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ALLIED CHEMICAL V. SOL (MSHA)  
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Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

ALLIED CHEMICAL CORPORATION,  
CONTESTANT

v.

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

Contest of Citation

Docket No. WEST 82-97-RM  
Citation No. 578873 1/5/82

Alchem Trona Mine

DECISION AND ORDER

This matter is before me under a reservation of jurisdiction relating to the proper interpretation of a mandatory safety standard relating to metal and nonmetal underground mines. The standard in question provides:

Unguarded conveyors with walkways shall be equipped with emergency stop devices or cords along their full length. 30 C.F.R. 57.9-7.

The operator paid a penalty of \$300 for failure to provide an operative stop cord along the west side of its 2,000 foot conveyor but contests any interpretation of the standard would require such a cord along the east side of the conveyor.

The stipulated facts show there are walkways down both the east and west side of the beltline and that while the west side is the side designated as the walkway miners are regularly assigned to clean muck from positions on the east walkway. This occurs at least two shifts a month. Further, miners assigned to clean spillage on the east side of the belt are required to travel a distance of 40 feet to and from the crosscut through which they gain access to the east walkway.

The operator's reliance on Secretary of Labor v. Magma Copper Company, 1 FMSHRC 837, 857 (1979) is obviously misplaced. There the trial judge held that the Secretary failed to prove that the walk or travelway in question was "regularly used and designated for persons to go from one place to another". 30 C.F.R. 57.2 (Definitions). While I accept the

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operator's contention that 57.2 applies to walkways, I find the east walkway was a designated workplace for miners and that as such it constituted a designated walk or travelway within the meaning of 57.2 and 57.9-7.

The intent of the standard, as the operator admits, is to protect miners who on a regular and frequent basis, use a designated walkway for movement to and from their regular duty stations. Since the agreed facts show the east side of the beltway is a regular duty station frequented by miners at least two shifts a month, it is clear that the hazard presented by the moving beltline is one against which the standard was directed.

The fact that a miner is stationed on the west side of the beltline for the sole purpose of pulling the stop cord in the event of an emergency on the east side is no defense to the failure to provide a stop cord on the east walkway. First I find it highly unlikely that the operator can always be depended upon to send three men to do the work of two, especially in the face of economic layoffs and reduced workforces that prevail in most mines. Second I find nothing in the standard that permits the arrangement posited by the operator without action by the Secretary on an appropriate petition for modification. Third, as the Secretary points out, the stop cord is intended as an individual safety device that should not depend for its activation on some form of communication between individuals who may be widely separated and where time and awareness of the danger may be of the essence in preventing a serious injury.

The premises considered, therefore, it is ORDERED that the operator's contest of the citation in question be, and hereby is, DENIED and the validity of the citation AFFIRMED.

Joseph B. Kennedy  
Administrative Law Judge