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AUTHORITY: Secs. 1, 4, 49 Stat. 2036, 2038, as amended; 41 U.S.C. 35, 38; 5 U.S.C. 556.

SOURCE: 34 FR 7946, May 20, 1969, unless otherwise noted.

41 CFR Ch. 50 (7-1-09 Edition)

Subpart A—Scope and Application

§ 50-204.1 Scope and application.

(a) The Walsh-Healey Public Contracts Act requires that contracts entered into by any agency of the United States for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding \$10,000 must contain, among other provisions, a stipulation that “no part of such contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings, or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of said contract. Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part thereof is to be performed shall be prima-facie evidence of compliance with this subsection.” (sec. 1(e)), 49 Stat. 2036, 41 U.S.C. 35(e)). This part 50-204 expresses the Secretary of Labor’s interpretation and application of this provision with regard to certain particular working conditions. In addition, §§ 50-204.27, 50-204.30, 50-204.31, 50-204.32, 50-204.33, and 50-204.36 contain requirements concerning the instruction of personnel, notification of incidents, reports of exposures, and maintenance and disclosure of records.

(b)(1) Every investigator conducting investigations and every officer of the Department of Labor determining whether there are or have been violations of the safety and health requirements of the Walsh-Healey Public Contracts Act and of any contract subject thereto; and whether a settlement of the resulting issues should be made without resort to administrative or court litigation, shall treat a failure to comply with, or violation of, any of the safety and health measures contained in this part 50-204 as resulting in working conditions which are “unsanitary or hazardous or dangerous to the health and safety of employees” within the meaning of section 1(e) of the Act and the contract stipulation it requires. Evidence of compliance with

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the safety, sanitary, and factory inspection laws of a State in which the work, or part thereof, is performed will be considered prima facie evidence of compliance with the safety and health requirements of the Act and of any contract subject thereto, and it shall be sufficient unless rebutted or overcome by a preponderance of evidence of a failure to comply with any applicable safety and health rules contained in this part.

(2) Every investigator shall have technical competence in safety, industrial hygiene, or both as may be appropriate, in the matters under investigation.

(c) [Reserved]

(d) The standards expressed in this part 50-204 are for application to ordinary employment situations; compliance with them shall not relieve anyone from the obligation to provide protection for the health and safety of his employees in unusual employment situations. Neither do such standards purport to describe all of the working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees. Where such other working conditions may be found to be unsanitary or hazardous or dangerous to the health and safety of employees, professionally accepted safety and health practices will be used.

(e) Compliance with the standards expressed in this part 50-204 is not intended, and shall not be deemed to relieve anyone from any other obligation he may have to protect the health and safety of his employees, arising from sources other than the Walsh-Healey Public Contracts Act, such as State, local law or collective bargaining agreement.

[34 FR 7946, May 20, 1969, as amended at 36 FR 9868, May 29, 1971]

§ 50-204.1a Variances.

(a) Variances from standards in this part may be granted in the same circumstances in which variances may be granted under sections 6(b)(6)(A) or 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655). The procedures for the granting of variances and for related relief under this part are those published in part

1905 of title 29, Code of Federal Regulations.

(b) Any requests for variances shall also be considered requests for variances under the Williams-Steiger Occupational Safety and Health Act of 1970, and any variance from a standard which is contained in this part and which is incorporated in part 1910 of title 29, Code of Federal Regulations, shall be deemed a variance from the standard under both the Walsh-Healey Public Contracts Act and the Williams-Steiger Occupational Safety and Health Act of 1970. In accordance with the requirements of § 1954.3(d)(1)(i) of title 29, Code of Federal Regulations, variance actions taken under State provisions under a State occupational safety and health plan approved under section 18 of the Occupational Safety and Health Act of 1970 with regard to State standards found to be at least as effective as the comparable Federal standards contained in this part and incorporated in part 1910 of title 29, Code of Federal Regulations, shall be deemed a variance action from the standard under both the Walsh-Healey Public Contracts Act and the Occupational Safety and Health Act of 1970.

[36 FR 9868, May 29, 1971, as amended at 40 FR 25452, June 16, 1975]

Subpart B—General Safety and Health Standards

§ 50-204.2 General safety and health standards.

(a) Every contractor shall protect the safety and health of his employees by complying with the standards described in the subparagraphs of this paragraph whenever a standard deals with an occupational safety or health subject or issue involved in the performance of the contract.

(1) U.S. Department of Labor—Title 29 CFR—

Part 1501—Safety and Health Regulations for Ship Repairing.

Part 1502—Safety and Health Regulations for Shipbuilding.

Part 1503—Safety and Health Regulations for Shipbreaking.

Part 1504—Safety and Health Regulations for Longshoring.

Part 1910—Subpart C through Subpart S (national consensus standards).