

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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July 31, 2025

SECRETARY OF LABOR  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA)

v.

ARGOS PUERTO RICO CORP.

Docket No. SE 2025-0061  
A.C. No. 54-00120-605838

BEFORE: Jordan, Chair; Baker and Marvit, 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. (2024) (“Mine Act”). On February 10, 2025, the Commission received from Argos Puerto Rico Corp. (“Argos”) a motion seeking to reopen an uncontested proposed penalty assessment which appeared to be a final order of the Commission according to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).

Argos represents that it did not file a notice of contest because it never received the proposed penalty assessment from the Secretary of Labor’s Mine Safety and Health Administration (“MSHA”). Argos seeks to reopen this proceeding so that it may contest the citations and proposed penalties contained therein before the Commission. The Secretary filed a response indicating that she did not object to the operator’s request.

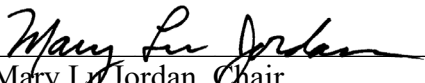
On June 27, 2025, the Commission issued a Request for Information, seeking to obtain copies of the proposed assessment and any mailing receipts or delivery tracking records in the possession of the Secretary of Labor in order to determine whether any delivery issues precluded the proposed assessment from becoming a final order of the Commission. *See* 30 U.S.C. § 815(a) (If, within 30 days from the *receipt* of the [proposed assessment], the operator fails to notify the Secretary that he intends to contest the citation or the proposed assessment of penalty . . . the proposed assessment of penalty shall be deemed a final order of the Commission . . . .) (emphasis added).

On July 28, 2025, the Secretary responded to the Commission’s request and provided documentation demonstrating that the Secretary’s attempts to deliver the proposed assessment to Argos’ address of record were unsuccessful; the failure originated from an error made by the Secretary when typing the operator’s address. Specifically, the Secretary used an incorrect zip

code, and as the United States Postal Service records indicate, the assessment was not delivered. Additional attempts to deliver the proposed assessment were also unsuccessful.

Accordingly, we conclude that the proposed assessment was not properly received by the operator as required by section 105(a) of the Mine Act and therefore there is no final order of the Commission. *See e.g., Belt Tech, Inc.*, 46 FMSHRC 975, 975-76 (Dec. 2024).

Therefore, the operator's motion to reopen is moot. We now deem Argos' motion to reopen a contest of the proposed penalty assessment<sup>1</sup> and this case is remanded 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.

  
Mary Lu Jordan, Chair

  
Timothy J. Baker, Commissioner

  
Moshe Z. Marvit, Commissioner

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<sup>1</sup> The proposed penalty assessment is included in the record as Attachment A to the Secretary's July 28th response to the Commission.

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