

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

1331 PENNSYLVANIA AVE., N.W., SUITE 520N  
WASHINGTON, DC 20004-1710

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA)

**November 18, 2020**

v.

NYRSTAR TENNESSEE MINES,  
STRAWBERRY PLAINS, LLC

:  
:  
: Docket No. SE 2020-0163-M  
: A.C. No. 40-00168-508283  
:  
:

BEFORE: Rajkovich, Chairman; Althen and Traynor, Commissioners

**ORDER**

BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2018) (“Mine Act”). The Commission has received a motion from the operator seeking to reopen a penalty assessment which had become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a). The Secretary of Labor states that he does not oppose the motion.

Having reviewed movant’s unopposed motion to reopen, we reopen this matter and remand it to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission’s Procedural Rules, 29 C.F.R. Part 2700. Consistent with Rule 28, the Secretary shall file a petition for assessment of penalty within 45 days of the date of this order. *See* 29 C.F.R. § 2700.28.

  
Marco M. Rajkovich, Jr., Chairman

  
William I. Althen, Commissioner

  
Arthur R. Traynor, III, Commissioner

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