

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N

WASHINGTON, DC 20004-1710

JUL 14 2016

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

v.

MOUNTAIN ROAD FARM SAND &
GRAVEL

: Docket No. YORK 2015-90-M
: A.C. No. 43-00717-368207

: Docket No. YORK 2015-82-M
: A.C. No. 43-00717-371000

BEFORE: Jordan, Chairman; Young, Cohen, Nakamura, and Althen, Commissioners

ORDER


BY THE COMMISSION:

These matters arise under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2012) (“Mine Act”).¹ The Commission has received two motions from the operator seeking to reopen two penalty assessments which had become final orders of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 813(a). The Secretary states that he does not oppose the motions.

Having reviewed movant’s unopposed motions to reopen, we reopen these matters and remand them 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.

¹ Pursuant to Commission Procedural Rule 12, on our own motion, we hereby consolidate docket numbers YORK 2015-90-M and YORK 2015-82-M, which are both captioned Mountain Road Farm Sand & Gravel and involve similar procedural issues. 29 C.F.R. § 2700.12.

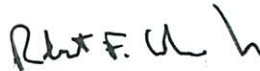
The granting of these motions is not precedential for the consideration of any other motion before the Commission.



Mary Lu Jordan, Chairman



Michael G. Young, Commissioner



Robert F. Cohen Jr., Commissioner



Patrick K. Nakamura, Commissioner



William I. Althen, Commissioner

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