

The Department of Labor’s Mine Safety and Health Administration (“MSHA”) issued the proposed assessment on April 28, 2009. General Chemical claims that it requested a conference for several citations, including Citation No. 6420307 at issue here, and that it sent the contest form to MSHA covering the citation at issue. It states that it received a delinquency notice on July 21, 2009, indicating that the assessments were past due. Within two weeks of the notice, General Chemical sought reopening before the Commission.

The Secretary states that she does not oppose the reopening of the proposed penalty assessment, although she has no record of receiving the contest in this case. She also notes that a request for a conference does not alter the deadline or procedure for contesting a proposed penalty.

Having reviewed General Chemical’s request and the Secretary’s response, in the interests 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. § 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.

Mary Lu Jordan, Chairman

Michael F. Duffy, Commissioner

Michael G. Young, Commissioner

Robert F. Cohen, Jr., Commissioner

Patrick K. Nakamura, Commissioner

Distribution:

Brian Hacker
Safety/Sec.Training Specialist
General Chemical (Soda Ash) Partners
Green River Soda Ash Operation
P.O. Box 551,
Green River, WY 82935-0551

W. Christian Schumann, Esq.
Office of the Solicitor
U.S. Department of Labor
1100 Wilson Blvd., Room 2220
Arlington, VA 22209-2296

Myra James, Chief
Office of Civil Penalty Compliance, MSHA
U.S. Dept. Of Labor
1100 Wilson Blvd., 25th Floor
Arlington, VA 22209-3939

Chief Administrative Law Judge Robert J. Lesnick
Federal Mine Safety & Health Review Commission
601 New Jersey Avenue, N.W., Suite 9500
Washington, D.C. 20001-2021