

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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August 19, 2026

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

v.

THE NATIONAL LIME AND STONE
COMPANY

Docket No. LAKE 2024-0064

BEFORE: Rajkovich, Chair; Jordan and Baker, Commissioners

DECISION

BY: Rajkovich, Chair, and Baker, Commissioner

This civil penalty proceeding arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) (“Mine Act”). This appeal involves a single citation, Citation No. 9717266, issued to The National Lime and Stone Company (“National Lime”) at its Findlay Plant by the Department of Labor’s Mine Safety and Health Administration (“MSHA”). The citation alleged that National Lime failed to maintain workplace examination records for a portable crusher at the mine, in violation of 30 C.F.R. § 56.18002(d).¹ Ex. 7 (copy of Citation No. 9717266).² MSHA proposed a civil penalty of \$143 for the citation.

On cross-motions for summary decision, the Judge upheld Citation No. 9717266. 46 FMSHRC 1017, 1034 (Dec. 2024) (ALJ).

We hold that the Judge erred in adopting the Secretary’s statutory interpretation of a mine as it relates to movable equipment. Therefore, we reverse the Judge and vacate Citation No. 9717266.

¹ In its entirety, 30 C.F.R. § 56.18002(d) states that “[t]he operator shall maintain the examination records for at least one year, make the records available for inspection by authorized representatives of the Secretary and the representatives of miners, and provide these representatives a copy on request.”

² All references to stipulations or exhibits herein refer to the Stipulated Records of Undisputed Facts, and the attached exhibits, jointly filed by the parties before the Judge on May 31, 2024.

I.

Factual and Procedural Background

A. Factual Background

National Lime operates a surface limestone mine in Findlay, Ohio (the “Findlay” plant/mine). Stip. # 11. National Lime operates a portable crusher as part of the Findlay plant’s secondary mining process. Stip. # 12. A portable crusher is a sizable piece of equipment, used as a secondary or tertiary crusher in multistage crushing and screening processes, which is mounted on tracks and can be easily moved inside a quarry and transported between sites on a low bed truck. Stip. # 7; Ex. 1 (photo of crusher). The crusher at issue, previously in service at National’s Ottawa mine, had been moved to the Findlay plant in February 2023. Stip. # 10-11. During the relevant MSHA inspection in June 2023, the portable crusher had a mine identification number (“Mine ID”) of 33-04782, which was distinct from the Mine ID of the Findlay plant—33-04121. Stip. # 9, 11.

On June 14, 2023, MSHA Inspector Britton Cloyd inspected the Findlay plant. While inspecting the plant, Inspector Cloyd conducted a separate inspection of the portable crusher, then located at the plant. As a result of this inspection, Inspector Cloyd issued three citations to the Mine ID associated with the portable crusher. Stip. # 13, 15, 16; Exs. 2, 4, 7. All three citations were issued for the operator’s failure to maintain separate documentation for the portable crusher, *i.e.*, separate workplace examination records (Citation No. 9717266), a separate Hazard Communication (“hazcom”) program (Citation No. 9717264), and a separate training plan (Citation No. 9717265). 46 FMSHRC at 1020-21.

Citation No. 9717266, the single citation on appeal here, was issued under section 56.18002(d) of the Secretary’s regulations. The regulation requires the operator to “maintain [workplace examination records and] make the records available for inspection by [MSHA].” 30 C.F.R. § 56.18002(d). The Secretary cited the operator because a “written record of workplace examinations for the [portable] crusher . . . was not available for review by MSHA.”³ Ex. 7. The operator “had conducted daily workplace examinations . . . of each working place . . . including the secondary mining process where the Portable Crusher was integrated. . . [and] kept a written record of [the workplace] examinations and made those records available during the June 2023 MSHA inspection.” Stip. # 22. However, although the operator had a record of workplace examinations for all working areas in the entire Findlay plant, the parties stipulated that the operator had “not kept a written record of workplace examinations specifically for the Portable Crusher.” Stip. # 22-23.

The parties filed cross-motions for summary decision with the Judge. The Secretary argued that independent documentation was required for the portable crusher because, under the Mine Act’s definition of “mine” in 30 U.S.C. § 802(h)(1), the crusher constituted a mine by

³ The citation further asserted that “[i]t was stated that examinations had been conducted every shift of each working place and appropriate action had been taken to correct hazardous conditions.” Ex. 7.

itself, despite being located within the Findlay plant. *See* 46 FMSHRC at 1021, 1032. In contrast, the operator argued that although it “‘agrees jurisdiction’ over [the crusher] under the Mine Act ‘exists’ . . . in this case. . . the issue is ‘whether a piece of mining equipment requires a separate Mine ID [and] . . . separate regulatory compliance from the mine upon which it is located and used.’” *Id.* at 1022 (quoting Nat’l Sum. Dec. Memo. at 6, 15 n.5). National Lime asserted that because the portable crusher is only used in operations at plants with their own Mine IDs, it should not be separately treated as a mine under the Act.⁴ *Id.* at 1029.

B. The Judge’s Decision and Subsequent Appeal

The Judge issued a decision adopting the Secretary’s interpretation that the portable crusher constituted an independent mine, and therefore required its own workplace examination records, separate from the rest of the Findlay plant. 46 FMSHRC at 1029-30, 1033-34. The Judge recognized that “[i]t is uncontroverted that, if the [portable crusher] did not travel between mine sites, but was instead dedicated to one site only, it would not be subject to separate inspection by MSHA.” *Id.* at 1031. However, the Judge adopted the Secretary’s justification that the crusher’s capacity to travel between mines required it to have its own Mine ID. *Id.* at 1030.

Although all three citations issued to the crusher were contested, the Judge held that the Secretary only demonstrated a need for separate examination records in Citation No. 9717266. The Secretary claimed that the “examination of the Portable Crusher needed to be separately recorded from the workplace examination of the remainder of the Findlay Plant [so] the record required by section 56.18002 could travel with the Portable Crusher when it was moved from the Findlay Plant to another [mine site].” *Id.* at 1033. The Judge held that the Secretary met her “burden of demonstrating a violation of section 56.18002(d)’s requirement that a record of the examination of the Crusher be maintained . . . so Citation No. 9717266 is affirmed.” 46 FMSHRC at 1033-34.

Regarding the other two citations, the Judge held that “[a]s with the alleged HazCom program violation [Citation Nos. 9717264], the Secretary fails to explain why a separate written training plan [Citation No. 9717265] would be required for the Portable Crusher.” *Id.* at 1036. Therefore, although the Judge denied the operator’s motion for summary decision and upheld Citation No. 9717266, the Judge vacated the remaining two citations. *Id.* at 1035, 1037.

On appeal, National Lime asks the Commission to reverse the Judge’s decision finding that the portable crusher constituted an independent mine and upholding Citation No. 9717266.

⁴ The Secretary’s Program Policy Manual (“PPM”) on assigning mine IDs states that “[p]reparation or milling [*i.e.* portable] plants that receive material from only one . . . mine, and are located on the same property as that mine, shall share the mine’s identification number and shall not be assigned a separate number. Preparation or milling plants that . . . process material from other mines, are to be given separate identification numbers.” Ex. 9 (Program Policy Manual, Vol. III, Part 41 (Jan. 2014)). However, we have “long held that the PPM is not binding on the Secretary or the Commission.” *Georges Colliers, Inc.*, 26 FMSHRC 1, 12 n.16 (Jan. 2004).

PDR at 19. The Secretary did not appeal the Judge’s decision to vacate the citations concerning a hazcom program (Citation No. 9717264) and training plan (Citation No. 9717265). Therefore, those other citations are not on appeal to the Commission.

II.

Legal Principles

A. Standard of Review

The Commission reviews a summary decision de novo. *M-Class Mining, LLC*, 41 FMSHRC 579, 582 (Sept. 2019). When reviewing a record on summary decision, a Judge must evaluate the evidence in the light most favorable to the non-moving party. *Hanson Aggregates New York, Inc.*, 29 FMSHRC 4, 9 (Jan. 2007). Consequently, “inferences to be drawn from the underlying facts contained in [the materials supporting the motion] must be viewed in the light most favorable to the party opposing the motion.” *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962).

Summary decision should not be granted “unless the entire record shows a right to judgment with such clarity as to leave no room for controversy and establishes affirmatively that the adverse party cannot prevail under any circumstances.” *KenAmerican Res., Inc.*, 38 FMSHRC 1943, 1947 (Aug. 2016) (internal quotations omitted). Summary decision is appropriate only if there are no material facts in dispute and the movant’s position is entitled to judgment as a matter of law. 29 C.F.R. § 2700.67(b); e.g., *West Alabama Sand & Gravel, Inc.*, 37 FMSHRC 1884, 1886 (Sept. 2015). When the record before the Judge contains disputed material facts, the proper course of action is to vacate the grant of summary decision and remand the matter for an evidentiary hearing. *See Energy West Mining, Co.*, 17 FMSHRC 1313, 1316-17 (Aug. 1995).

B. Principles of Statutory Interpretation

1. *Statutory Interpretation Post Loper Bright*

Recently, in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), the United States Supreme Court held that “*Chevron* [deference to an agency’s statutory interpretation] is overruled” (*id.* at 412), in part because “statutes . . . must . . . have a single, best meaning” (*id.* at 400). The Court emphasized that “every statute’s meaning is fixed at the time of enactment” and that “[i]n the business of statutory interpretation, if it is not the best, it is not permissible.” *Id.* at 400 (internal quotations omitted).

Furthermore, in regard to an agency’s statutory interpretation, “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority” and “[c]areful attention to the judgment of the Executive Branch may help inform that inquiry.” *Id.* at 412-13. The Court recognized that independent judgment is “consistent with the ‘respect’ historically given to Executive branch interpretations.” *Id.* at 399. In this regard, the Court approvingly cited its earlier decision in *Skidmore v. Swift & Co.*, 323 U.S. 134, 140

(1944), *cited in* 603 U.S. at 399, 402. In *Skidmore*, the Court had determined that “[t]he weight of [an executive branch agency’s interpretation of a statute] depend[s] upon . . . the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade.” 323 U.S. at 140. Finally, under *Loper*, we must “ensure that the law will not merely change erratically, but will develop in a principled and intelligible fashion.” 603 U.S. at 411-12, *quoting Vasquez v. Hillery*, 474 U.S. 254, 265 (1986).

2. Statutory Text of the Mine Act

The Mine Act defines the term “mine” for the purpose of MSHA jurisdiction. In relevant part, a “coal or other mine” means “(A) an area of land from which minerals are extracted . . . (B) private ways and roads appurtenant to such area, and (C) . . . equipment, machines, [or] tools. . . on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals . . . or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals.” 30 U.S.C. § 802(h)(1). Under the text, mine can “mean” equipment. However, it is not clear if such equipment, when located on another mine, is part of that mine, or constitutes an “independent” mine in and of itself.

III.

Disposition

The Judge recognized that if the crusher did not travel between the Ottawa and Findlay mines, but was instead dedicated exclusively to one site, it would not be subject to a separate MSHA inspection. 46 FMSHRC at 1031. In arguing that equipment which travels between mines requires a separate Mine ID, the Secretary essentially interprets the phrase “mine means . . . equipment” in 30 C.F.R. § 802(h)(1) as defining each piece of movable equipment as a separate and independent mine, even when such equipment is located within another mine. However, the Secretary does not point to any text in the statute that defines “independent,” let alone an “independent mine.” In addition, the Secretary does not cite any precedential decision by the Commission finding equipment located within an existing mine to be an independent entity, subject to separate regulatory compliance by MSHA.

As the Judge noted, the operator “readily agrees jurisdiction over [the portable crusher] under the Mine Act ‘exists’” (46 FMSHRC at 1022) because the portable crusher was part of the Findlay plant at the time of the MSHA inspection.⁵ Stip. # 11-13. The operator argued,

⁵ As this matter does not involve a question of jurisdiction under the Mine Act, various cases in the Circuits (*Sec’y of Labor v. KC Transport, Inc.*, 173 F.4th 294 (D.C. Cir. 2026), *Maxxim Rebuild Co., LLC v. FMSHRC*, 848 F.3d 737 (6th Cir. 2017)) and by the Commission (*State of Alaska, Dept. of Transp.*, 36 FMSHRC 2642 (Oct. 2014)) are of limited relevance. These cases all involve the extent of MSHA jurisdiction under the Mine Act, including whether portable equipment, not located on an existing mine, can fall within MSHA jurisdiction. In contrast, the case at bar concerns whether a piece of portable equipment can constitute an independent mine, while located on another existing mine already under MSHA jurisdiction and

however, that the “Portable Crusher, because it is only used in . . . plants with their own Mine ID[s], should not be separately treated as a ‘mine’” independent of the Findlay plant. 46 FMSHRC at 1029. Therefore, the issue is *how* the crusher falls within MSHA’s jurisdiction. Specifically, we must determine whether the crusher falls within MSHA’s jurisdiction as a component of a large mine (as the operator argues), or whether the crusher falls within MSHA’s jurisdiction as an independent mine that coincidentally is located within another mine (as the Secretary argues).

We note that the relevant facts are not in dispute, as set forth in the Stipulated Record of Undisputed Facts filed by the parties before the Judge. Instead, the issue is simply one of legal interpretation regarding whether the crusher constitutes an independent mine, coincidentally located within the Findlay plant.

A. The Secretary’s Statutory Interpretation may lead to Absurd Results⁶

As stated above, the Secretary’s statutory interpretation of the term “mine” in the Mine Act would apply to any movable equipment, even when such equipment is located within another mine. Therefore, under the Secretary’s interpretation, any movable equipment in a mine could constitute its own independent mine.

In *United States v. X-citement Video, Inc.*, the U.S. Supreme Court rejected the “most natural grammatical reading” of a criminal statute because such a reading would absurdly extend the statute to, and criminalize, actions of innocent individuals. 513 U.S. 64, 68-69 (1994). A few years later, in *Mova Pharmaceutical Corp. v. Shalala*, the D.C. Circuit cited the “familiar rule” that “[i]f a literal construction of the words of a statute be absurd, the act must be so construed as to avoid the absurdity.” 140 F.3d 1060, 1068 (D.C. Cir. 1998) (internal quotations omitted). Similarly, here the Secretary’s interpretation of the statute could absurdly extend to any movable equipment within a mine, regardless of the type, number, or size of such equipment. The Secretary acknowledges his interpretation could extend to any equipment, stating that “*although pieces of equipment are mines under the Act . . . MSHA does not generally assign separate mine IDs to pieces of equipment . . . because most equipment stays in one location.*” Resp. Br. at 23 (emphasis added). Under the Secretary’s interpretation, any movable

therefore subject to MSHA inspection. We also note that the Circuit Court in *KC Transport* explicitly found it unnecessary to determine whether trucks (i.e., movable equipment) parked at a facility independently qualified as mines, because the facility at which they were parked was a mine. 173 F.4th at 302.

⁶ We note that the Secretary’s interpretation—under which the portable crusher would constitute an independent mine—would also implicate other statutory provisions, such as the requirement that “[a]t each . . . mine there shall be maintained an office with a . . . sign designating it as the office of such mine” and that a “copy of any order [or] citation . . . required . . . to be given to an operator shall be delivered to the office of the affected mine.” 30 U.S.C. § 819(a); *see* PDR at 7-8. The Secretary suggests that the portable crusher would have to file a separate ‘address of record’ and post orders and citations on the equipment itself. Resp. Br. at 26-28.

equipment would be considered an independent mine, subject to separate regulatory compliance by MSHA.⁷ Because the Mine Act must be so construed as to avoid absurdity, the Commission must reject the absurd statutory interpretation by the Secretary.

On appeal, the Secretary contends that “MSHA is pragmatic; it does not interpret these statutory requirements for mines in a way that makes no sense.” Resp. Br. at 29. This suggests that the Secretary could selectively enforce its statutory interpretation, and selectively exempt equipment from the requirement of separate independent regulatory compliance.⁸ However, in *Utility Air Regulatory Group v. EPA*, the Supreme Court reaffirmed the “core administrative-law principle that an agency may not rewrite clear statutory terms to suit its own sense of how the statute should operate.” 573 U.S. 302, 328 (2014). Recently in *Loper*, the Court held that we must “ensure that the law will not merely change erratically, but will develop in a principled and intelligible fashion.” 603 U.S. at 411-12, quoting *Vasquez*, 474 U.S. at 265. Similarly, in a case under the Mine Act, the D.C. Circuit held that “[C]ourts must presume that a legislature says in a statute what it means and means in a statute what it says there” unless as “a matter of logic . . . it almost surely could not have meant it.” *Performance Coal Co. v. FMSHRC*, 642 F.3d 234 (June 2011), quoting *Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253-54 (1992), *Engine Mfrs. Ass’n v. EPA*, 88 F.3d 1075, 1089 (D.C. Cir. 1996).

Selective enforcement by the Secretary, perhaps by using his discretion to imply selective exemptions into the statutory text, would constitute a rewriting of the Mine Act, and would lead to erratic discretionary changes in the law. In short, the Secretary’s promise of selective enforcement is a tacit admission that the proffered interpretation is not the “best” reading of the statute. Enforcing this interpretation would be contrary to the Supreme Court’s directives. Therefore, the Secretary cannot use selective enforcement to mitigate the absurdity of his statutory interpretation.

B. In any event, the Secretary’s Statutory Interpretation Does Not Reflect Reasoned Decision-making

In *Loper*, the Court determined that we “must exercise [our] independent judgment in deciding whether an agency [when interpreting a statute] has acted within its statutory authority [and that c]areful attention to the judgment of the Executive Branch may help inform that inquiry.” 603 U.S. at 412-13. The Court further recognized that independent judgment is

⁷ We note that the term “movable equipment” is not defined in the Mine Act. In fact, it does not even appear in the Mine Act. Further, MSHA regulations do not contain a definition of “movable equipment.” This raises the obvious question of what sort of “equipment” is sufficient to give rise to the existence of a Mine under the Secretary’s interpretation. Would, for example, a shovel that is moved between mines be a “mine” and be required to have a Mine ID number? Is a port-a-john a mine? We think it is best to steer clear of an interpretation that invites these absurd speculations.

⁸ Specifically, the Secretary cites the proposition that “exemptions may . . . be permissible as an exercise of agency power, inherent in most statutory schemes, to overlook circumstances that . . . may . . . be considered de minimis.” *Alabama Power Co. v. Costle*, 636 F.2d 323, 360 (D.C. Cir. 1979), quoted in Resp. Br. at 27.

“consistent with the ‘respect’ historically given to Executive branch interpretations,” as originally set forth in *Skidmore*. *Id.* at 399, *citing* 323 U.S. at 140. In *Skidmore*, the Court noted that the respect given to an agency’s interpretations “depend[s in part] upon . . . the validity of its reasoning.” 323 U.S. at 140.

As previously stated, the Secretary argued that the portable crusher required a separate workplace examination record so that the document could travel with the equipment. *Opp. to Nat’l Sum. Dec.* at 13-14. The Secretary presumably believes that if the crusher and its past examination records are at different locations, MSHA will be unable to access the records when inspecting the crusher. This could prevent MSHA from using the records to determine the length of time a violative condition on the crusher existed, or to ascertain whether past violative conditions for the crusher were abated.

When using our independent judgment, we find that the Secretary’s statutory interpretation is a product of deeply flawed reasoning, and therefore, the interpretation does not reflect reasoned decision-making.

The Secretary’s reasoning rests on several assumptions that are contrary to law. The evidence indicates that the crusher is only moved between mines which are under MSHA jurisdiction. Therefore, MSHA could, and presumably would, inspect both the mine which currently contains the portable crusher, as well as the mine which contains the portable crusher’s past examination records. The Secretary seems to assume it would be onerous for MSHA to connect the crusher with its past examination records if the crusher had moved to a new mine. However, under *Loper*, 603 U.S. at 400, “statutes . . . must . . . have a single, best meaning,” not a meaning dependent on current policy objectives such as minimizing the administrative difficulty of locating examination records. Therefore, the Secretary’s statutory interpretation cannot be based on current policies of administrative convenience⁹ that violate our mandate to “ensure that the law will not . . . change erratically.” *Id.* at 411-12 (internal quotation omitted).

Moreover, the Secretary seems to assume that the operator will intentionally move a crusher to impede MSHA’s enforcement efforts. Specifically, the Secretary is concerned that the operator could purposefully move the crusher from a mine either just before MSHA inspects that mine, or after the crusher is cited during an inspection and is required to abate a hazard. *Resp. Br.* at 17. As stated above, the crusher, in a new mine, would still be subject to an MSHA inspection. Moreover, the Mine Act generally prohibits the Secretary from coordinating with the mine operator to schedule inspections. 30 U.S.C. § 813(a).

Therefore, an operator can purposefully move a portable crusher to prevent it being inspected only if it is aware of when MSHA will inspect the mine upon which the crusher is located. However, under the Mine Act, the operator would not be aware of impending MSHA inspections. This paradox means that an operator could not purposefully move a portable crusher to avoid an MSHA inspection. Instead, the crusher could only avoid all MSHA

⁹ As the Secretary similarly asserts on appeal, “if [a] piece of equipment or machinery will become *administratively difficult* to locate for purposes of MSHA’s inspection obligations if a Mine ID were not issued, a Mine ID will be assigned.” *Sec’y Resp.* at 23 (emphasis added).

inspections in a given year if the operator's business needs, in a rare series of coincidences, repeatedly and inadvertently result in the crusher moving to a different mine just before the prior mine (where the crusher was previously located) is inspected by MSHA. However, as the crusher will normally be subject to inspections as part of the mine on which it is located, we find that the regular MSHA inspection process is sufficient to meet the health and safety purpose of the Mine Act.

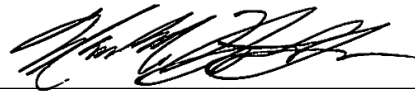
We conclude that the Secretary's interpretation is not entitled to respect under *Skidmore* and should be rejected.

IV.

Conclusion

We conclude that the Judge erred in adopting the Secretary's statutory interpretation to find that a piece of equipment—the portable crusher—constituted an independent mine within the larger mine of the Findlay plant. Therefore, the Judge erred in finding that the operator was required to maintain a separate workplace examination record for the portable crusher pursuant to 30 C.F.R. § 56.18002(d).

Thus, we reverse the Judge's summary decision and vacate Citation No. 9717266.



Marco M. Rajkovich, Jr., Chair



Timothy L. Baker, Commissioner

Commissioner Jordan, Dissenting:

The Mine Act requires the Secretary of Labor's Mine Safety and Health Administration ("MSHA") to inspect surface mines at least twice a year for compliance with mandatory safety standards. 30 U.S.C. §813(a). Section 3(h)(1) of the Mine Act defines the term "mine" and informs the jurisdictional bases for the Secretary's authority. 30 U.S.C. § 802(h)(1). Specifically included in the technical definition of the term "mine" is "equipment . . . used in" mining.¹ 30 U.S.C. § 802(h)(1)(C).

Despite this broad grant of authority, the majority has determined that MSHA does not have the power to require National Lime to register its portable crusher, which operates at multiple sites, as an independent "mine."² In so finding, the majority restricts MSHA's ability to track the portable crusher and locate it for inspections. As a result, the inspection of portable equipment will now only occur by happenstance, when such equipment happens to be on a mine site that is the subject of an MSHA inspection.

¹ The Mine Act states that the term "coal or other mine":

means (A) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (B) private ways and roads appurtenant to such area, and (C) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities.

30 U.S.C. § 802(h)(1)(C). Congress declared "that what is considered to be a mine and to be regulated under this Act be given the broadest possibl[e] interpretation." S. Rep. No. 95-181, at 14 (1977), *reprinted in* Senate Subcomm. on Labor, Comm. on Human Res., Legislative History of the Federal Mine Safety and Health Act of 1977, at 602 (1978). Congress further stated that "doubts [shall] be resolved in favor of inclusion of a facility within the coverage of the Act." *Id.* It is axiomatic that in the context of a remedial health-and-safety act, like the Mine Act, a reviewing body must "liberally construe" the statute's terms to accord with the act's primary purpose. *See American Coal Co. v. FMSHRC*, 796 F.3d 18, 24 (D.C. Cir. 2015) (internal quotation omitted).

² Specifically, this case concerns a Metso Lokotrack LT300HP Crusher (weighing over 100,000 lbs) which National Lime uses to crush and screen material at multiple surface limestone mines. It is moved between sites on a low bed truck. The portable crusher was first used at National Lime's surface limestone mine in Ottawa, Ohio for approximately five months before being moved to a surface limestone mine in Findlay, Ohio. Stip. # 7, 10-12.

The Secretary argues that in order to effectively administer his inspection obligations, MSHA must have a method to track the location of portable mining operations and pertinent records. National Lime contends that the Secretary's position is inconsistent with the ordinary meaning of the term "mine" and maintains that it should not be required to register its portable crusher as an independent mine.

The D.C. Circuit recently considered the scope of MSHA's jurisdiction in *Sec'y of Labor v. KC Transport*, 173 F.4th 294 (D.C. Cir. 2026). The Court concluded that a truck maintenance facility which repaired and maintained trucks used in mining, as well as non-mining trucks, was nevertheless a "mine." In finding that MSHA properly asserted jurisdiction over the facility, the Court noted that "[c]onstruing statutory language" . . . demands we seek to distill the meaning that "produces a substantive effect that is compatible with the rest of the law." *Id.* at 313 (quoting *Sackett v. EPA*, 598 U.S. 651, 676 (2023)); see also *Sturgeon v. Frost*, 577 U.S. 424, 438 (2016) ("Statutory language cannot be construed in a vacuum.") (internal quotation omitted).

Classifying this portable crusher as a mine because it operates at multiple sites is consonant with the Mine Act's text, legislative history and purpose, as well as addressing the practical administrative concerns identified by the Secretary. Therefore, the Secretary's interpretation is the best interpretation of section 3(h)(1)(C) of the Mine Act.³

³ The D.C. Circuit's decision in *KC Transport* was the first to consider the Secretary's application of the statutory term "mine" pursuant to the Supreme Court's decision in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). The Circuit Court stated that when considering the meaning of a statutory term, we:

begin with the statute's text, affording the words their "ordinary meaning at the time Congress adopted them." *Niz-Chavez v. Garland*, 593 U.S. 155, 160, 141 S.Ct. 1474, 209 L.Ed.2d 433 (2021). But we do not interpret statutes "in a vacuum." *Torres v. Lynch*, 578 U.S. 452, 459, 136 S.Ct. 1619, 194 L.Ed.2d 737 (2016) (quoting *Abramski v. United States*, 573 U.S. 169, 179, 134 S.Ct. 2259, 189 L.Ed.2d 262 (2014)). Instead, we zoom out and consider the text "in the context of the entire statute." *Noble v. Nat'l Ass'n of Letter Carriers*, 103 F.4th 45, 50 (D.C. Cir. 2024). Finally, we may consider the text in light of its statutory and legislative history. *Id.*; *United States v. Hite*, 769 F.3d 1154, 1160 (D.C. Cir. 2014). Employing this comprehensive perspective and applying "all the textual and structural clues" pertinent to the task, *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 283, 138 S.Ct. 2067, 201 L.Ed.2d 490 (2018), we seek to ascertain the text's "best meaning," *Loper Bright*, 603 U.S. at 400, 144 S.Ct. 2244.

Sec'y of Labor v. KC Transport, 173 F.4th 294, 311 (D.C. Cir. 2026).

Congress mandated that MSHA inspect surface mines at least twice a year.⁴ 30 U.S.C. § 813(a). The definition of the term “mine” specifically includes “equipment . . . used in” mining. 30 U.S.C. § 802(h)(1)(C). Congress determined that MSHA inspections should occur without prior notice. 30 U.S.C. § 813(a) (“[i]n carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person”). The requirement to perform regular unscheduled inspections necessitates that the Secretary be equipped with the tools to administratively track and locate portable mining operations. Otherwise, portable mining equipment that regularly moves may be missed by inspectors. Accordingly, the Secretary has decided to assign portable operations a unique Mine ID number. The Mine ID is used to catalog the equipment’s inspection history. Mine operators are required to inform the Secretary of any changes related to the address of their mine.⁵ 30 U.S.C. § 819(d); *see also* 30 C.F.R. §§ 41.11-12, 56.1000.

Under the Mine ID number, the Secretary maintains a uniform history of inspections, violations, withdrawal orders, production, accidents, etc. Effective inspections require that these records travel with the portable equipment and are made available to the inspectors, no matter where the crusher is operating.⁶ Thus, registering the portable crusher as a mine facilitates regular inspections consistent with Congress’ first priority, “the health and safety of . . . the miner.” 30 U.S.C. § 801(a).

In fact, the Secretary’s policy requiring “portable operations” to register as independent mines is long-standing. III MSHA, U.S. Dep’t of Labor, *Program Policy Manual*, Part 41-2 (stating that “[f]or administrative purposes, the portable plant will be given one permanent mine name (for example, ABC Plant #1) even though it might be operating in different locations during the course of the year”). For example, in *Hammerlund Construction, Inc.*, the operator’s portable crusher which “travels between multiple locations to perform material processing” was provided with Mine ID 21-03479.⁷ 37 FMSHRC 2611, 2612 (Nov. 2015). The Secretary’s

⁴ During the inspection, if the Secretary believes that the operator has violated the Mine Act or any mandatory health or safety standard promulgated pursuant to the Mine Act, the Secretary is required to issue the operator a citation. 30 U.S.C. § 814(a).

⁵ Operators must also provide any other information the Secretary reasonably determines is necessary to perform her functions under the Act. 30 U.S.C. § 813(h).

⁶ Additionally, the Secretary should be kept abreast of location changes of the mine immediately following the inspection. That is because the Mine Act requires MSHA to conduct follow-up inspections to determine whether any cited hazards have been abated. *See* 30 U.S.C. § 814(b).

⁷ The Program Policy Manual’s requirement that “the mine identification number is to be assigned to the plant only and not the pit” (III MSHA, U.S. Dep’t of Labor, *Program Policy Manual*, Part 41-2) contemplates use of the crusher at small operations. *See, e.g., Konitz Contracting, Inc.*, 15 FMSHRC 1984, 1986 (Sept. 1993) (ALJ) (in which the mine inspector testified that most portable crushing units typically stay in one place in remote areas for only a week or two).

policy was developed contemporaneously with the passage of the Mine Act and the establishment of the Mine Safety and Health Administration.⁸

The majority's decision will frustrate the performance of the Secretary's responsibilities and lead to questions about the Secretary's ability to enforce her portable operations policy. National Lime currently operates the portable crusher at two locations. Undoubtedly, circumstances may dictate that the MSHA inspection of those operations will coincidentally occur at times when the crusher is not present, resulting in the portable crusher missing an entire inspection cycle.⁹ A reading of the Mine Act which will inevitably lead to miners operating heavy mining equipment that has not been regularly inspected for compliance with mandatory safety standards must be rejected. Ensuring that such inspections occur requires that the operator report changes in the equipment's location. The Secretary's policy accomplishes that objective.

The majority states a concern that under the Secretary's interpretation "any movable equipment would be considered an independent mine, subject to separate regulatory compliance by MSHA." Slip op. at 6-7. However, the issue here concerns a portable plant that processes material at *multiple* extraction sites. If the crusher operated at a single site, it would not be required to register independently. Resp. Br. at 23. Accordingly, the Secretary's interpretation is more limited than the majority represents.

As noted recently by the D.C. Circuit in *KC Transport*, in passing the Mine Act, Congress amended the predecessor legislation's definition of the term "mine" to add subsection (C), specifically including items and property that may not be located on or adjacent to extraction, milling, or processing sites.¹⁰ 173 F.4th at 315-316.

⁸ In 1978, the agency stated, in response to a comment concerning compliance with 30 C.F.R. § 41.11 by "operators with traveling portable operations," that "[a]fter moving from one location to another the operator should . . . be sure to file notification of changes, if any, in its legal identity information in accordance with § 41.12 of this part." *Notification of Legal Identity*, 43 Fed. Reg. 29,510, 29,510 (July 7, 1978).

⁹ Because the Judge issued a summary judgment decision, evidence such as the length in time of a move and where maintenance occurs was not developed.

¹⁰ In *Sec'y of Labor v. National Cement Co., of Cal., Inc.*, 573 F.3d 788 (D.C. Cir. 2009), the D.C. Circuit considered whether an access road leading to a mine site was under MSHA jurisdiction, even though the road was sometimes traveled by parties entirely unrelated to the mining activity. The D.C. Circuit affirmed that MSHA may still properly assert jurisdiction over the road, noting that both practical considerations and the safety promoting goals of the Mine Act require compliance with mandatory safety standards. *Id.* at 793-96. Treating a private road as a "mine" may seem anomalous as compared to the plain ordinary meaning of the word, however, that was Congress' explicit intent. As the Third Circuit stated in *Marshall v. Stoudt's Ferry Preparation Co.*, "the statute makes clear that the concept that was to be conveyed by the word ["mine"] is much more encompassing than the usual meaning attributed to it[—]the word means what the statute says it means." 602 F.2d 589, 592 (3d Cir. 1979), *cert. denied*, 444 U.S. 1015

National Lime relies instead on the Sixth Circuit’s holding in *Maxxim Rebuild Co., LLC v. FMSHRC*, finding that a facility which, in part, made and repaired mining equipment was not sufficiently connected to mining activity. 848 F.3d 737, 744 (6th Cir. 2017). In so holding, the Sixth Circuit noted that the citations issued *did not* specifically relate to any equipment used or to be used in mining. *Id.* at 742. Of course, the case before us is readily distinguishable from *Maxxim Rebuild*, as MSHA is asserting authority directly over equipment used in mining.

For these reasons, I find that the Secretary’s proffered interpretation represents the best meaning of section 3(h)(1)(C) and that National Lime’s arguments to the contrary are unpersuasive.


Mary Lu Jordan, Commissioner

(1980); *see also* 602 F.2d at 592 n.4 (“That the law should attribute expansive and sometimes even bizarre meanings to a word is not a novel phenomenon.”).

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