
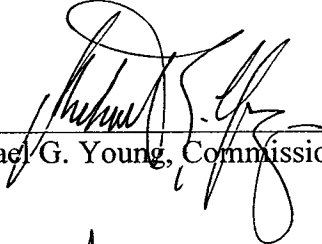



proceedings on the merits permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

Records of the Department of Labor's Mine Safety and Health Administration ("MSHA") indicate that the proposed assessment was delivered on November 25, 2013, and became a final order of the Commission on December 26, 2013. U.S. Silica asserts that it timely contested the proposed assessment, but that, due to a clerical error, it incorrectly combined the Notice of Contest with a payment for a portion of the proposed penalties and sent the contest form along with the payment to the MSHA Payment Office in St. Louis, MO, instead of the Civil Penalty Compliance Office in Arlington, VA. The Secretary does not oppose the request to reopen, however he notes that there is no record of the St. Louis office ever receiving the Notice of Contest. The Secretary urges U.S. Silica to take steps to ensure that future penalty contests are timely filed and sent to the correct location at MSHA's Civil Penalty Compliance Office at 1100 Wilson Blvd., Arlington, VA 22209.

Having reviewed U.S. Silica's request and the Secretary's response, in the interest of justice, we hereby 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. Accordingly, 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.


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