

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 NEW JERSEY AVENUE, NW

SUITE 9500

WASHINGTON, DC 20001

January 8, 2009

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	Docket No. SE 2008-991-M
v.	:	A.C. No. 31-02009-155842
	:	
MARTIN MARIETTA MATERIALS, INC.	:	

BEFORE: Duffy, Chairman; Jordan, Young, and Cohen, 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. (2000) (“Mine Act”). On September 4, 2008, the Commission received from Martin Marietta Materials, Inc. (“Martin Marietta”) a motion by counsel requesting reopening of a proposed penalty assessment that had become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).¹

On July 3, 2008, the Department of Labor’s Mine Safety and Health Administration (“MSHA”) issued Proposed Penalty Assessment No. 000155842 to Martin Marietta. The operator states that it timely contested the proposed assessment. Martin Marietta further submits that, by a letter dated August 26, 2008, MSHA stated that the proposed assessment had not been timely contested.

¹ Under section 105(a) of the Mine Act, an operator who wishes to contest a proposed penalty must notify the Secretary of Labor no later than 30 days after receiving the proposed penalty assessment. If the operator fails to notify the Secretary, the proposed penalty assessment is deemed a final order of the Commission. 30 U.S.C. § 815(a).

The Secretary has subsequently informed the Commission that Assessment No. 000155842 is being treated by MSHA as a validly contested assessment. Consequently, there is no final Commission order with respect to this assessment to reopen, and this docket is dismissed.

Michael F. Duffy, Chairman

Mary Lu Jordan, Commissioner

Michael G. Young, Commissioner

Robert F. Cohen, Jr., Commissioner

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