

CCASE:
MSHA V. PUERTO RICAN CEMENT
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.
June 21, 1982
SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

Docket No. SE 81-25-M

v.

PUERTO RICAN CEMENT
COMPANY, INC.

DECISION

This penalty proceeding arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (Supp. III 1979), and involves the interpretation of 30 C.F.R. § 56.4-27. That regulation states:

Mandatory. Whenever self-propelled mobile equipment is used, such equipment shall be provided with a suitable fire extinguisher readily accessible to the equipment operator.

For the reasons that follow, we affirm the judge's conclusion that Puerto Rican Cement Company violated this standard.

The relevant facts were stipulated by the parties. The company was cited for failing to have a fire extinguisher attached to a forklift at its Ponce cement plant. The forklift was consistently used in the same manner. At the beginning of the shift it was taken from its storage location in the machine shop building and was driven about 780 feet to the cement warehouse, where it was operated for the remainder of the shift. At the end of the shift, it was driven back along the same route to the machine shop building. Inside the warehouse, four fire extinguishers were located at intervals of approximately 100 feet. Outside the warehouse and along the 780 foot route traveled by the forklift, six fire extinguishers were attached to the outside of buildings at intervals of approximately 130 feet. Despite the presence of the extinguishers in the building where the forklift was used and along the route it traveled, the judge upheld the citation. He construed the standard to require a fire extinguisher to be affixed to the mobile equipment itself when the equipment is in use. We agree.

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In concluding that the judge properly interpreted the standard,

we have looked at the words of the standard, reviewed its purpose, and finally we have noted the practical problems inherent in the interpretations advocated by the parties.

We first consider the language and syntax of the standard. The words of a standard when not technical in nature are to be given their commonly understood meaning. 1/ The standard requires that mobile equipment "shall be provided with a suitable fire extinguisher." The generally understood relevant meaning of "provided" is to be furnished or equipped with. 2/ In the standard, the term "mobile equipment" takes the action of the verb "provided." Thus, the plain meaning of the regulation is that the machinery itself be equipped with an extinguisher. 3/

Furthermore, it seems self evident that requiring extinguishers to be affixed to self-propelled mobile equipment will augment the safety of the equipment operator. In the event of a fire, the time required to activate an extinguisher attached to the equipment would be significantly less than if the extinguisher were located elsewhere. Inordinate delay could result in determining which extinguisher location were nearest to the equipment and securing the extinguisher. Moreover, extinguishers might not readily or otherwise be accessible if the mobile equipment left the area where the extinguishers were located.

For the foregoing reasons, we affirm the judge.

1/ See 2A Sutherland, Statutes and Statutory Construction of • 47.28 at 141 (4th ed. 1973). Sutherland further notes that "dictionary definitions ... report common usage...." Id. § 46.02 at 52.

2/ Webster's Third New International Dictionary (1971) p. 1827.

3/ The company's argument that an extinguisher need not be attached to the forklift so long as there are fire extinguishers readily accessible to the equipment operator is obviously at odds with the syntax of the standard.

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