FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
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April 20, 2026

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA) v. CACTUS CANYON QUARRIES INC.	Docket No. CENT 2022-0010-M

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

DECISION

BY THE COMMISSION:

This matter, arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) ("Mine Act" or "Act"), primarily concerns a question of Mine Act jurisdiction.

The Fairland Plant, operated by Cactus Canyon Quarries, Inc. ("Cactus Canyon"), is a surface facility that prepares stone for use in Terrazzo flooring.[1] During an inspection of the plant, an inspector with the Department of Labor's Mine Safety and Health Administration ("MSHA") issued Cactus Canyon three citations involving electrical equipment. Cactus Canyon argued below that MSHA lacked jurisdiction to issue the citations because the plant is not a "mine" subject to the Act.

A Commission Administrative Law Judge concluded that the Fairland Plant is a "mine . . . [the] products of which affect commerce" and is therefore subject to the provisions of the Mine Act. 45 FMSHRC 384, 388-89 (May 2023) (ALJ) (citing 30 U.S.C. § 803). He found that the sale of stone processed at the plant affects commerce; that the crushing and sizing activities occurring at the plant fall within the definition of "milling;" and that a facility engaged in milling qualifies as a mine irrespective of its proximity to an extraction site.[2] *Id.* at 389-95. The Judge

[1] Terrazzo refers to "[s]mall chips or pieces of stone . . . made by crushing and screening . . . used with portland cement in making floors, which are smoothed down and polished after the cement has hardened." Am. Geological Institute, *Dictionary of Mining, Mineral and Related Terms* 567 (2d ed. 1997) ("*DMMRT*").

[2] The Mine Act defines a "mine" to include facilities used in "the work of *extracting* such minerals . . . or . . . the *milling* of such minerals, or the work of *preparing* coal or other minerals." 30 U.S.C. § 802(h)(1)(C) (emphases added). That is, according to Congress milling

ultimately affirmed two citations as issued, and one citation with a reduction in the degree of cited negligence. *Id.* at 402.

On appeal, Cactus Canyon again asserts that the Fairland Plant is not subject to MSHA jurisdiction. Specifically, it claims the Judge erred in considering whether the plant was engaged in commerce, in finding that the plant was engaged in milling, and in stating that proximity to an extraction site is not required for MSHA jurisdiction. PDR at 29.[3]

Cactus Canyon also individually challenges Citation No. 9643095, which alleges that access to a breaker box was blocked in violation of 30 C.F.R. § 56.12019 (requiring suitable clearance at stationary electrical equipment or switchgear). Specifically, Cactus Canyon claims the Judge erred in finding that the breaker box was covered by the standard. PDR at 10.

Cactus Canyon raises one final basis for appeal. At the start of this proceeding, the Secretary of Labor moved for an extension of time to file her penalty petition. The Chief Administrative Law Judge granted the motion, the Secretary filed her petition consistent with the extension, and the Judge below upheld the extension order. *See* 45 FMSHRC at 385-86. Cactus Canyon asserts on appeal that the Judge erred in upholding the Chief Judge's order. PDR at 9.

For the reasons below, we affirm the Judge's decision.

I.

Factual and Procedural Background

Cactus Canyon operates the Fairland Plant, a surface facility in Burnet County, Texas. The plant originally produced architectural precast from stone mined at Cactus Canyon quarries but has since shifted to preparing dimension stone for use in Terrazzo flooring. Approximately 10-15% of the plant's stockpiled material originated at a Cactus Canyon quarry, while the rest is brought in from Mexico, Vulcan Materials sites, and local Texas mines. The plant does not engage in extraction, nor is it on or next to an extraction site. Tr. 142-43, 149-50, 152, 173.

Terrazzo flooring is made from mixed stone and epoxy that has been ground, smoothed and polished. Tr. 171. The stone must be a very particular size and shape–no more than 3/8 of an inch thick and almost perfectly cubical. Tr. 145-46, 149. The Fairland Plant sorts and resizes dimension stone to meet these specifications. Tr. 147-48, 171. The plant brings in stone that is 5-10 inches in diameter, which is washed, examined, sorted for color and quality, and stockpiled. Tr. 147-48, 153. Next, oversized stone is crushed using hydraulic hammers and cone crushers.

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is not an activity that occurs subsequent to "mining" but instead constitutes mining in its own right, as much as the extraction of minerals constitutes mining.

[3] Cactus Canyon has filed a motion requesting that the Commission accept its briefing in Docket No. CENT 2023-0045, which similarly addresses whether the Fairland Plant is subject to the Mine Act, as an additional brief in the current matter. Req. to Accept Pet. Br. (Mar. 4, 2025). The Commission grants the motion and notes that all legal arguments addressed in the additional briefing were considered in issuing this decision.

The material is then screened and crushed again to achieve the desired size and shape. The stone is circulated through the crushing and screening process four to six times. Tr. 145-47, 152, 175-77. This process results in 10-15% loss of materials to "fines," i.e., particles "smaller than the minimum specified size or grade." Tr. 176; *DMMRT* 208. Once resized to specification, the stone is sold "across North America and . . . occasionally [Asia]." Tr. 145, 147.

During a July 2021 inspection of the Fairland Plant, Cactus Canyon was issued three citations involving electrical equipment. Citation Nos. 9643093 and 9643094 allege that the operator failed to protect electrical conductors exposed to mechanical damage, in violation of 30 C.F.R. § 56.12004. Citation No. 9643095 alleges that access to a circuit breaker box was blocked in violation of 30 C.F.R. § 56.12019, which requires operators to provide "suitable clearance . . . at stationary electrical equipment or switchgear."

Cactus Canyon timely contested the Secretary's proposed penalty assessments, and the matter was docketed before the Chief Administrative Law Judge. The Secretary then requested an extension of time to file her penalty petition, which the Chief Judge granted. The Secretary filed her petition on January 18, 2022, consistent with the extension order, and the matter was assigned to the Judge below.

Cactus Canyon repeatedly and unsuccessfully challenged the validity of the extension order, alleged that the Secretary's petition was late-filed without good cause, and sought to have the case dismissed.[4] The Judge concluded that the Chief Judge had jurisdiction to rule on the Secretary's request and no extraordinary circumstances warranted overturning the Chief Judge's finding of good cause to grant the extension. 44 FMSHRC 609, 610-11 (Aug. 2022) (ALJ).

A hearing was held on February 28, 2023. MSHA Inspector Ray Hurtado was the only witness for the Secretary, while Cactus Canyon's President was both sole counsel and the only witness for the Respondent.

In his decision after hearing, the Judge first concluded that Cactus Canyon's Fairland Plant is subject to MSHA jurisdiction. He determined that the facility is a mine because the crushing and sizing activities at the facility fall within the commonly understood definition of milling, and facilities engaged in milling independently qualify as mines under the Mine Act. He also determined that the intra- and inter-continental sale of dimension stone processed at the plant clearly affects commerce. Accordingly, as a "coal or other mine . . . the operations or products of which affect commerce," the Fairland plant is subject to the provisions of the Mine Act. 45 FMSHRC at 388-95, *quoting* 30 U.S.C. § 803.

[4] Cactus Canyon first moved for reconsideration of the extension order, which the Chief Judge did not grant. It then filed a petition for discretionary review, which the Commission did not grant. It then petitioned the Fifth Circuit for review of the Commission's denial of review. While the appeal was pending, Cactus Canyon moved to have the proceeding dismissed. The Judge stayed the motion during the pendency of the Fifth Circuit appeal. The circuit court ultimately dismissed Cactus Canyon's petition, and the Judge lifted the stay and denied Cactus Canyon's motion. *See* 44 FMSHRC 609 (Aug. 2022) (ALJ); 45 FMSHRC at 385-86, 386 n.7.

Having concluded that MSHA had jurisdiction to issue the citations, the Judge then turned to the citations themselves. He affirmed Citation No. 9643093 as issued, and affirmed Citation No. 9643094 with a reduction in the cited negligence from moderate to low. These determinations have not been appealed. The Judge also affirmed Citation No. 9643095, on the basis that the blocked breaker box constituted "switchgear" requiring suitable access pursuant to 30 C.F.R. § 56.12019. 45 FMSHRC at 400-01.

II.

Disposition

a. The Judge Did Not Materially Err by Granting the Secretary's Request for an Extension of Time

As a preliminary matter, we find no error justifying dismissal in the Chief Judge's order granting the Secretary an extension of time to file her penalty petition, or in the Judge's decision upholding that order. Cactus Canyon asserts that a "jurisdictional error" has occurred. Br. at 13. However, we agree with the Judge that any errors surrounding the extension order and petition were, at worst, mere procedural irregularity. 44 FMSHRC at 611. Cactus Canyon claims the Secretary improperly requested permission *before* late-filing her petition and admits it "would not have protested" if the Secretary had requested permission to late-file *concurrently* with her delayed petition. Reply at 10-11. Assuming *arguendo* that an error occurred, a simple failure to submit filings in the correct order is procedural rather than jurisdictional.

Section 105(a) of the Act states that the Secretary is to provide the operator notice of a proposed penalty "within a reasonable time" after the issuance of a citation or order. 30 U.S.C. § 815(a). Section 105(d) of the Act states that when an operator files a notice contesting a proposed penalty, "the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing." 30 U.S.C. § 815(d). Commission Procedural Rule 28 effectuates these statutory provisions by requiring the Secretary to file a penalty petition within 45 days of an operator's contest to a proposed penalty. 29 C.F.R. § 2700.28. We note "only timing rules that have a statutory basis are jurisdictional." *Youkelsone v. FDIC*, 660 F.3d 473, 475 (D.C. Cir. 2011); *see also Kontrick v. Ryan*, 540 U.S. 443, 452 (2004). Purely regulatory deadlines like the 45-day requirement in Rule 28 are always claim-processing rules and therefore do not deprive the Commission of jurisdiction. *See Youkelsone*, 660 F.3d at 475-76. The Commission has long recognized that the Secretary's failure to meet the 45-day deadline in Rule 28 does not form a basis for dismissal, absent a showing of prejudice. *Long Branch Energy*, 34 FMSHRC 1984, 1990 (Aug. 2012) ("Commission enforcement of the filing time limits is a secondary consideration to the primary purpose of section 105(d), i.e., ensuring prompt enforcement of the Act's penalty scheme."); *see also NLRB v. Seine & Line Fisherman's Union of San Pedro*, 374 F.2d 974, 981 (9th Cir. 1967); *Sage Products, LLC v. Stewart*, 133 F.4th 1376, 1386 (Fed. Cir. 2025). Here, as the Judge noted, Cactus Canyon has not asserted prejudice of any kind.[5] 44 FMSHRC at 611. We find no basis to conclude that the

[5] While unreasonable delay in filing a penalty petition may prejudice an operator, Cactus Canyon has made no such argument. Regardless, the irregularity here is not the delay in filing the petition, *it is the order in which the paperwork was filed*. The result of the irregularity was

Judge abused his discretion in upholding the Chief Judge's order, nor do we find any error regarding the extension order or penalty petition that would justify dismissing the proceeding.

b. The Judge Correctly Determined that the Fairland Plant is Subject to Mine Act Jurisdiction

The central issue in this matter is whether the Fairland Plant is subject to the Mine Act, such that MSHA may conduct inspections and issue citations. The Act states that "[e]ach coal or other mine, the products of which enter commerce, or the operations or products of which affect commerce . . . shall be subject to the provisions of th[e] Act." 30 U.S.C. § 803. The record clearly establishes that the plant "affect[s] commerce."[6] 45 FMSHRC at 394-95. Accordingly, Mine Act coverage turns on whether the Fairland Plant is a "mine." We uphold the Judge's well-reasoned decision and find that it is.

The Judge found that the Fairland Plant is a mine because the plant's crushing and sizing activities constitute milling, and milling facilities independently qualify as mines under the Act regardless of whether extraction occurs on or near the facility. He rejected Cactus Canyon's argument that the separation of valuable constituents from undesired contaminants is essential to the milling process but noted that even if separation is essential to milling, such activity occurs at the plant. *Id*. at 389-92. For the reasons below, we agree on all points. We also reject the operator's alternative argument that Fairland is a stone finishing plant and therefore exempt from Mine Act coverage.

We have long recognized that milling activity independently qualifies a facility as a mine. *E.g.*, *Drillex, Inc.*, 16 FMSHRC 2391, 2395 (Dec. 1994). The Mine Act defines a mine to include facilities used in "the work of *extracting* such minerals . . . or . . . the *milling* of such minerals, or the work of *preparing* coal or other minerals." 30 U.S.C. § 802(h)(1)(C) (emphases added). This tripartite definition "provides an independent basis for jurisdiction over the enumerated subjects of the mining, milling, or coal preparation process." *National Cement Co. of Cal., Inc.*, 30 FMSHRC 668, 676 (Aug. 2008).

In fact, in the legislative history of the Mine Act, Congress made it clear "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) ("Legis. Hist") (emphasis added). Congress further stated that "doubts [shall] be

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that the petition was filed on January 18, 2022—the same result that would have occurred if the proper procedure had been followed. The error had no effect on the proceeding.

[6] Cactus Canyon's President admitted that the Fairland Plant engages in intra- and inter-continental trade. Tr. 147-50; *see* 30 U.S.C. § 802(b). This is sufficient to meet the Secretary's minimal burden with respect to the commerce requirement. *Jerry Ike Harless Towing*, 16 FMSHRC 683, 686 (Apr. 1994). On appeal, Cactus Canyon claims that engagement in commerce is irrelevant to Mine Act coverage, or alternatively, that the plant is exempt solely because its products do not *enter* commerce. *See* Br. at 9, 30-33. These arguments are patently incorrect in light of the plain language of the Act. 30 U.S.C. § 803.

resolved in favor of inclusion of a facility within the coverage of the Act." *Id*. Accordingly, the Commission has consistently construed section 3(h)(1) broadly in favor of Mine Act coverage and recognized that "jurisdictional doubts [shall] be resolved in favor of coverage by the Mine Act." *Calmat Co. of Ariz.,* 27 FMSHRC 617, 624 (Sept. 2005) (holding that the cited haul trucks "were clearly related to mining operations and within MSHA's jurisdiction.").

Because the statute provides *independent* bases for jurisdiction over extraction, milling and preparation, milling or preparation facilities need not engage in extraction to be covered by the Mine Act. *E.g.*, *Power Fuels LLC*, 777 F.3d 214, 218 (4th Cir. 2015); *Donovan v. Carolina Stalite Co.,* 734 F.2d 1547, 1551-52 (D.C. Cir. 1984). Cactus Canyon relies on a geographical proximity requirement enunciated in *KC Transport*, 44 FMSHRC 211 (Apr. 2022), to argue that proximity to an extraction site is required. However, that decision does not require proximity to an *extraction* site, only proximity to a *mine* site, which it defines to include milling facilities. *Id.* at 225 (holding that "a facility not located on or appurtenant to a mine site and not engaged in any extraction, milling, preparation or other activities within the scope of subsection 3(h)(1)(A) is not a mine"). Nothing in *KC Transport* is inconsistent with the long-held understanding that milling provides an independent basis for jurisdiction. The Judge properly rejected Cactus Canyon's argument that the lack of an extraction site is fatal to MSHA's jurisdiction.[7] 45 FMSHRC at 394.

To qualify as a milling facility subject to the Act, the Fairland Plant must meet the definition of milling. Congress has delegated to the Secretary the authority to determine what constitutes mineral milling for the purpose of the Act. 30 U.S.C. § 802(h)(1). Pursuant to this authority, MSHA created an Interagency Agreement with the Occupational Safety and Health Administration ("OSHA") that delineates areas of authority between the two agencies in the context of milling operations. *MSHA-OSHA Interagency Agreement*, 44 Fed. Reg. 22827, 22828 (Apr. 17, 1979). The Agreement broadly states that MSHA has authority over milling operations as a "general principle" while OSHA has authority over "ancillary operations," and notes that jurisdictional determinations should "reflect Congress' intention that doubts be resolved in favor of inclusion of a facility within the coverage of the Mine Act." *Id.* at 22827-8.

Appendix A of the Agreement then provides two descriptions of milling. First, it generally describes milling as "the art of treating crude crust . . . to produce therefrom primary consumer derivatives," and notes that "the essential operation in all such processes is separation of one or more valuable desired constituents. . . from the undesired contaminants." *Id.* at 22829. It then specifically states that milling "consists of one or more" of a list of "processes" including crushing, washing and sizing. *Id.* at 22829. However, the Agreement recognizes that even with

[7] After the parties' briefing in this matter, the D.C. Circuit reversed the Commission's decision in *KC Transport, Inc*. No. 22-1071, 2026 WL 1042075 (D.C. Cir. Apr. 17, 2026), *reversing* 44 FMSHRC 211 (Apr. 2022). Cactus Canyon is located in Texas and therefore falls under the Fifth Circuit. Regardless, although the D.C. Circuit reversed the Commission in result, it held a facility is defined as a mine "when it is necessarily connected with the use and operation of extracting, *milling*, or processing coal and other minerals." *Id.* at 41 (emphasis added). The circuit court's decision remains consistent with the long-held understanding that a facility engaged in "milling" independently qualifies for MSHA jurisdiction.

these definitions "there will remain areas of uncertainty . . . especially in operations near the termination of the milling cycle." *Id.* at 22828.

The record here unequivocally establishes that the Fairland Plant meets the "process" based definition of milling. Cactus Canyon's President clearly and repeatedly explained that the plant *resizes* dimension stone through a process of *crushing* and screening. Tr. 145-49, 153, 171, 176. The Secretary has defined milling to consist of sizing and crushing, and common and industry usage also recognize crushing as a milling activity.[8] 44 Fed. Reg. at 22829; *Merriam-Webster's Online Dictionary*, https://www.merriam-webster.com/dictionary/mill (last accessed Feb. 5, 2026) (defining a mill in part as a machine "for reducing something (as by crushing or grinding)"); *Dictionary.com*, https://www.dictionary.com/browse/mill (last visited Feb. 5, 2026) (defining a mill in the mining context as a place for "crushing or concentrating ore"); *Dictionary of Mining, Mineral and Related Terms*, 344 (2d ed. 1997) ("*DMMRT*") (milling is "the grinding or crushing of ore"). Substantial evidence supports the Judge's finding that the plant's activities meet the widely understood definition of milling.

Cactus Canyon prioritizes the "separation" description of milling and claims that no such activity occurs at the Fairland Plant. Br. at 20-21. We note that both the D.C. Circuit and the Commission have found the Interagency Agreement to be non-dispositive and have rejected the argument that milling must involve the separation of desired from undesired materials. *Donovan v. Carolina Stalite Co.*, 734 F.2d 1547, 1552-53, 1553 n.10 (D.C. Cir. 1984); *Watkins Eng'rs & Constr.*, 24 FMSHRC 669, 673-76 (July 2002); *see also DMMRT* 344 (stating that milling "may include" removing valueless constituents). The D.C. Circuit noted that the Agreement suffers from "internal inconsistency" and explained that jurisdictional questions should ultimately be resolved consistent with the statutory definition of a "mine" and Congress' intent that close questions be resolved in favor of Mine Act coverage. *Carolina Stalite Co.*, 734 F.2d at 1552-53.

Regardless, substantial evidence supports the Judge's finding that the plant *does* engage in separation of desired from undesired material. 45 FMSHRC at 392. Cactus Canyon's President testified that the plant circulates dimension stone through crushers and screeners to achieve the very specific dimensions required for Terrazzo stone, with 10-15% loss of material to "fines."[9] Tr. 145-46, 149, 171, 176. He also testified that the stone must be sorted for color and quality, since the plant "will lose business" if contaminants or wrong-colored stone are included. Tr. 153. In other words, the operation *discards* contaminants and wrong-colored stones, then uses crushers and screeners to *separate* useful stones from "fines" that do not meet the required specifications for sale. We agree with the Judge that separating "valuable Terrazzo stone material" from material "that cannot be used in Terrazzo flooring" is the type of process contemplated by the Interagency Agreement. 45 FMSHRC at 392.

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[8] While the Secretary's list of milling processes does not explicitly include screening, the Commission has noted that screening is used to *size* material. *See State of AK, Dep't of Transp.*, 36 FMSHRC 2642, 2649 (Oct. 2014). We also note that the Fairland Plant washes stone (Tr. 153) and "washing" is included in the Secretary's list. 44 Fed. Reg. 22827, 22829 (Apr. 17, 1979).

[9] Fines are, by definition, "smaller than the minimum specified size." *DMMRT* 208.

We reject Cactus Canyon's technical argument that the fines are not valueless because they can be sold ("if profitable") for use in cement and agricultural applications. *E.g.*, Br. at 10-11. The Agreement refers to "desired" and "undesired" elements. 44 Fed. Reg. at 22829. The Fairland Plant prepares dimension stone for Terrazzo flooring: the "desired" product is stone that meets the specifications for sale to producers of Terrazzo. The ability to recoup some financial value through the off-label sale of the plant's waste material does not make the fines a desired constituent of the Terrazzo process. We also note that the record has not been developed on this issue, and that this argument does not account for stones discarded due to poor color or quality during the initial sorting process.

In sum, the record establishes that the Fairland Plant sorts, crushes and sizes stone to achieve the specifications required for Terrazzo, and as part of this process, some material is discarded or lost to fines. Under either definition provided in the Interagency Agreement, substantial evidence supports the Judge's finding that the plant was engaged in milling, and therefore independently qualifies as a mine subject to the Act.

As a final jurisdictional matter, we reject Cactus Canyon's argument that the Fairland Plant is a stone finishing operation and therefore expressly excluded from Mine Act coverage. Br. at 15-17. Cactus Canyon is correct that the Interagency Agreement excludes custom stone finishing operations from MSHA jurisdiction. However, stone finishing "commences at the point when milling, as defined, is completed, and the stone is polished, engraved, or otherwise processed to obtain a finished product." 44 Fed. Reg. at 22830. As the Agreement recognizes, operations often exist on a continuum, and jurisdictional uncertainty may arise near the end of the milling cycle and the beginning of the manufacturing cycle. *Id*. at 22828. With respect to stone finishing operations, however, the Agreement is clear: MSHA jurisdiction does not cease until milling cycle is "completed" and production of a "finished product" begins.

The crushing and sizing activities at the Fairland Plant clearly constitute milling rather than finishing. Milling is characterized by activities such as crushing and sizing, while finishing is characterized by polishing, engraving, or otherwise obtaining a finished product. *Id*. at 22828-30. Only the former occurs at the Fairland Plant.[10] We acknowledge that the Fairland Plant occupies an intermediate point in the continuum: It further mills stone that has already been sized to between 5-10 inches in diameter. Tr. 145, 171. However, the milled stone is then sold onward to be finished into flooring by others. At no point does the plant complete its milling operation and begin processing the stone to obtain a finished product suitable for consumers. *Cf. Carolina Stalite*, 734 F.2d at 1551 (finding a facility that processed slate into stalite but did not manufacture the end-product for which the stalite was intended was reasonably characterized as a mine rather than a stone finishing facility). The Fairland Plant is not a stone finishing facility.

[10] Cactus Canyon's witness refers to the plant's resizing operation as "finishing" (Tr. 146) but strategic word choices do not change the underlying nature of an activity.

c. The Judge Did Not Err in Affirming Citation No. 9643095

As a final matter, the Judge did not err in affirming Citation No. 9643095. The citation alleges that access to a circuit breaker box was blocked, therefore the operator had failed to provide "suitable clearance . . . at stationary electrical equipment or switchgear" in violation of 30 C.F.R. § 56.12019. The Judge interpreted the term "switchgear" to include circuit breaker boxes and ultimately affirmed the citation as issued. 45 FMSHRC at 400-01. On appeal, Cactus Canyon asserts that breaker boxes are not "switchgear" subject to the regulation. Br. at 13-14.

The Secretary's regulations do not define the term "switchgear." As the Judge notes, words that are not defined in a statute or regulation are given their common, ordinary meaning. *Eg.*, *Hecla Ltd*., 38 FMSHRC 2117, 2129 (Aug. 2016), *citing Perrin v. United States*, 444 U.S. 37, 42 (1979). "Switchgear" is "a general term applied to . . . controlling, metering, protective, and regulating devices, as well as assemblies of those devices with associated . . . supporting structures." *DMMRT* 557. In turn, circuit breakers "measure fault current . . . [and provide] overcurrent protection." *DMMRT* 100. Rationally, therefore, a breaker box is a structure supporting an assembly of devices that regulate and protect current, i.e., a switchgear.

Cactus Canyon has challenged the citations in this proceeding in two respects: it broadly claims the citations should be vacated because MSHA lacked the jurisdiction to issue them, and narrowly challenges the applicability of section 56.12019 with respect to Citation No. 9643095. For the reasons above, we find that the Fairland Plant is subject to MSHA jurisdiction and that the Judge reasonably interpreted section 56.12019 to apply to the breaker box in Citation No. 9643095. Accordingly, the Judge's decision is affirmed in its entirety.

III.

Conclusion

For the reasons above, we conclude that the Fairland Plant is a mine subject to the Mine Act, such that MSHA had jurisdiction to issue the relevant citations. Additionally, the Judge below reasonably concluded that the breaker box in Citation No. 9643095 was "switchgear" subject to 30 C.F.R. § 56.12019. Finally, we find no prejudicial error justifying dismissal in the Chief Judge's order granting the Secretary an extension of time to file her penalty petition or in the Judge's decision upholding that order. Accordingly, the Judge's decision is affirmed.

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