

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N
WASHINGTON, DC 20004-1710

July 17, 2026

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

v.

HEIDELBERG MATERIALS MIDWEST
AGG. INC.

Docket No. LAKE 2025-0260
A.C. No. 11-00070-614881

BEFORE: Rajkovich, Chair; Jordan, and Baker, Commissioners

ORDER

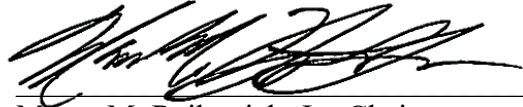
BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) (“Mine Act”). On June 3, 2025, the Commission received from Heidelberg Materials Midwest Agg. Inc. (“Heidelberg Materials”) a motion seeking to reopen a penalty assessment that had appeared to become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).

On February 25, 2025, Heidelberg Materials received a proposed penalty assessment from the Secretary. On March 27, 2025, the proposed assessment was deemed a final order of the Commission, when it appeared that the operator had not filed a Notice of Contest within 30 days.

Heidelberg Materials asserts that it requested on February 11, 2025 that its corporate office issue a check for this statement. The request was approved and sent, but apparently never received by MSHA. It came to the operator’s attention that the check was not received when it received a letter on May 19, 2025. Upon receiving the letter, Heidelberg checked shipment tracking and saw that the check was returned to its corporate office. It then sought to have the check re-issued. MSHA has since received the check, and the payment was received in full. The Secretary argues that the motion to reopen is moot because the operator has paid the penalty in full and does not seek to pursue contesting the violations.

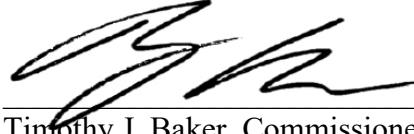
Having reviewed Heidelberg Materials' request and the Secretary's response, we conclude that the operator has paid the penalty in full, which obviates any need to invoke Rule 60(b). Accordingly, the operator's motion to reopen is moot and this proceeding dismissed.



Marco M. Rajkovich, Jr., Chair



Mary Lu Jordan, Commissioner



Timothy J. Baker, Commissioner

Distribution:

Scott Peters
Heidelberg Materials Agg. Inc.
Romeoville Quarry-U836
125 N. Independence Blvd.
Romeoville, IL 60446
scott.peters@heidelbergmaterials.com

Jennifer A. Ledig, Esq.
Alexandra J. Gilewicz, Esq.
Thomas A. Paige, Esq.
Office of the Solicitor
U.S. Department of Labor
Division of Mine Safety and Health
200 Constitution Avenue NW, Suite N4428
Washington, DC 20210
Ledig.jennifer@dol.gov
Gilewicz.alexandra.j@dol.gov
Paige.Thomas.a@dol.gov

Melanie Garriss
US Department of Labor/MSHA
Office of Assessments, Room N3454
200 Constitution Ave NW
Washington, DC 20210
Garris.Melanie@dol.gov
Peterson.erik@dol.gov

Acting Chief Judge David P. Simonton
Federal Mine Safety Health Review Commission
1331 Pennsylvania Avenue, NW Suite 520N
Washington, DC 20004-1710
DSimonton@fmshrc.gov