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SOL (MSHA) V. CENTRAL PRE-MIX CONCRETE CO.
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), PETITIONER	Civil Penalty Proceedings Docket No. DENV 79-220-PM A.O. No. 45-00593-05001
v.	Fort Wright Pit Mine
CENTRAL PRE-MIX CONCRETE COMPANY, RESPONDENT	Docket No. DENV 79-221-PM A.O. No. 45-00594-05001
	Yardley Pit Mine

DECISIONS

Appearances: Marshall P. Salzman, Trial Attorney, U.S. Department of Labor, Office of the Regional Solicitor, San Francisco, California, for the petitioner
Richard M. Rawlings, Spokane, Washington, for the respondent

Before: Judge Koutras

Statement of the Proceedings

These proceedings concern proposals for assessment of civil penalties filed by the petitioner against the respondent on January 18, 1978, pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), charging the respondent with a total of five alleged mine safety violations issued pursuant to the Act and implementing safety standards. Respondent filed timely answers in the proceedings and requested a hearing regarding the proposed civil penalties initially assessed for the alleged violations. A hearing was held in Spokane, Washington, on July 10, 1979. The parties waived the filing of posthearing briefs, and the arguments presented on the record at the hearing have been considered by me in the course of these decisions.

Issues

The issues presented in these proceedings are (1) whether respondent has violated the provisions of the Act and implementing regulations as alleged in the proposal for assessment of civil penalties,

and, if so, (2) the appropriate civil penalties that should be assessed for each proven citation, based upon the criteria set forth in section 110(i) of the Act. Additional issues raised by the parties are discussed in the course of these decisions.

In determining the amount of a civil penalty assessment, section 110(i) of the Act requires consideration of the following criteria: (1) the operator's history of previous violations, (2) the appropriateness of such penalty to the size of the business of the operator, (3) whether the operator was negligent, (4) the effect on the operator's ability to continue in business, (5) the gravity of the violation, and (6) the demonstrated good faith of the operator in attempting to achieve rapid compliance after notification of the violation.

Applicable Statutory and Regulatory Provisions

1. The Federal Mine Safety and Health Act of 1977, P.L. 95-164, 30 U.S.C. 801 et seq.

2. Section 110(a) of the Act, 30 U.S.C. 820(a).

3. The Commission's rules and procedures concerning mine health and safety hearings, 29 CFR 2700.1 et seq.

Stipulations

The parties stipulated as to the Commission's jurisdiction and the fact that the citations in both dockets were in fact issued on the dates indicated and that they were duly served on the respondent. Further, the parties stipulated that the respondent is a small-to-medium-sized sand and gravel operator, has no prior history of violations under the Act, and that the imposition of civil penalties will not impair its ability to remain in business (Tr. 5-6).

DISCUSSION

Docket No. DENV 79-221

The proposal for assessment of civil penalty filed in this docket pertains to two citations issued by MSHA inspector James Arnoldi on August 9, 1978, citing the respondent with violations of the provisions 30 CFR 56.14-1. Citation No. 347026 charges that the tail pulley of the conveyor from the culvert-lined tunnel was not guarded. Citation No. 347027 charges that the tail pulley at the concrete-lined tunnel was also not guarded.

Petitioner's Testimony and Evidence

MSHA inspector James Arnoldi testified that the Yardley Pit Mine is a sand and gravel operation where material is mined by a stationary

dragline and transported by conveyor belts to the crusher and screening areas and from there to the stockpile. He confirmed that he inspected the tail pulley of the belt conveyor from the culvert-lined tunnel, which is a covered, corrugated metal short tunnel. The tail pulley itself was a movable machine part and it was not guarded. He believed a person could possibly come in contact with the unguarded tail pulley, and that that person would be someone who would be there for cleanup or maintenance. The dragline operator would not, however, leave his machine. The inspector indicated that if someone were caught in the unguarded pulley, he could lose an arm or leg or be mangled. The pulley was about 18 inches or 2 feet off the ground and a walkway was alongside the conveyor. The unguarded pulley was in plain sight and the operator should have known about the condition. Employees were not working in the area when he observed the condition. The condition was abated within the time permitted (Tr. 7-11).

On cross-examination, Inspector Arnoldi indicated that the operator does instruct employees not to enter the tunnel area while the belts are in operation (Tr. 12). In response to bench questions concerning the abatement, petitioner's counsel stipulated that the citation was terminated within the time specified (Tr. 13). Inspector Arnoldi stated that while the operator does not permit his employees to work in or around unguarded pulley areas, the fact is that employees do not always heed these instructions and are constantly getting caught in unguarded pulleys, and MSHA accident reports bear this out (Tr. 14).

Inspector Arnoldi testified that he considers an unguarded pulley to be a hazard if there is access to it and a person can reach into it or get caught in it, even though an operator has lock-out procedures and instructs employees not to go near the equipment while it is in operation. The inspector stated that the location of the tail pulley in question was at a place where employees would not normally pass by on a regular basis, that it was located in an isolated place, and that the area in question was part of the material transportation system. Furthermore, no one is stationed there at all times to maintain the belt. He was influenced to issue the citation because he is obligated to enforce the standard and the fact that MSHA's accident reports indicate that people are being caught in pulleys. The location of the pulley would dictate when he would cite a violation of section 56.14-1 (Tr. 14-16). Based on his observation of the tail pulley and his experience, if an employee were in the area he might come in contact with the unguarded tail pulley and be injured (Tr. 16).

Regarding the unguarded tail pulley at the concrete-lined tunnel, Inspector Arnoldi confirmed that it was unguarded and that employees normally do not work in the area. Cleanup and maintenance employees could possibly come in contact with the unguarded tail pulley. This pulley was also 18 inches to 2 feet off the ground and presented the

same hazard as the other citation. The likelihood of an accident was very small, but the result would be the same as the other citation, and the condition was in plain view (Tr. 17-18). Although the inspector agreed that the tunnel was in a remote area, the shift foreman or personnel in that area should have been aware of the unguarded pulley (Tr. 20).

In response to bench questions, Inspector Arnoldi indicated that while the mine had been previously inspected by MESA, his inspection was his first time at the mine under MSHA. Although Mr. Arnoldi indicated that his inspector's statement must have been based on his looking at previous inspection reports indicating previous citations of the same safety standard, he has never cited the same standard since this was his first inspection of the mine. He cited the violations because at some time someone would go to the location of the exposed pulleys and possibly get caught in them (Tr. 22). The pinch points would be some 6 inches inside the belt frames, and while the frames provided some protection, they were inadequate for this purpose (Tr. 23).

Respondent's Testimony and Evidence

Richard M. Rawlings, safety director, testified that he accompanied Inspector Arnoldi during his inspection, and he discussed the citations and the pulleys with Mr. Arnoldi. With regard to the culvert-lined tunnel, Mr. Rawlings indicated that the entrance was was protected with a chain and a "Do Not Enter" sign, and employees were instructed not to enter the tunnel while the belt was in operation. He indicated that this was satisfactory to other MESA inspectors during prior inspections. As for the second tunnel, there was no chain or sign at that location, but he could not recall discussing this location with Mr. Arnold (Tr. 25-27).

On cross-examination, Mr. Rawlings indicated that if someone were standing right next to the pulleys, he could see that they were not guarded. A foreman is in charge of the tunnel facility and management personnel, including himself, would be responsible for inspecting the equipment to see that pulleys are guarded. He did not believe the conditions cited were dangerous, and indicated that the company had previously been cited for violations of the same standard at other facilities. If an employee disregarded instructions and performed maintenance or other work while the pulley was moving, he could get hurt (Tr. 27-29).

In response to bench questions, Mr. Rawlings stated that some pulley locations at the Yardley Pit Mine location are guarded and the circumstances of their location, including whether there is a lot of foot traffic nearby, dictate whether guards should be installed and he makes these determinations himself. The factors he considers include how often employees are required to be in the area and

whether chains or signs are posted (Tr. 30). Wire mesh guards were fabricated and installed to abate the citations. The tail pulleys are greased once a week, and once every month or two material is cleaned out of the pulleys. Employees are not in the area when the belts are running. Greasing is done before the belts are started and cleanup is done while the belts are off. There is no standard procedure or lock-out system when this work is done. If someone were cleaning the belt while it was running, they could be in violation of company rules, and he did not know whether greasing is done while the belt is running (Tr. 31-33). The pulleys at the other end of the belt are 20 feet high where the material dumps off the end of the belt; there is no walkway there, and they are not guarded (Tr. 31).

Petitioner's Arguments

Petitioner argued that the pulleys cited were in fact not guarded, and contrary to the ones at the other end of the belts, they could be contacted by persons in the area. Although the chances of someone contacting them may be remote, the standard speaks in terms of "may be contacted," and in the circumstances presented here, the chances are not so remote that the term "may be contacted" loses its meaning (Tr. 34).

Respondent's Argument

Respondent argues that the culvert-lined tunnel was guarded by a chain and sign and that employees are instructed not to enter the area. Furthermore, the inspector stated that the chances of an accident occurring at this location were remote or improbable. As for the concrete-lined tunnel, while there was no chain or sign, two boards were blocking the entrance. Although one person does go to the tunnel once a week to grease the pulleys, no one is there when the belt is running (Tr. 35-36). Respondent indicated that guards would have been provided if the inspector had pointed out the need for them, but respondent simply did not feel that guards were required because of the locations of the pulleys (Tr. 42).

Docket No. DENV 79-220

Petitioner moved to dismiss Citation No. 347030, August 16, 1978, 30 CFR 56.14-1, on the ground that it could not sustain its burden of proof as to the fact of violation. The motion was granted and the petition for assessment of civil penalty as to that alleged violation is dismissed (Tr. 44).

The two remaining citations are as follows:

Citation No. 347209, August 16, 1978, 30 CFR 56.14-1, charges that "the guard on the "V' belt drive at the raw crusher was not adequate. It did not extend low enough to protect personnel from the pinch point."

Citation No. 347031, August 16, 1978, 30 CFR 56.12-32, charges that "the electric motor inside the long concrete lined conveyor tunnel did not have a cover plate."

Petitioner's Testimony and Evidence

Inspector Arnoldi confirmed that he inspected the Fort Wright facility in August 1978, and he described the operation as a sand and gravel pit where materials were loaded with end loaders, transported to a hopper, and then fed on a conveyor for transportation to a crusher where it is sized and transported by belts to various stockpiles. The V-belt raw crusher was not adequately guarded because it did not come down low enough to cover the drive pinch point. The belt and pulley was a movable machine part. The crusher operator worked in the area and he would be in danger of getting caught in the pinch point. A walkway was alongside the pulley within a few inches from the unguarded moving machine part. Although he could not recall how high off the ground the pinch point was located, he would estimate it was 2 or 3 feet and not overhead. The respondent should have known the pulley was unguarded because supervisors were in the area and the area was in the open at the main crusher. The citation was abated within the allotted time and if someone were caught in the pinch point, they could get their arm or leg mangled or torn off (Tr. 44-47). The pull wheel for the V-belt drive was guarded, but the bottom of the drive wheel, where the pinch point was located, was not (Tr. 48).

In response to bench questions, Inspector Arnoldi indicated that an 8- to 10-inch area was unguarded and that the crusher operator would be traveling back and forth in the area several times during a shift, and the walkway was alongside the pulley just inches away. He observed the crusher operator there at the time the citation issued and the crusher was running. Abatement was achieved by installing a screen over the exposed pulley area (Tr. 49-51).

Regarding the missing cover plate citation, Inspector Arnoldi confirmed that the motor in question did not have a cover plate. The motor was some 2 feet long and 18 inches high. The motor junction box cover was missing and someone could possibly have gotten into it and this posed a shock hazard in the event of poor splicing. The uncovered area was 4 inches by 4 inches, and the wires inside the box were spliced, insulated, and wrapped. The insulation would not wear out and there was no danger to exposed insulated wires. The danger presented was the possibility of someone working around the exposed box and getting a hand tool in the open box and breaking the splices or contacting the conductor. The box was in plain view, supervisors were in the area, and the condition should have been observed. He saw no one working in the area, but somebody would have occasion to work there cleaning, greasing, or performing maintenance using a shovel,

grease gun, or water to wash out the tunnel and this would add to the shock hazard. A cover was put on the box within the time fixed for abatement (Tr. 57-55).

Respondent's Testimony and Evidence

Respondent presented pictures of the location and equipment which were cited (Exhs. R-1 and R-2; Tr. 58). Mr. Rawlings stated that he believed the guard which was installed on the V-belt was adequate. Although someone could get their pants' legs caught in the bottom pulley, they would have to be on their knees to get an arm or hand caught. The violation was abated the same afternoon that it was issued and the area in question was not an area where people walked through (Tr. 60).

As for the cover plate, Mr. Rawlings stated it too was abated the same afternoon and that employees were not exposed to any hazard since they would have to break the insulation on the splices to be exposed to any hazard (Tr. 60-61).

Findings and Conclusions

Docket No. DENV 79-221-PM

Fact of Violation--Citation Nos. 347026 and 347027, 30 CFR 56.14-1

Respondent is charged with two violations of the provisions of 30 CFR 56.14-1, which reads as follows: "Mandatory. Gears; sprockets; chains; drive, head, tail, and takeup pulleys; flywheels; couplings; shafts; sawblades; fan inlets; and similar exposed moving machine parts which may be contacted by persons, and which may cause injury to persons, shall be guarded."

As I previously stated in a recent decision concerning the guarding requirements of section 56.14-1, Massey Sand and Rock Company, Docket No. DENV 78-575-PM (June 18, 1979), petition for discretionary review denied, July 27, 1979, I believe that when an inspector cites a violation of this section of the mandatory standards, it is incumbent on him to ascertain all of the pertinent factors which led him to conclude that in the normal course of his work duties at or near such exposed machine parts, an employee is likely to come into contact with such exposed parts and be injured if such parts are not guarded. Here, it seems obvious to me from the inspector's testimony in support of the citations, that he relied chiefly on the fact that a person coming in contact with such unguarded machine parts could possibly be injured, and that conclusion was based on certain MSHA accident reports which apparently reflect that employees who are caught in unguarded pulleys are in fact injured. While I accept the general proposition that a person who becomes entangled in an unguarded machine part is likely to be injured, this conclusion simply begs the

question as to whether a specific pulley location in a mine is required to be guarded pursuant to the requirements of section 56.14-1. In this regard, petitioner conceded on oral argument that the key words of the regulatory language, "may be contacted," is critical to any determination as to whether the standard has been violated. As I construe that language, it means that on a case-by-case basis, petitioner must establish that the unguarded area in question, by its location and proximity to the comings and goings of mine personnel, exposes them to the hazard or danger of being caught in the unguarded pulley. In my view, this question can only be determined by consideration of the prevailing circumstances at the time the citation issued.

With regard to the unguarded tail pulley at the culvert-lined tunnel (Citation No. 347026), the inspector testified that the equipment was part of the material transportation system and that it was located in an isolated area where employees would not normally pass by on a regular basis. The respondent's defense is that the tunnel was protected by a chain and a "Do Not Enter" sign, and that employees are instructed not to enter the tunnel while the belt is moving. Respondent also pointed out that the unguarded pulleys at the other end of the belts are located some 20 feet high where material dumps off the end of the belt, and since there is no walkway there, they are apparently "guarded by location" and no guards are required. As for the unguarded tail pulley in the concrete-lined tunnel, respondent conceded that it was not protected by a chain or a sign.

The inspector indicated that the exposed unguarded pulley pinch point areas were some 18 inches to 2 feet off the ground, adjacent to walkways, and some 6 inches inside the belt frames. Although the inspector conceded that no one is stationed at the unguarded tail pulley locations on a regular basis, Safety Director Rawlings candidly admitted that the tail pulleys are greased once a week by employees and that materials are cleaned out of the pulleys on a monthly basis. Although Mr. Rawlings alluded to the fact tha the cleaning and greasing of the belts is supposed to be done when the belts are not running and before they are started up, he could not state whether greasing was ever accomplished while the belts were running. Furthermore, although he confirmed that employees were instructed not to be in the area while the belts were running, he admitted that there is no standard operating procedure or lock-out system when work is being performed on the belts and that employees who disregarded instructions and performed maintenance or other work on the pulley while it was moving could be injured. Under these circumstances, I conclude and find that the unguarded pulleys, adjacent to a walkway where men obviously passed while performing work on the belts and pulleys on a weekly and monthly basis, presented a hazard to those men and were required to be guarded. Since they were not, I conclude and find that the petitioner has established the violations, and the citations are AFFIRMED.

Gravity

I believe that the question of gravity must be determined on the basis of the conditions or practices which existed at the time the citations in question issued. General or speculative conclusions as to the hazards involved with respect to unguarded pulley locations simply are not sufficient to justify a finding that the conditions cited presented a grave threat to the safety of mine personnel. On the facts presented here, the inspector saw no one in the area of the unguarded pulleys, indicated that no one is stationed there on a regular basis, and conceded that the tunnel areas were somewhat remote and that employees did not pass through there on a regular basis. He also indicated that the chances of an accident were "very small." Respondent's unrebutted testimony is that one of the tunnels was chained off and a "Do Not Enter" sign was posted, and while the other one was not chained or posted, several boards blocked the entrance. Under the circumstances presented with respect to the citations, I cannot conclude that the conditions cited were serious, and I find that they were not.

Negligence

Both the inspector and Safety Director Rawlings were of the view that the location of the unguarded pulleys would dictate whether they were required to be guarded pursuant to section 56.14-1. Mr. Rawlings indicated that some pulley locations are in fact guarded and that he is the person who decides whether a particular location should be guarded and his decision in this regard is dictated by the circumstances presented, including consideration of whether there is a lot of foot traffic in the area and how often employees are required to be at any given location. As an example of areas not required to be guarded, he cited elevated pulley areas where there are no walkways. On the facts presented in this case, I find that Mr. Rawlings knew or should have known that greasing and cleanup were being performed in the unguarded pulley areas adjacent to walkways, and while employees may not be required to go to those areas frequently, the fact is that those employees working in and around unguarded pulleys were exposed to a potential hazard, and I conclude that Mr. Rawlings should have been aware of these circumstances. Consequently, I conclude and find that the failure to guard the locations cited resulted from a failure by the respondent to exercise reasonable care and that this constitutes ordinary negligence.

Good Faith Compliance

Abatement was achieved through the fabrication and installation of wire mesh guards, and petitioner stipulated that the citations were abated within the time fixed by the inspector (Tr. 13).

Findings and Conclusions

Docket No. DENV 79-220-PM

Fact of Violation--Citation No. 347029, 30 CFR 56.14-1

Respondent is charged with a violation of the provision of 30 CFR 56.14-1, which reads as follows: "Mandatory. Gears; sprockets; chains; drive, head, tail, and takeup pulleys; flywheels; couplings; shafts; sawblades; fan inlets; and similar exposed moving machine parts which may be contacted by persons, and which may cause injury to persons, shall be guarded."

The inspector issued this citation because he believed that the guard which had been installed on the raw crusher V-belt drive was inadequate. He believed it was inadequate because the existing guard did not extend low enough to cover the pinch point at the pulley drive where an area approximately 8 to 10 inches remained unguarded. Exhibit R-1 is a picture of the V-belt drive in question and it clearly shows the area of the existing guards and the location which was not guarded. The existing guards are a combination of a wire mesh screen and what appears to be a piece of metal sheeting located over and adjacent to the pulley apparatus. The guard which was installed to abate the citation is a piece of wire mesh screen which covers the entire belt drive and pulley mechanism.

Section 56.14-1 requires, among other things, that belt drive, head, tail, and takeup pulleys, and "similar exposed moving machine parts which may be contacted by persons, and which may cause injury" be guarded. Based on the evidence and testimony adduced in these proceedings, I find and conclude that the V-belt drive location cited was in fact a pulley of the type described by and within the meaning of the standard and was required to be guarded to preclude persons from coming in contact with it and possibly being injured.

On the facts presented here, the inspector testified that there was a danger of someone getting caught in the unguarded portion of the pulley in question. A walkway was located some inches away from the unguarded pulley and the crusher operator would have occasion to walk along the walkway several times during the course of the shift, and at the time of the citation, he observed such an operator on duty in the area and the crusher was operating. Respondent's defense is based on the fact that the operator believed that the existing guard was adequate. However, respondent's witness, Mr. Rawlings, conceded that someone could get their pants' legs caught in the exposed pulley which was not guarded. The fact that one would have to be on his knees for this to occur is not controlling, and while it may indicate that the chances of an accident happening is somewhat remote, it may not serve as an absolute defense to the asserted violation. Since the pulley area was in

fact guarded to some extent, I can only assume that the existing guards were installed by the respondent out of recognition of the fact that the pulley area did present a hazard, and that there was a possibility of someone walking along the adjacent walkway could become entangled in the exposed pulley which was not guarded. In the circumstances, I conclude and find that the pulley area cited was in fact not adequately guarded and that petitioner has established a violation. Accordingly, the citation is AFFIRMED.

Gravity

I find that the circumstances presented establishes that the violation was serious. The walkway was inches from the exposed unguarded pulley area and the crusher operator has occasion to walk up and down that walkway during the course of the shift, and respondent candidly admitted that had he caught a pant's leg in the pulley, he could have been injured.

Negligence

The inspector's testimony that the unguarded pulley area was unguarded and in plain sight to supervisors who may have been there remains unrebutted. Furthermore, since portions of the pulley were guarded to some extent, I find tht the respondent was on notice that the pulley presented a hazard since it seems obvious that the existing guards were installed out of recognition of that fact. I further conclude that the respondent should have been aware of the fact that the unguarded pulley area adjacent and next to the walkway presented a hazard and that respondent's failure to install a guard in that area resulted in its failure to exercise reasonable care and that this constitutes ordinary negligence due to the respondent's failure to correct an unsafe condition which it knew or should have known existed.

Good Faith Compliance

The citation issued on August 16, 1978, and the inspector fixed the time for abatement as August 21, 1978. Respondent's testimony reflects that the guard was installed on the afternoon of the day the citation issued. I find that this indicates that the respondent exercised rapid abatement in correcting the condition and this fact has been considered by me in assessing a civil penalty for this citation.

Fact of Violation--Citation No. 347021, 30 CFR 56.12-32

Section 56.12-32 provides: "Mandatory. Inspector and cover plates on electrical equipment and junction boxes shall be kept in place at all times except during testing or repairs."

I find that the preponderance of the evidence adduced with respect to this citation supports a finding of a violation of section 56.12-32. Respondent did not dispute the fact that the required cover plate was in fact not in place and its testimony did not rebut the findings made by the inspector in this regard. The citation is AFFIRMED.

Gravity

From the testimony and evidence presented, I cannot conclude that the violation was serious. The inspector testified that the uncovered area was some 4 inches by 4 inches, and his concern was that someone working around the uncovered motor plate cleaning with a shovel or greasing equipment with a grease gun or other hand tools would somehow place such tools in the uncovered plate area, thereby breaking the insulation on the wires or contacting the conductors. He saw no one in the area on the day of his inspection and the evidence establishes that the area is somewhat remote and not regularly traveled. He also testified that the wires inside the junction box were spliced, wrapped, and insulated and there is no indication that the splicing or insulation were in other than good condition. Furthermore, he indicated that there was no danger to any of the exposed insulated wires and that the insulation was not likely to wear out in the normal course of events.

I conclude that the possibility of someone placing a shovel, grease gun, or other tool into the small, exposed area of the cover plate was highly unlikely. Furthermore, although the tunnel area is washed out from time to time with water, there is no evidence that this was the case on the day in question, and based on the totality of the conditions which prevailed on the day in question, I find that the condition cited was nonserious.

Negligence

The inspector testified that the uncovered plate in question was in plain view and should have been observed by supervisors who were in the area. This testimony is unrebutted and I find that the respondent should have been aware of the fact that the cover plate was not in place, and its failure to exercise reasonable care in the circumstances constitutes ordinary negligence.

Good Faith Compliance

The citation issued on August 16, 1978, and the inspector fixed August 21, 1978, as the abatement time. Respondent's testimony indicates that the cover plate was replaced the afternoon of August 16, and I find that the respondent achieved rapid compliance once the citation issued, and this is reflected in the penalty assessed by me for the violation.

Size of Business and Effect of Civil Penalties on the Respondent's Ability to Remain in Business

In both of these dockets, the parties stipulated that respondent is a small-to-medium-sized sand and gravel operator, and that the imposition of civil penalties will not impair its ability to remain in business.

History of Prior Violations

In both of these dockets, the parties stipulated that the respondent has no previous history of violations, and this fact has been considered by me in assessing the civil penalties.

Conclusion

On the basis of the foregoing findings and conclusions, the following citations are AFFIRMED, and civil penalties are assessed as follows:

Docket No. DENV 79-221-PM

Citation No.	Date	30 CFR Section	Assessment
347026	8/9/78	56.14-1	$25
347027	8/9/78	56.14-1	25

Docket No. DENV 79-220-PM

Citation No.	Date	30 CFR Section	Assessment
347029	8/16/78	56.14-1	$50
347031	8/16/78	56.12-32	25

ORDER

The respondent is ORDERED to pay the civil penalties assessed in these proceedings, as indicated above, in the total amount of $125 within thirty (30) days of the date of these decisions. Citation No. 347030 (DENV 79-220) is DISMISSED.

George A. Koutras
Administrative Law Judge