

iii. In any other location, the amount will be the amount required in the ventilation plan when roofbolting is occurring.

and

19. Immediately before using the non-permissible electronic surveying equipment in or inby the last open crosscut or in the return, Rosebud shall ensure compliance with 30 C.F.R. § 75.403 by using a permissible coal dust explosibility meter (CDEM) or equivalent method to test the mixed coal dust in the immediate area where the electronic equipment is to be used.

In imposing these conditions, I recognized that the two conditions had not been specifically addressed before the judge and that the record did not contain specific evidence concerning the conditions. I therefore invited the parties to file a motion requesting a remand if the parties wanted to introduce evidence on either of the conditions. On November 25, 2013, Rosebud filed a motion for remand requesting further proceedings before an administrative law judge on both of the conditions.¹

Because the record does not contain specific evidence concerning the two conditions, I am granting Rosebud's motion and remanding the matter to the Office of Administrative Law Judges of the Department of Labor for further hearings and findings on the limited issues of whether, in light of the findings of fact, conclusions of law, and other conditions for

¹I have determined administratively that the Administrator is not filing a response to Rosebud's motion for remand.

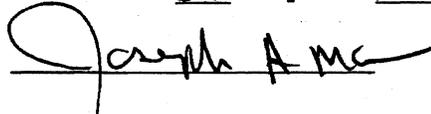
use set forth in my November 14, 2013, decision and order (other than those findings and conclusions which apply only to the two conditions in question), either or both of the conditions are necessary to meet the standard for granting petitions for modification set forth in Section 101(c) of the Mine Act.

Consideration may also be given to whether, in lieu of either or both of the conditions in question, other conditions should be imposed in order to meet Section 101(c)'s standard for granting petitions for modification.

In light of the order of remand my November 14, 2013, decision and order is hereby stayed pending resolution of the remand issues before the judge, and, if appealed to the Assistant Secretary, pending resolution of the remand issues before the Assistant Secretary.

Upon receipt hereof, Rosebud is directed to post this Order of Remand and Stay of Implementation of the November 14, 2013, Decision and Order in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted, at all the mines for which this Decision and Order applies, for a period of not less than 60 consecutive days.

SO ORDERED on this 5th day of Dec., 2013.

A handwritten signature in black ink, appearing to read "Joseph A. Main". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

JOSEPH A. MAIN
Assistant Secretary
for Mine Safety and Health

Distribution:

Honorable Richard Morgan
William S. Moorhead Federal Office Building
United States Department of Labor
1000 Liberty Avenue, Suite 1800
Pittsburgh, PA 15222

Lynne B. Dunbar, Esq.
U.S. Department of Labor
Office of the Solicitor
1100 Wilson Blvd., 22nd Floor
Arlington, VA 22209-2296

R. Henry Moore, Esq.
Arthur M. Wolfson, Esq.
Patrick W. Dennison, Esq.
Jessica M. Jurasko, Esq.
Jackson Kelly PLLC
Three Gateway Center, Suite 1500
401 Liberty Avenue
Pittsburgh, PA 15222

E-Mail rhmoore@jacksonkelly.com
Dunbar.lynne@dol.gov