

CCASE:
SOL (MSHA) v. S. M. LORUSSO & SONS
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No. YORK 85-2-M
A.C. No. 19-00076-05504

v.

Docket No. YORK 84-12-M (FOOTNOTE.1)
A.C. No. 19-00076-05503

S.M. LORUSSO & SONS, INC.,
RESPONDENT

West Roxbury Crushed Stone

DECISION

Appearances: David L. Baskin, Esq., Office of the Solicitor,
U.S. Department of Labor, Boston, Massachusetts,
for Petitioner;
Michael E. Bussiere, S.M. Lorusso & Sons, Inc.,
Walpole, Massachusetts, for Respondent.

Before: Judge Merlin

These cases are petitions for the assessment of civil penalties. They were heard at the same time and are hereby consolidated for decision.

Citation No. 2367541 was issued for a violation of 30 C.F.R. 56.5-50(b) because an employee had been exposed to noise in excess of the maximum permissible level. However, the employee was wearing approved protective headwear and the exposure was in the nature of an isolated instance since the operator was in compliance at other times. The operator is very small in size. It has an excellent history of prior violations with only two violations for the preceding 24 months. In light of these facts, a penalty of \$20 is assessed.

Citation No. 2367931 was issued for a violation of 30 C.F.R. 56.14-1 because a guard was not provided for the V-belt on the plant feeder. The violation was serious because a

