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MSHA V. ALLIED PRODUCTS
DDATE:
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TTEXT:
FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.
May 5, 1982
SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

Docket No. SE 79-46-M

v.

ALLIED PRODUCTS COMPANY

ORDER

In *Allied Products Co. v. Federal Mine Safety and Health Review Commission*, No. 80-7935, 5th Cir. Unit B (February 1, 1982), rehearing den. March 9, 1982, the court affirmed a final order of the Commission finding that Allied Products violated three mandatory safety standards. 2 FMSHRC 2517 (ALJ, Sept. 1980). The court found, however, that the penalties assessed were an abuse of discretion and remanded for further proceedings "with instructions to recalculate the penalties based on the existing record and on considerations outlined in this opinion." The court's mandate was received by the Commission on April 9, 1982.

We need not address at this time the court's discussion of the relationship between the Commission's statutory authority to assess penalties (30 U.S.C. § 820(i)) and the Secretary of Labor's penalty assessment regulations. 30 C.F.R. Part 100. Rather, we leave to the administrative law judge the initial determination of the necessary and appropriate action in light of the court's decision and remand. Accordingly, the case is remanded to the administrative law judge for further proceedings.

Richard V. Backley, Commissioner

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