendant Chesapeake Appalachia, LLC, pursuant to Sections 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) & (d), to obtain injunctive relief from and impose civil penalties against the Defendant for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendant to restore the impacted areas and/or perform mitigation and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Laura J. Brown, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice, Post Office Box 7611, Washington, DC 20044-7611, [pubcomment\\_edns.enrd@usdoj.gov](mailto:pubcomment_edns.enrd@usdoj.gov), and refer to *United States, et al. v. Chesapeake Appalachia, LLC*, DJ # 90-5-1-1-20432.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Middle District of Pennsylvania, Herman T. Schneebeli Federal Building and United States Courthouse, 240 West Third Street, Suite 218, Williamsport, PA 17701. In addition, the proposed Consent Decree may be examined electronically at <http://www.justice.gov/enrd/consent-decrees>.

**Cherie Rogers,**

*Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.*

[FR Doc. 2021-06533 Filed 3-29-21; 8:45 am]

**BILLING CODE 4410-CW-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions 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 three petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 29, 2021.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

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

3. *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, Acting Deputy Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [noe.song-ae.a@dol.gov](mailto:noe.song-ae.a@dol.gov) (email), or 202-693-9441 (facsimile). [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, the regulations at 30 CFR 44.10 and 44.11 establish the requirements for filing petitions for modification.

## II. Petition for Modification

*Docket Number:* M–2021–002–C.

*Petitioner:* Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado (ZIP 81648).

*Mine:* Deserado Mine, MSHA ID No. 05–03505, located in Rio Blanco County, Colorado.

*Regulation Affected:* 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

*Modification Request:* The petitioner requests a modification of the existing standard, 30 CFR 75.507–1(a) *Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements*. Specifically, the petitioner is applying to utilize the battery-powered CleanSpace Powered Respirator in the Deserado Mine in Colorado in return air outby the last open crosscut.

The petitioner states that:

(a) Blue Mountain Energy currently uses the 3M Airstream helmet to provide additional protection for its miners against exposure to respirable coal mine dust.

(b) For more than 40 years the 3M Airstream Headgear-Mounted Powered Air Purifying Respirator (PAPR) System has been used by many mine operators to help protect their workers. Recently 3M indicated they faced multiple key component supply disruptions for the Airstream product line, which made it difficult to provide acceptable supply service levels. Because of these issues, 3M discontinued the Airstream on or before June 1, 2020. 3M further announced that February 2020 was the final date to place an order for systems and components and that June 2020 was the final date to purchase Airstream components.

(c) Following that discontinuation, mines using the 3M Airstream do not have an MSHA-approved alternative PAPR to provide to miners.

(d) Currently there are no replacement of 3M PAPRs that meet MSHA standards for permissibility. Under 30 CFR, electronic equipment must be approved by MSHA to be used in underground mines with potentially explosive atmospheres.

(e) A benefit of using PAPRs is that they provide a constant flow of air inside the headtop or helmet, offering

miners both respiratory protection and comfort in hot working environments.

(f) Another manufacturer offers an alternative product for other environments and applications—the CleanSpace EX Powered Respirator. However, the CleanSpace EX Powered Respirator is not MSHA-approved as permissible, and the manufacturer is not pursuing MSHA approval.

(g) The CleanSpace EX Powered Respirator is intrinsically safe and meets International Electrotechnical Commission System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres (IECEX) approval standards for quality assurance and protection.

(h) The product provides an equivalent level of respiratory protection in underground mining environments.

The petitioner proposes the following alternative method:

(a) The petitioner will use the CleanSpace EX Powered Respirator in return air outby the last open crosscut.

(b) The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–2; the examination results shall be recorded weekly. Examination entries may be expunged after one year.

(c) The petitioner shall comply with 30 CFR 75.323.

(d) A qualified person as defined in 30 CFR 75.151 shall monitor methane for the subject area of the mine as required by the mandatory standards.

(e) All qualified persons and miners affected shall receive specific training on the terms and conditions of the Decision and Order before using the equipment in the affected area. A record of any training on this Decision and Order shall be kept and provided upon request by an Authorized Representative.

(f) Within 60 days of the Decision and Order issued by MSHA becoming final, the mine operator shall submit proposed revisions for its approved 30 CFR 75.370 mine ventilation plan and approved 30 CFR part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify how the operator will provide initial and refresher training in compliance with the terms and conditions stated in MSHA's Decision and Order. When training is conducted, a MSHA Certificate of Training (Form 5000–23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training was the use of nonpermissible testing equipment.

(g) The mine operator shall be responsible for determining that all

persons including contractors are using the equipment in accordance with MSHA's Decision and Order.

(h) The mine operator shall post this Decision and Order 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.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

*Docket Number:* M–2021–003–C.

*Petitioner:* Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado (ZIP 81648).

*Mine:* Deserado Mine, MSHA ID No. 05–03505, located in Rio Blanco County, Colorado.

*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

*Modification Request:* The petitioner requests a modification of the existing standard, 30 CFR 75.500(d), as it relates to the use of an alternative method of respirable dust protection in the Deserado Mine in Colorado. Specifically, the petitioner is applying to use a battery powered respirable protection unit called CleanSpace EX Powered Respirator in or inby the last open crosscut.

The petitioner states that:

(a) Blue Mountain Energy currently uses the 3M Airstream helmet to provide additional protection for its miners against exposure to respirable coal mine dust.

(b) For more than 40 years the 3M Airstream Headgear-Mounted Powered Air Purifying Respirator (PAPR) System has been used by many mine operators to help protect their workers. Recently 3M indicated they faced multiple key component supply disruptions for the Airstream product line that created issues with providing acceptable supply service levels. Because of these issues, 3M discontinued the Airstream on or before June 1, 2020. 3M further announced that February 2020 was the final date to place an order for systems and components and that June 2020 was the final date to purchase Airstream components.

(c) Following that discontinuation, mines using the 3M Airstream do not have an MSHA-approved alternative PAPR to provide to miners.

(d) Currently there are no 3M replacement PAPRs that meet MSHA standards for permissibility. Under 30 CFR, electronic equipment must be approved by MSHA to be used in underground mines with potentially explosive atmospheres.

(e) A benefit of using PAPRs is that they provide a constant flow of air inside the headtop or helmet, offering miners with both respiratory protection and comfort in hot working environments.

(f) Another manufacturer offers an alternative product for other environments and applications—the CleanSpace EX Powered Respirator. However, the CleanSpace EX Powered Respirator is not MSHA-approved as permissible, and the manufacturer, CleanSpace, is not pursuing MSHA approval.

(g) The CleanSpace EX Powered Respirator is intrinsically safe and meets International Electrotechnical Commission System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres (IECEX) approval standards for quality assurance and protection.

(h) The product provides an equivalent level of respiratory protection in underground mining environments.

The petitioner proposes the following alternative method:

(a) The petitioner is applying to use the CleanSpace EX Powered Respirator in or inby the last open crosscut.

(b) The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–2; the examination results shall be recorded weekly. Examination entries may be expunged after one year.

(c) The petitioner shall comply with 30 CFR 75.323.

(d) A qualified person as defined in 30 CFR 75.151 shall monitor methane for the subject area of the mine as required by the mandatory standards.

(e) All qualified persons and miners affected shall receive specific training on the terms and conditions of the Decision and Order before using the equipment in the affected area. A record of any training on this Decision and Order shall be kept and provided upon request by an Authorized Representative.

(f) Within 60 days of the Decision and Order issued by MSHA becoming final, the mine operator shall submit proposed revisions for its approved 30 CFR 75.370 mine ventilation plan and approved 30 CFR part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in MSHA's Decision and Order. When training is conducted, a MSHA Certificate of Training (Form 5000–23) shall be completed. Comments shall be included on the Certificate of Training indicating that it was

nonpermissible testing equipment training.

(g) The mine operator is responsible for determining that all persons including contractors are using the equipment in accordance with MSHA's Decision and Order.

(h) The mine operator shall post this Decision and Order 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.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

*Docket Number:* M–2021–004–C.

*Petitioner:* Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado (ZIP 81648).

*Mine:* Deserado Mine, MSHA ID No. 05–03505, located in Rio Blanco County, Colorado.

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

*Modification Request:* The petitioner requests a modification of the existing standard, 30 CFR 75.1002(a), as it relates to the use of an alternative method of respirable dust protection in the Deserado Mine in Colorado. Specifically, the petitioner is applying to use a battery powered respirable protection unit called CleanSpace EX Powered Respirator within 150 feet of pillar workings and longwall faces.

The petitioner states that:

(a) Blue Mountain Energy currently uses the 3M Airstream helmet to provide additional protection for its miners against exposure to respirable coal mine dust.

(b) For more than 40 years the 3M Airstream Headgear-Mounted Powered Air Purifying Respirator (PAPR) System has been used by many mine operators to help protect their workers. Recently 3M indicated they faced multiple key component supply disruptions for the Airstream product line that created issues with providing acceptable supply service levels. Because of these issues, 3M discontinued the Airstream on or before June 1, 2020. 3M further announced that February 2020 was the final date to place an order for systems and components and that June 2020 was the final date to purchase Airstream components.

(c) Following that discontinuation, mines using the 3M Airstream do not have an MSHA-approved alternative PAPR to provide to miners.

(d) Currently there are no replacement 3M PAPRs that meet MSHA standards for permissibility. Under 30 CFR, electronic equipment must be approved by MSHA to be used in underground mines with potentially explosive atmospheres.

(e) A benefit of using PAPRs is that they provide a constant flow of air inside the headtop or helmet, offering miners with both respiratory protection and comfort in hot working environments.

(f) Another manufacturer offers an alternative product for other environments and applications—the CleanSpace EX Powered Respirator. However, the CleanSpace EX Power Respirator is not MSHA-approved as permissible, and the manufacturer, CleanSpace, is not pursuing MSHA approval.

(g) The CleanSpace EX Powered Respirator is intrinsically safe and meets International Electrotechnical Commission System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres (IECEX) approval standards for quality assurance and protection.

(h) The product provides an equivalent level of respiratory protection in underground mining environments.

The petitioner proposes the following alternative method:

(a) The petitioner is applying to use the CleanSpace EX Powered Respirator within 150 feet of pillar workings and longwall faces.

(b) The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–2; the examination results shall be recorded weekly. Examination entries may be expunged after one year.

(c) The petitioner shall comply with 30 CFR 75.323.

(d) A qualified person as defined in 30 CFR 75.151 shall monitor methane for the subject area of the mine as required by the mandatory standards.

(e) All qualified persons and miners affected shall receive specific training on the terms and conditions of this Decision and Order before using the equipment in the affected area. A record of any training on this Decision and Order shall be kept and provided upon request by an Authorized Representative.

(f) Within 60 days of the Decision and Order issued by MSHA becoming final, the mine operator shall submit proposed revisions for its approved 30 CFR 75.370 mine ventilation plan and approved 30 CFR part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions

shall specify initial and refresher training regarding the terms and conditions stated in MSHA's Decision and Order. When training is conducted, a MSHA Certificate of Training (Form 5000-23) shall be completed. Comments shall be included on the Certificate of Training indicating that it was nonpermissible testing equipment training.

(g) The mine operator is responsible for determining that all persons including contractors are using the equipment in accordance with MSHA's Decision and Order.

(h) The mine operator shall post this Decision and Order 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.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

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

[FR Doc. 2021-06484 Filed 3-29-21; 8:45 am]

**BILLING CODE 4520-43-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions 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 the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before April 29, 2021.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

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

3. *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, Acting Deputy Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [noe.song-ae.a@dol.gov](mailto:noe.song-ae.a@dol.gov) (email), or 202-693-9441 (facsimile). [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, the regulations at 30 CFR 44.10 and 44.11 establish the requirements for filing petitions for modification.

#### II. Petition for Modification

*Docket Number:* M-2021-005-C.

*Petitioner:* Blue Diamond Mining, LLC, 1021 Tori Drive, Hazard, Kentucky, (ZIP 41701).

*Mine:* Calvary Mine #81, MSHA ID No. 15-12753, located in Leslie County, Kentucky.

*Regulation Affected:* 30 CFR 75.364 (Weekly examination). 30 CFR 75.364(b)(2) requires that at least every 7 days an examination for hazardous conditions shall be made by a certified person designated by the operator in at least one entry of each return air course, in its entirety, so that the entire air course is traveled.

*Modification Request:* For purposes of weekly examinations, the petitioner requests a modification of the existing standard to permit the establishment of examination points at the upwind and downwind ends of two impassable 30-inch corrugated metal pipes (CMPs), in lieu of through the pipes.

The petitioner states that:

(a) Prior to 2004, two 30-inch diameter CMPs extending approximately 300 feet from the #22 seal set location in Calvary Mine to the return air course were installed and used as ventilation control devices. Air that passed this seal location was directed through these CMPs with the quality and quantity checked during weekly examinations.

(b) The petitioner was recently notified by MSHA that the ventilation pipes were no longer acceptable control devices. Upon the notification, the petitioner stopped up the devices and instead allowed intake air to continue inby toward the working faces.

(c) However, due to overall low mining height, the newly adopted foot travel of 2,700 feet through the affected area is very difficult.

(d) It is also very difficult to construct conventional overcasts due to the immediate roof being large grain sandstone.

The petitioner proposes the following alternative method:

(a) The petitioner shall use the two existing 30-inch CMPs for ventilation controls again to allow air passing from the #22 seal set location to be directed back to the return air course and not to the working faces.

(b) The integrity of the pipe will be examined daily and the integrity of seal set #22 will be examined for hazards twice weekly.

(c) Air measurement stations shall be established at locations that will allow effective evaluation of ventilation in the affected areas. All measurements shall be made by a certified person on a weekly basis. A sign shall be posted designating the location of measuring stations.

(d) All air measurement stations and approaches to such stations shall at all times be maintained in a safe condition. The roof shall be supported by suitable means.

(e) The date, time, and results of these determinations shall be recorded in a book or on a date board that shall be provided at each measuring station. Such results shall also be recorded in a book kept on the surface and made accessible to all interested parties.

(f) Evaluations shall be conducted by a certified person at each of the monitoring stations weekly. The