FOR SALE BY THE OHIO MANUFACTURERS' ASSOC.

Issued in Washington, D.C., on August 27, 1971.

H. B. HOLSTROM,
Chief, Airframe and Air Traffic Rules Division.

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Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1903—INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

On May 5, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8754) concerning proposed rules and general policy for enforcement of the inspection, citation and penalty provisions of the Williams-Steiger Occupational Safety and Health Act of 1970. After consideration of the relevant material which has been submitted by interested persons, the proposal is hereby adopted with some changes as a new Part 1903 to Title 29 in the Code of Federal Regulations.

This new Part 1903 shall be effective upon publication in the FEDERAL REGISTER (9-4-71), except § 1903.2, which shall be effective 30 days after publication in the FEDERAL REGISTER.

The new Part 1903 reads as follows:

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AUTHORITY: The provisions of this Part 1903 issued under secs. 8(c)(1), 8(e), 8(f)(2), 8(g)(2), 9 (a) and (b), 84 Stat. 1599, 1600, 1601; 29 U.S.C. 657, 658.

§ 1903.1 Purpose and scope.

The Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.) requires, in part, that every employer covered under the Act furnish to his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees. The Act also requires that employers comply with occupational safety and health standards promulgated under the Act, and that employees comply with standards, rules, regulations and orders issued under the Act which are applicable to their own actions and conduct. The Act authorizes the Department of Labor to conduct inspections, and to issue citations and proposed penalties for alleged violations. The Act, under section 20(b), also authorizes the Secretary of Health, Education, and Welfare to conduct inspections and to question employers and employees in connection with research and other related activities. The Act contains provisions for adjudication of violations, periods prescribed for the abatement of violations, and proposed penalties by the Occupational Safety and Health Review Commission, if contested by an employer or by an employee or authorized representative of employees, and for judicial review. The purpose of this Part 1903 is to prescribe rules and to set forth general policies for enforcement of the inspection, citation, and proposed penalty provisions of the Act. In situations where this Part 1903 sets forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act.

§ 1903.2 Posting of notice; availability of Act, regulations and applicable standards.

(a) Each employer shall post and keep posted a notice or notices, to be furnished by the Occupational Safety and Health Administration, U.S. Department of Labor, informing employees of the protections and obligations provided for in the Act, and that for assistance and information, including copies of the Act and of specific safety and health standards, employers should contact the employer or the nearest office of the Department of Labor. Such notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

(b) "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theatre, farm, mine, bank, sales office, warehouse or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities from the same physical location as a lumber yard), each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment, to the extent that such notices have been furnished by the Occupational Safety and Health Administration, U.S. Department of Labor. Where employees are engaged in activities which are physically dispersed, such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, the notice or notices required by this section shall be posted at the location to which employees report each day. Where employees do not usually work at, or report to, a single establishment, such as longshoremen, truckers, salesmen, technicians, engineers, etc., such notice or notices shall be posted at the location from which the employees operate to carry out their activities. In all cases, such notice or notices shall be posted in accordance with the requirements of paragraph (a) of this section.

(c) Copies of the Act, all regulations published in this chapter and all applicable standards will be available at all Area Offices of the Occupational Safety and Health Administration, U.S. Department of Labor. If an employer has obtained copies of these materials, he shall make them available upon request to any employee or his authorized representative for review in the establishment where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or his authorized representative and the employer.

(d) Any employer failure to comply with the provisions of this section shall be subject to citation and penalty in accordance with the provisions of section 17 of the Act.

§ 1903.3 Authority for inspection.

(a) Compliance Safety and Health Officers of the Department of Labor are authorized to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employer, owner, operator, agent or employee; and to review records required by the Act and regulations published in this chapter, and other records which are directly related to the purpose of the inspection. Representatives of the Secretary of Health, Education, and Welfare are authorized to make inspections and to question employers and employees in order to carry out the functions of the Secretary of Health, Education, and Welfare under the Act. Inspections conducted by Department of Labor Compliance Safety and Health Officers and representatives of the Secretary of Health, Education, and Welfare under section 8 of the Act and pursuant to this Part 1903 shall not affect the authority of any State to conduct inspections in accordance with agreements and plans under section 18 of the Act.

(b) Prior to inspecting areas containing information which is classified by an agency of the United States Government

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in the interest of national security, Compliance Safety and Health Officers shall have obtained the appropriate security clearance.

§ 1903.4 Objection to inspection.

Upon a refusal to permit a Compliance Safety and Health Officer, in the exercise of his official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with § 1903.3, or to permit a representative of employees to accompany the Compliance Safety and Health Officer during the physical inspection of any workplace in accordance with § 1903.8, the Compliance Safety and Health Officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The Compliance Safety and Health Officer shall endeavor to ascertain the reason for such refusal, and he shall immediately report the refusal and the reason therefor to the Area Director. The Area Director shall immediately consult with the Regional Administrator and the Regional Solicitor, who shall promptly take appropriate action, including compulsory process, if necessary.

§ 1903.5 Entry not a waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action, citation, or penalty under the Act. Compliance Safety and Health Officers are not authorized to grant any such waiver.

§ 1903.6 Advance notice of inspections.

(a) Advance notice of inspections may not be given, except in the following situations: (1) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection; (3) where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and (4) in other circumstances where the Area Director determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections may be given only if authorized by the Area Director, except that in cases of apparent imminent danger, advance notice may be given by the Compliance Safety and Health Officer without such authorization if the Area Director is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of such representative is known to the employer. (See § 1903.6(b) as to situations where there is no authorized representative of employees.) Upon the request of the employer, the Compliance Safety and Health Officer will inform the authorized representative of employees of the inspection, provided that the employer furnishes the Compliance Safety and Health Officer with the identity of such representative and with such other information as is necessary to enable him promptly to inform such representative of the inspection. An employer who fails to comply with his obligation under this paragraph promptly to inform the authorized representative of employees of the inspection or to furnish such information as is necessary to enable the Compliance Safety and Health Officer promptly to inform such representative of the inspection, may be subject to citation and penalty under section 17(e) of the Act. Advance notice in any of the situations described in paragraph (a) of this section shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

(c) The Act provides in section 17(f) that any person who gives advance notice of any inspection to be conducted under the Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by fine of not more than $1,000 or by imprisonment for not more than 6 months, or by both.

§ 1903.7 Conduct of inspections.

(a) Subject to the provisions of § 1903.3, inspections shall take place at such times and in such places of employment as the Area Director or the Compliance Safety and Health Officer may direct. At the beginning of an inspection, Compliance Safety and Health Officers shall present their credentials to the owner, operator, or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in § 1903.3 which they wish to review. However, such designation of records shall not preclude access to additional records specified in § 1903.3.

(b) Compliance Safety and Health Officers shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See § 1903.9 on trade secrets.)

(c) In taking photographs and samples, Compliance Safety and Health Officers shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. Compliance Safety and Health Officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.

(d) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

(e) At the conclusion of an inspection, the Compliance Safety and Health Officer shall confer with the employer or his representative and informally advise him of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the Compliance Safety and Health Officer any pertinent information regarding conditions in the workplace.

(f) Inspections shall be conducted in accordance with the requirements of this part.

§ 1903.8 Representatives of employers and employees.

(a) Compliance Safety and Health Officers shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Compliance Safety and Health Officer during the physical inspection of any workplace for the purpose of aiding such inspection. A Compliance Safety and Health Officer may permit additional employer representatives and additional representatives authorized by employees to accompany him where he determines that such additional representatives will further aid the inspection. A different employer and employee representative may accompany the Compliance Safety and Health Officer during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) Compliance Safety and Health Officers shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this section. If there is no authorized representative of employees, or if the Compliance Safety and Health Officer is unable to determine with reasonable certainty who is such representative, he shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the Compliance Safety and Health Officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the Compliance Safety and Health Officer during the inspection.

(d) Compliance Safety and Health Officers are authorized to deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to the provisions of § 1903.9(d). With regard to information classified by an agency of the

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U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany a Compliance Safety and Health Officer in areas containing such information.

§ 1903.9 *Trade secrets.*

(a) Section 15 of the Act provides: "All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary, the Commission, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets." Section 15 of the Act is considered a statute within the meaning of section 552(b)(3) of title 5 of the United States Code, which exempts from the disclosure requirements matters that are "specifically exempted from disclosure by statute."

(b) Section 1905 of title 18 of the United States Code provides: "Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than 1 year, or both; and shall be removed from office or employment."

(c) At the commencement of an inspection, the employer may identify areas in the establishment which contain or which might reveal a trade secret. If the Compliance Safety and Health Officer has no clear reason to question such identification, information obtained in such areas, including all negatives and prints of photographs, and environmental samples, shall be labeled "confidential—trade secret" and shall not be disclosed except in accordance with the provisions of section 15 of the Act.

(d) Upon the request of an employer, any authorized representative of employees under § 1903.8 in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is no such representative or employee, the Compliance Safety and Health Officer shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

§ 1903.10 *Consultation with employees.*

Compliance Safety and Health Officers may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Act which he has reason to believe exists in the workplace to the attention of the Compliance Safety and Health Officer.

§ 1903.11 *Complaints by employees.*

(a) Any employee or representative of employees who believe that a violation of the Act exists in any workplace where such employee is employed may request an inspection of such workplace by giving notice of the alleged violation to the Area Director or to a Compliance Safety and Health Officer. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided the employer or his agent by the Area Director or Compliance Safety and Health Officer no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the Department of Labor.

(b) If upon receipt of such notification the Area Director determines that the complaint meets the requirements set forth in paragraph (a) of this section, and that there are reasonable grounds to believe that the alleged violation exists, he shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the complaint.

(c) Prior to or during any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the Compliance Safety and Health Officer, in writing, of any violation of the Act which they have reason to believe exists in such workplace. Any such notice shall comply with the requirements of paragraph (a) of this section.

(d) Section 11(c)(1) of the Act provides: "No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act."

§ 1903.12 *Inspection not warranted, informal review.*

(a) If the Area Director determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a complaint under § 1903.11, he shall notify the complaining party in writing of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the Regional Administrator and, at the same time, providing the employer with a copy of such statement by certified mail. The employer may submit an opposing written statement of position with the Regional Administrator and, at the same time, provide the complaining party with a copy of such statement by certified mail. Upon the request of the complaining party or the employer, the Regional Administrator, at his discretion, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral views presented, the Regional Administrator shall affirm, modify, or reverse the determination of the Area Director and furnish the complaining party and the employer and written notification of his decision and the reasons therefor. The decision of the Regional Administrator shall be final and not subject to further review.

(b) If the Area Director determines that an inspection is not warranted because the requirements of § 1903.11(a) have not been met, he shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of § 1903.11(a).

§ 1903.13 *Imminent danger.*

Whenever and as soon as a Compliance Safety and Health Officer concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act, he shall inform the affected employees and employers of the danger and that he is recommending a civil action to restrain such conditions or practices and for other appropriate relief in accordance with the provisions of section 13(a) of the Act. Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger even though, after being informed of such danger by the Compliance Safety and Health Officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate such danger.

§ 1903.14 *Citations; notices of de minimis violations.*

(a) The Area Director shall review the inspection report of the Compliance Safety and Health Officer. If, on the basis of the report the Area Director believes that the employer has violated a requirement of section 5 of the Act, of any

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standard, rule or order promulgated pursuant to section 6 of the Act, or of any substantive rule published in this chapter, he shall, if appropriate, consult with the Regional Solicitor, and he shall issue to the employer either a citation or a notice of de minimis violations which have no direct or immediate relationship to safety or health. An appropriate citation or notice of de minimis violations shall be issued even though after being informed of an alleged violation by the Compliance Safety and Health Officer, the employer immediately abates, or initiates steps to abate, such alleged violation. Any citation or notice of de minimis violations shall be issued with reasonable promptness after termination of the inspection. No citation may be issued under this section after the expiration of 6 months following the occurrence of any alleged violation.

(b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the Act, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

(c) If a citation or notice of de minimis violations is issued for a violation alleged in a request for inspection under § 1903.11 (a) or a notification of violation under § 1903.11(c), a copy of the citation or notice of de minimis violations shall also be sent to the employee or representative of employees who made such request or notification.

(d) After an inspection, if the Area Director determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under § 1903.11(a) or a notification of violation under § 1903.11(c), the informal review procedures prescribed in § 1903.12(a) shall be applicable. After considering all views presented, the Regional Administrator shall affirm the determination of the Area Director, order a reinspection, or issue a citation if he believes that the inspection disclosed a violation. The Regional Administrator shall furnish the complaining party and the employer with written notification of his determination and the reasons therefor. The determination of the Regional Administrator shall be final and not subject to review.

(e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless the citation is affirmed by the Review Commission.

§ 1903.13 Proposed penalties.

(a) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the Area Director shall notify the employer by certified mail or by personal service by the Compliance Safety and Health Officer of the proposed penalty under section 17 of the Act, or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty shall be deemed to be the final order of the Review Commission and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the Area Director in writing that he intends to contest the citation or the notification of proposed penalty before the Review Commission.

(b) The Area Director shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with the provisions of section 17 of the Act.

(c) Appropriate penalties may be proposed with respect to an alleged violation even though after being informed of such alleged violation by the Compliance Safety and Health Officer, the employer immediately abates, or initiates steps to abate, such alleged violation. Penalties shall not be proposed for de minimis violations which have no direct or immediate relationship to safety or health.

§ 1903.16 Posting of citations.

(a) Upon receipt of any citation under the Act, the employer shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employers are engaged in activities which are physically dispersed (see § 1903.2 (b)), the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location (see § 1903.2(b)), the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced, or covered by other material. Notices of de minimis violations need not be posted.

(b) Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The filing by the employer of a notice of intention to contest under § 1903.17 shall not affect his posting responsibility under this section unless and until the Review Commission issues a final order vacating the citation.

(c) An employer to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Review Commission, and such notice may explain the reasons for such contest. The employer may also indicate that specified steps have been taken to abate the violation.

(d) Any employer failing to comply with the provisions of paragraphs (a) and (b) of this section shall be subject to citation and penalty in accordance with the provisions of section 17 of the Act.

§ 1903.17 Employer and employee contests before the Review Commission.

(a) Any employer to whom a citation or notice of proposed penalty has been issued may, under section 10(a) of the Act, notify the Area Director in writing that he intends to contest such citation or proposed penalty before the Review Commission. Such notice of intention to contest shall be postmarked within 15 working days of the receipt by the employer of the notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. The Area Director shall immediately transmit such notice to the Review Commission in accordance with the rules of procedure prescribed by the Commission.

(b) Any employee or representative of employees of an employer to whom a citation has been issued may, under section 10(c) of the Act, file a written notice with the Area Director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable. Such notice shall be postmarked within 15 working days of the receipt by the employer of the notice of proposed penalty or notice that no penalty is being proposed. The Area Director shall immediately transmit such notice to the Review Commission in accordance with the rules of procedure prescribed by the Commission.

§ 1903.18 Failure to correct a violation for which a citation has been issued.

(a) If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Area Director shall, if appropriate, consult with the Regional Solicitor, and he shall notify the employer by certified mail or by personal service by the Compliance Safety and Health Officer of such failure and of the additional penalty proposed under section 17(d) of the Act by reason of such failure. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the Review Commission in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

(b) Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under section 10(b) of the Act, notify the Area Director in writing that he intends to contest such notification or proposed additional penalty before the Review Commission. Such notice of intention to contest shall be postmarked within 15 working days of the receipt by the employer of the notification of failure to correct a violation and of proposed additional penalty. The Area Director shall immediately transmit such notice to the Review Commission in accordance with

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the rules of procedure prescribed by the Commission.

(e) Each notification of failure to correct a violation and of proposed additional penalty shall state that it shall be deemed to be the final order of the Review Commission and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notification, the employer notifies the Area Director in writing that he intends to contest the notification or the proposed additional penalty before the Review Commission.

§ 1903.19 Informal conferences.

At the request of an affected employer, employee, or representative of employees, the Regional Administrator may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at such conference shall be subject to the rules of procedure prescribed by the Review Commission. If the conference is requested by the employer, an affected employee or his representative shall be afforded an opportunity to participate, at the discretion of the Regional Administrator. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Regional Administrator. Any party may be represented by counsel at such conference. No such conference or request for such conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest as prescribed in § 1903.17.

§ 1903.20 State administration.

Nothing in this Part 1903 shall preempt the authority of any State to conduct inspections, to initiate enforcement proceedings or otherwise to implement the applicable provisions of State law with respect to State occupational safety and health standards in accordance with agreements and plans under section 18 of the Act and Parts 1201 and 1902 of this chapter.

§ 1903.21 Definitions.

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970. (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.)

(b) The definitions and interpretations contained in section 3 of the Act shall be applicable to such terms when used in this Part 1903.

(c) "Working days" means Mondays through Fridays but shall not include Saturdays, Sundays, or Federal holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

(d) "Compliance Safety and Health Officer" means a person authorized by the Occupational Safety and Health Administration, U.S. Department of Labor, to conduct inspections.

(e) "Area Director" means the employee or officer in charge of an Area Office of the Occupational Safety and Health Administration, U.S. Department of Labor.

(f) "Regional Administrator" means the employee or officer in charge of a Region of the Occupational Safety and Health Administration, U.S. Department of Labor.

(g) "Inspection" means any inspection of an employer's factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint filed under § 1903.11 (a) and (c), any reinspection, followup inspection, accident investigation or other inspection conducted under section 8(a) of the Act.

Signed at Washington, D.C., this 1st day of September 1971.

G. C. GUENTHER,
Assistant Secretary of Labor.

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Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71-45a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

South River, Md.

This amendment changes the regulations for the Route 2 drawbridge across the South River at Edgewater by adding closed periods during the morning and evening vehicular traffic peak periods. This amendment was circulated as a public notice dated June 9, 1971, by the Commander, Fifth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-49 on June 3, 1971 (36 F.R. 10209). A number of comments, both for and against the proposed change, were received and considered.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.245(f) (10) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(f) * * *

(10) South River, Md., Maryland Route 2 bridge at Edgewater. From April 1 through November 30, the draw shall open on signal, except that from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not open for the passage of vessels. From December 1 through March 31, from 10 a.m. Monday through 7:30 p.m. Friday, the draw shall open promptly on signal if at least 3 hours notice has been given from 7 a.m. to 4:30 p.m., Monday through Friday. From 7:30 p.m. Friday through 10 a.m. Monday the draw shall open on signal if notice has been given from 7 a.m. to 4:30 p.m., Monday through Friday.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937, 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(1))

Effective date. This revision shall become effective on October 9, 1971.

Dated: August 27, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc.71-13030 Filed 9-3-71;8:52 am]

[CGFR 71-41a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Three Mile Creek, Ala.

This amendment changes the regulations for the Southern Railway System drawbridge across Three Mile Creek near Mobile, Ala., to require at least 5 days' notice at all times. This amendment was circulated as a public notice dated May 25, 1971, by the Commander, Eighth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-41) on May 22, 1971 (36 F.R. 9330). No comments were received.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended by revising § 117.245(f) (20) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(f) * * *

(20) Three Mile Creek, Ala. The draw shall open on signal if at least 5 days notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937, 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on October 9, 1971.

Dated: August 27, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc.71-13061 Filed 9-3-71;8:52 am]

[CGFR 71-56a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Fox River, Wis.

This amendment changes the regulations for the State of Wisconsin highway

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