

*Done*



*94 (159)*

JULIAN M. CARROLL



GOVERNOR

IRIS R. BARRETT  
EXECUTIVE DIRECTOR

*KOSHRC  
Decision  
Order No. 159*

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

REVIEW COMMISSION

CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
PHONE (502) 564-6892

September 4, 1975

H. L. STOWERS  
CHAIRMAN

MERLE H. STANTON  
MEMBER

CHARLES B. UPTON  
MEMBER

KOSHRC # 94

COMMISSIONER OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

KLAENE FOUNDRY CO., INC.

RESPONDENT

DECISION AND ORDER OF  
REVIEW COMMISSION

Before STOWERS, Chairman; UPTON and STANTON,  
Commissioners.

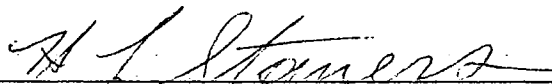
PER CURIAM:

Respondent's Petition for Discretionary Review having been filed May 22, 1975 and subsequently granted for good cause shown, the Recommended Order of Hearing Officer Roger D. Riggs, dated May 9, 1975, is before this Commission for review.

In this matter, Respondent received a Recommended Decision sustaining some \$906 in proposed penalties, in addition to their varying respective citations and abatement dates. Shortly thereafter, the entire Klaene Foundry was destroyed by fire, and Respondent now seeks relief from all penalties, asserting that such will not be necessary to insure abatement of the hazards and that the usual prospective purpose of penalties is here inapplicable.

The Review Commission has given thorough review to the entire record before it, including Respondent's Petition for Discretionary Review and its supporting affidavits and documents. In the interests of insuring a safe workplace for employees and pursuant to its discretionary functions, the Review Commission

hereby AFFIRMS all citations as sustained by the Hearing Officer. It is the further order of this Commission that each penalty attaching to a nonserious violation is hereby REDUCED to \$1.00 per item, and that the \$500 penalty attaching to the sole serious citation be and it hereby is REDUCED to \$100.

  
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H. L. Stowers, Chairman

/s/ Charles B. Upton  
Charles B. Upton, Commissioner

/s/ Merle H. Stanton  
Merle H. Stanton, Commissioner

DATED: September 4, 1975  
Frankfort, Kentucky

DECISION NO. 159

This is to certify that a copy of this Decision and Order has been served by mailing or personal delivery on the following:


Commissioner of Labor  
Commonwealth of Kentucky  
Frankfort, Kentucky 40601  
Attention: Honorable Michael Ragland  
Executive Director for  
Occupational Safety & Health

Honorable Earl M. Cornett  
General Counsel  
Department of Labor  
Frankfort, Kentucky 40601  
Attention: Peter J. Glauber  
Assistant Counsel

Honorable Arnold Taylor (Certified Mail # 467054)  
O'HARA, RUBERG, CETRULO & OSBORNE  
600 Greenup Street  
P. O. Box 187  
Covington, Kentucky 41012

Klaene Foundry Co., Inc. (Certified Mail # 467055)  
Post Office Box 467  
Covington, Kentucky 41014  
Attention: George Klaene  
President

This 4th day of September, 1975.

  
Iris R. Barrett, Executive Director

*Done*



94 (119)

JULIAN M. CARROLL  
GOVERNOR

IRIS R. BARRETT  
EXECUTIVE DIRECTOR

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH  
REVIEW COMMISSION

CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
PHONE (502) 564-6892

May 9, 1975

H. L. STOWERS  
CHAIRMAN

MERLE H. STANTON  
MEMBER

CHARLES B. UPTON  
MEMBER

KOSHRC # 94

COMMISSIONER OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

KLAENE FOUNDRY CO., INC.

RESPONDENT

NOTICE OF RECEIPT OF  
RECOMMENDED ORDER, AND  
ORDER OF THIS COMMISSION

All parties to the above-styled action before this Review Commission will take notice that pursuant to our Rules of Procedure a Decision, Findings Of Fact, Conclusions Of Law, And Recommended Order is attached hereto as a part of this Notice and Order of this Commission.

You will further take notice that pursuant to Section 48 of our Rules of Procedure, any party aggrieved by this decision may submit a petition for discretionary review by this Commission.

Pursuant to Section 47 of our Rules of Procedure, jurisdiction in this matter now rests solely in this Commission, and it is hereby ordered that unless this Decision, Findings Of Fact, Conclusions Of Law, And Recommended Order is called for review and further consideration by a member of this Commission within 30 days of this date, it is adopted and affirmed as the Decision, Findings Of Fact, Conclusions Of Law, And Final Order of this Commission in the above-styled matter.

Parties will not receive further communication from the Review Commission unless a Direction for Review has been filed by one or more Review Commission members.

Copy of this Notice and Order has been served by mailing or personal delivery on the following:


Commissioner of Labor  
Commonwealth of Kentucky  
Frankfort, Kentucky 40601  
Attention: Honorable Michael Ragland  
Executive Director for  
Occupational Safety & Health

Honorable Earl M. Cornett  
General Counsel  
Department of Labor  
Frankfort, Kentucky 40601  
Attention: Peter J. Glauber  
Assistant Counsel

Honorable Arnold Taylor (Certified Mail #775341)  
O'HARA, RUBERG, CETRULO & OSBORNE  
600 Greenup Street  
P. O. Box 187  
Covington, Kentucky 41012

Klaene Foundry Co., Inc. (Certified Mail #775342)  
Post Office Box 467  
Covington, Kentucky 41014  
Attention: George Klaene  
President

This 9th day of May, 1975.

  
Iris R. Barrett  
Executive Director

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH  
REVIEW COMMISSION

KOSHRC #94

COMMISSIONER OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

DECISION, FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
RECOMMENDED ORDER

KLAENE FOUNDRY CO., INC.

RESPONDENT

\* \* \* \* \*

On September 4, 1974 an inspection took place at a foundry operated by Klaene Foundry Company, Inc. located at 1545 Russell Street, Covington, Kentucky. As a result of the inspection of respondent's foundry, the Kentucky Department of Labor, Division of Occupational Safety and Health, issued a citation to Respondent charging fifty-one other than serious violations and one serious violation of the provisions of KRS Chapter 338 (Kentucky Occupational Safety and Health Act of 1972). The Respondent contested the items and penalties which were described in Complainant's citations as follows:

Citation Number 1

Item Number 4:

In the area below the offices and in the pattern storage area, the number of portable fire extinguishers needed to protect the occupants and building structure were not provided.

Item Number 5:

In several places throughout the plant the floor had old parts of machines, stacks of scrap steel and lumber over the floor area. Numerous lubricant spills were also noted throughout the plant.

Item Number 7:

The office floor and roof and the pattern storage area floor were not provided with load ratings approved by the building official and marked on plates securely affixed by the owner.

Item Number 13:

The large bandsaw located in the bandsaw area was not provided with an adjustable guard to cover the working portion of the blade not in use.

Item Number 15:

An Admiral 2hp. serial #20206, a U.S. Electrical Tool Co. 5hp., and another pedestal grinder, all in the grinder area, were not provided with peripheral tongue guards.

Item Number 16:

The operators of an Admiral 2hp. serial #20206, and a U.S. Electrical Tool Co. 5-hp. grinder in the grinder area were not provided with eye protectors to protect the operator from the hazard of flying objects.

Item Number 20:

A fixed stairway with 19 steps leading outside to the roof area was not constructed to carry a load five times the normal load. The stairway was becoming detached from the side of the building.

Item Number 24:

Three ladders on the roof had broken steps and broken side rails and were not taken out of service.

Item Number 26:

A fixed ladder that went from behind the furnace area to the roof was approximately 30 feet high and did not extend  $3\frac{1}{2}$  feet above the landing, nor were grab bars provided.

Item Number 28:

An open-sided platform on the roof that was 6 feet high and 8 feet long was not guarded by a standard guardrail. The employee charging the furnace uses this platform.

Item Number 29:

The platform on the roof where the furnace is charged had a steel platform with the edges bent up causing a tripping hazard.

Item Number 33:

A window wall opening at the stairway landing leading to the pattern storage area was not guarded by slats or standard grill work.

Item Number 34:

The live parts of a junction box and a light fixture at the stairway landing leading to the pattern storage area, and those at the wheel abrator were not guarded against accidental contact.

Item Number 35:

A stairway leading to the pattern storage area had a vertical clearance of five feet six inches from the ceiling beam to the stairtread.

Item Number 37:

Where the eyes or body was exposed to acid in the main plant, suitable facilities for quick drenching or flushing of the eyes and body were not provided.

Item Number 42:

The floor of the shop area and an area in the main plant were not maintained in as dry a condition as possible.

Item Number 43:

An oxygen cylinder in the shop area was not located where it would not be knocked over by passing objects.

Item Number 44:

An oxygen cylinder and an acetylene cylinder in storage in the shop area were not separated 20 feet or by a non-combustible barrier at



least five feet high having a fire resistance rating of at least one-half hour.

Item Number 45:

An oxygen cylinder and acetylene cylinder in the shop area did not have the regulators removed and were not secured.

Item Number 46:

The fork-lift operators in the main plant were not trained by an authorized person in fork-lift operations.

Item Number 48:

The access to the exits throughout the plant were not marked by visible signs.

Item Number 50:

The aisles in the main plant were not appropriately marked.

Item Number 51:

The men tapping the furnace in the furnace tapping area were not provided with asbestos gloves and aprons.

An abatement date of November 13, 1974 was stated for each of the above alleged violations. Penalties for certain of the items were proposed as follows: Item #4, \$34.00; Item #5, \$76.00; Item #7, \$34.00; Item #16, \$34.00; Item #18, \$41.00; Item #24, \$34.00; Item #26, \$34.00; Item #28, \$41.00; Item #29, \$34.00; Item #30, \$41.00; Item #33, \$34.00; Item #34, \$41.00; Item #37, \$34.00; Item #42, \$34.00; and Item #51, \$41.00.

Citation Number 2

Item Number 1:

An employee that was exposed to a fall of approximately 25 feet into melting iron, at the opening of the cupola or furnace on the

roof, was not provided with protective equipment such as safety belts and life lines, nor were standard guard rails or barriers provided to prevent him from falling into the furnace during charging operations.

An abatement date of October 9, 1974 was stated for this alleged violation; and the citation reflected a proposed penalty of \$550.00.

On October 14, 1974, the Department of Labor received Respondent's letter stating employer's intention to contest the alleged violation and penalties as noted above. Thereafter the Department of Labor issued a complaint, alleging the violations as previously noted and proposing said penalty amounts. Thereafter the Review Commission received the employer's answer denying all allegations and violations.

The notice of hearing was promptly sent to the parties and a letter certifying that the notice had been duly posted was received by the Review Commission on October 23, 1974. On October 23, 1974, the Review Commission received a certification from respondent that the name and address of the local union representing affected employees is: International Molders and Allied Workers, Union AFL-CIO-CLC, Local Union Number 45, 1015 Vine Street, Cincinnati, Ohio.

Hearing was held on February 4, 1975 at the hour of 9:00a.m. in the District Office of the Department of Highways in Covington, Kentucky under the provisions of KRS 338.071(4), a section of Chapter 338 of the Kentucky Revised Statutes dealing with the safety and health of the employees. This statute authorizes the Review Commission to hear and rule on appeals from citations,

notifications, and variances issued under the provisions of said Chapter and to adopt and promulgate rules and regulations concerning the procedural aspects of its hearings. By virtue of the provisions of KRS 338.031, hearings authorized by the provisions of this Chapter may be conducted by a Hearing Officer appointed by the Review Commission to represent the Commission in this manner. Following the hearing of an appeal, or on review of the decision of the Hearing Officer by its own motion, the Review Commission may sustain, modify, or dismiss a citation or penalty.

After hearing the testimony of the witnesses, and having considered the same together with the exhibits, briefs, stipulations, and representations of the parties, it is concluded that the substantial evidence on the record considered as a whole, supports the following:

#### FINDINGS OF FACT

1. In the part of the plant known as the pattern storage area there were one or two portable fire extinguishers provided for an area of approximately 50 feet by 300 feet with much wood and other combustibles in the area.

2. In several places throughout the employer's place of business there were stacks of lumber and metal piled about on the floor in a somewhat haphazard and disorganized manner.

3. The floor areas of the plant were not provided with load ratings approved by the building official and marked on plates securely affixed by the owner.

4. At least one pedestal grinder owned by Respondent and used by Respondent's employees was provided with a peripheral tongue guard.

5. A fixed ladder located in the furnace area and running from there to the roof was approximately 30 feet high and did not extend  $3\frac{1}{2}$  feet above the landing, nor were grab bars provided.

6. An open-sided platform on the roof that was 6 feet high and 8 feet long was not guarded by a standard guardrail.

7. The platform on the roof where the furnace is charged had a steel platform with the edges bent up causing a tripping hazard.

8. A window wall opening at the stairway landing leading to the pattern storage area was not guarded by slats or standard grill work.

9. Exposure to live parts having at least 50 volts existed near a light fixture at the stairway landing leading to the pattern storage area since the live parts were not guarded against accidental contact.

10. A stairway leading to the pattern storage area had a vertical clearance of five feet six inches from the ceiling beam to the stairtread.

11. The floor of certain portions of the plant were not maintained in as dry a condition as possible.

12. By concession of Respondent it is found that an oxygen cylinder in the shop area was not located where it would not be knocked over by passing objects.

13. By concession of Respondent it is found that an oxygen cylinder and an acetylene cylinder in storage in the shop area were not separated 20 feet or by a non-combustible barrier at least five feet high having a fire resistance rating of at least one-half hour.

14. By concession of Respondent it is found that an oxygen cylinder and an acetylene cylinder in the shop area did not have the regulators removed and were not secured.

15. By concession of Respondent it is found that the fork lift operators in the main plant were not trained by an authorized person in forklift operations.

16. By concession of Respondent it is found that the access to the exits throughout the plant were not marked by visible signs.

17. The aisles in the main plant were not appropriately marked.

18. The men tapping the furnace in the furnace area were not provided with asbestos gloves and apron.

19. An employee who was exposed to a fall of approximately 25 feet, at the opening of the cupola or furnace on the roof, was not provided with protective equipment such as safety belts and life lines, nor were standard guard rails or barriers provided to prevent him from falling into the furnace.

20. It is found that a substantial probability of death or serious physical harm could result from a condition such as that which existed at respondent's place of employment.

21. It is found that the employer knew or could have known, by exercise of due diligence, of the danger involved in

connection with the cupola charging operation.

Upon the basis of the foregoing, the Hearing Officer makes the following:

#### CONCLUSIONS OF LAW

Limiting review to the alleged violations and penalties contested by Respondent seems appropriate since it does not appear that error would result from not reviewing the other items of Citation Number 1.

#### Alleged Non-serious Violations

Item No. 4: The inadequate number of fire extinguishers for such a large area is obvious by the testimony. Though Respondent is required to discover those areas of the Act which are applicable to his operations and to comply therewith it is understandable that he felt that he was in compliance by following the recommendations of the federal compliance officer who made an earlier inspection. Considering this in addition to the other factors looked to by the compliance officer the penalty should be reduced to \$1.

Item Number 5: Very poor housekeeping was described by the hearing officer and this was well evidenced by the photographs. Though the testimony and evidence concerning the toilet facilities were not permitted, the evidence which was entered was supportive of the allegation.

Since the penalty is "proposed" by the compliance officer it may be looked upon by the hearing officer as a recommendation. The hearing officer may "sustain, modify, or dismiss" a penalty under the Act independent of any proposal by the compliance officer.

Considering the evidence, along with all proper factors, it is determined that the proposed penalty was appropriate even though the testimony concerning the sanitation condition was not permitted or considered.

Item Number 7: There were no load limit signs displayed by the Respondent. This fact is undisputed by Respondent but evidence was presented as to the high cost bringing the plant into compliance with this standard. Though it may seem extravagant to spend \$1800 to place some small signs stating load limits about the premises, if these assist in the protection of employees from an accident then the significance of the one-time cost is eliminated.

Item Number 13: Mr. Gillespie testified that the bandsaw, which is the subject of this item is the property of Precision Casting Company and that he is not aware of who might use it. No testimony was presented as to the use of this machine by Klaene employees. Neither was there evidence that Klaene employees might in some other way be exposed to injury by the fact that the saw was present, whether or not they might be using it. For these reasons the allegation is not supported by the evidence.

Item Number 15: The compliance officer cited Respondent for failure to have tongue guards on three separate grinders. Respondent's witness, Mr. Gillespie, stated that only the one machine was either owned by Klaene Foundry or operated by Klaene employees. Mr. Gillespie further stated that presently the machines have such guards but could not testify that the machines definitely had the tongue guards on the day of the inspection.

Again, as with the above item, it was argued that where machines are not owned by this employer then Respondent cannot be held responsible for any violations of the Act portrayed by the machines. Here the danger to employees is not only to those who might be using the machines (as with the bandsaw in the previous item) but to anyone who might be in the area. The compliance officer stated that the grinding wheels are subject to exploding and without guards those who are in the general vicinity could be injured. An employer is responsible to prevent exposure of its employees to this condition whether or not the machine is owned by that employer.

Item Number 16: The compliance officer testified that there were no plexiglass shields on the grinders. He said that he "checked around" and saw that there were employees working in the area who could be exposed to the dangers of not wearing goggles. The compliance officer (1) did not find out specifically whether or not the employees were furnished and required to use goggles, and; (2) did not see employees working in the area without goggles while the unshielded grinders were being used. There is no proof that the employees do not wear goggles while the machines are in operation thus the Department of Labor did not sustain its burden of proof and the citation and penalty must fail.

Item Number 18: Here, the two machines belonging to Precision Casting did not have this particular guard, while the Klaene grinder did have such a protective device. The same reasoning is applicable here as was previously stated for Item Number 15.

Item Number 20: In order to prove this allegation the Complainant must establish that the stair will not hold five times the normal load anticipated but never less than 1000 pounds moving.



Such is not proven by a recognition that the stairway will sway and pull from its supports when a person of approximately 175 pounds steps onto it. Difficult as the proof of such an allegation might be, the burden is on the Department of Labor to establish a violation of a stated standard, not simply that a certain condition appears faulty.

Item Number 24: It is conceded by Complainant in his brief that he was "unable to prove employee exposure and the citation and penalty must fail."

Item Number 26: Complainant presented testimony through the compliance officer, along with photographs, which show that the condition was violative of the cited standard. Mr. Gillespie himself said that he uses this ladder in his work, thus exposure to the hazard does exist. The compliance officer recommended an appropriate penalty in considering the proper factors.

Item Number 28: A photograph depicting an employee exposed to the hazard of this violation was entered into the record. The stairway top was completely lacking of any protective railing or toeboard. Respondent gave some impression of the difficulty which such a rail would put upon the delivery of material across to roof to the cupola for the charging operation. Such a rail apparently would not totally prevent such an activity since Respondent has commendably devised a rail which he feels would comply with the standard and still allow for his operation to continue without significant inconvenience. An appropriate penalty was proposed.

Item Number 29: The tripping hazards for which Respondent was cited are clearly observed in the photographs presented. The

The poor repairs and obstructions across the passageways leave one with great wonder as to how anyone but an acrobat could keep from being injured by any one of many obstacles. The compliance officer was more than reasonable in his suggested penalty assessment.

Item Number 33: Mr. Wyatt, who often uses the stairway to the pattern storage area, is exposed to a significant danger if he happened to fall from the stairs into the unprotected window opening. The compliance officer stated that not only would Mr. Wyatt, or any other employee who happened down the stairs, be subject to a dangerous fall into the window but that if the employee were to crash through the window he might then fall approximately 20 feet further. With no guard or grillwork on the window at all the exposure is greatly multiplied. The proposed penalty was more than reasonable in this instance.

Item Number 34: Since Respondent does not dispute the fact that the light fixture was in operation then a violation of this standard did occur. Whether or not the pull chain or a switch operated the light does not alter the fact that the live wiring was exposed. Any of the employees who pass by the light might unknowingly reach up and contact the wire, or, being unaware of the switch, might touch the wire in attempting to turn the light on or off.

A violation of this standard existed regardless of whether there were exposed live wires in the junction boxes.

Since the compliance officer did not investigate to determine whether or not the wires of the junction boxes were live; and since Respondent offered testimony that the wires were not live,

this portion of this violation must fail. In light of this event, the penalty should be reduced to \$20.

Item Number 35: Respondent's contention was that although the clearance is, in fact, less than seven feet, the condition cannot be eliminated since the metal rods and turnbuckles are structural supports for the entire building. The violation occurred, and the employer must find a method of altering the stairway to conform to the standard or prohibit the employees from making use of it.

Item Number 37: Complainant pointed out that Phosphoric Acid was used in a molding process in Respondent's operation. Respondent argues that, although he has since provided the area with "suitable facilities for quick drenching or flushing of eyes and body", the 70% Phosphoric Acid solution he uses is not an "injurious corrosive material" contemplated under the standard. Evidence presented by Respondent showed Phosphoric acid to be "moderately irritating to eyes, skin and mucous membranes". Complainant entered no evidence concerning the injurious or corrosive nature of the Phosphoric Acid thus his citation and penalty must fail.

Item Number 42: Although Respondent gave explanations as to the reason that some of the water might be on the plant floor he further pointed out that the nature of his operations demanded that they use a great deal of water but no explanation was shown as to any specific procedures of the operation to keep the floor of his workrooms "in a clean and, so far as possible, dry condition." By the testimony it appeared that the men even, occasionally, add to the volume of water on the floor by spraying each other with the water hoses. There appears to be no penalty on this item since

there is no showing of any significant danger to employees as a result of this violation.

Item Number 43, 44, 45, 46, and 48: Respondent, at hearing, withdrew contest of these items.

Item Number 50: It is apparently a practice of the foundry business to cover the floors with materials to prevent the molten metal from exploding should it happen to strike the floor. This is not sufficient reason to absolve the foundry industry from delimiting the permanent aisles and passageways of its plants. It is incumbent upon the employer to devise a practical method of accomplishing this same objective.

Item Number 51: Mr. Gillespie, who does the tapping operation, explained the difficulty in accomplishing the task which is required in this operation while wearing any type of gloves. His objection to the use of asbestos aprons was that the molten metal may get beneath the apron and cause a severe burn before the apron could be removed while the wearing of loosely fitting clothes could prevent such an occurrence.

Respondent must enforce the use of asbestos gloves where such a danger exists. Mr. Gillespie stated that with some degree of difficulty the gloves could be used during most aspects of the job with the necessity of removing the gloves at various stages where his hands must be free from this burden. Some consideration must be allowed for an experienced and skilled worker's professional judgment as to when an operation cannot be accomplished where any type of protection is being used. However, it is incumbent on the employer to see that (1) there are protective devices available for the use of the employees (2) that the protective devices are

used in all operations where such protection is needed, and (3) to find a method of equivalent protection where his unique operations do not allow the use of standard protective devices, and seek approval by the "variance" procedures of the Act in implementing these methods.

#### Alleged Serious Violation

The employee who happens to be operating the furnace charging operations by placing scrap iron into the cupola is exposed to the danger of falling 25 feet to the floor of the furnace while attempting to load the scrap metal into the cupola. Respondent presented testimony that once the furnace is filled with scrap iron, the employee comes down from the roof and no one has any business on the roof during charging operations. Even if this be true, there is still no protection of any kind to prevent a fall into the furnace while loading. The danger is increased by the clutter and many obstructions jutting about in various locations near the mouth of the furnace on the roof of the foundry. The proper factors were considered in arriving at a proposed penalty.

#### Penalties

In the assessing of civil penalties, due consideration must be given to the appropriateness of the penalty according to the size of the business of the employer, the gravity of the violation, the good faith of the employer, and the history of previous violations. The compliance officer properly considered these factors in proposing the penalties for the various items, where applicable. Other factors considered by the Hearing Officer in modifying any of the penalties have been set out herein.

RECOMMENDED ORDER

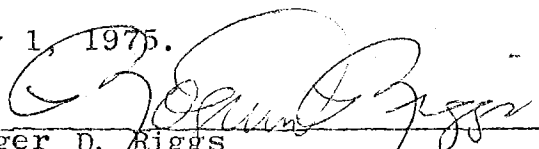
Respondent's motion to dismiss on the grounds that the standards applied by the investigating officer are arbitrary, void for vagueness and applied in a manner that violates the due process clause of the Constitution of the United States is OVERRULED.

Respondent's motion to dismiss Item #5 of Citation Number 1 is OVERRULED.

IT IS ORDERED AND ADJUDGED that Citation Number 1, Item #4 shall be and the same hereby is SUSTAINED and the proposed penalty of \$34.00 hereby is REDUCED to \$1.00; Item #5 and the proposed penalty of \$76.00 shall be and the same hereby are SUSTAINED; Item #7 and the proposed penalty of \$34.00 shall be and the same hereby are SUSTAINED; Item #13 shall be and the same hereby is DISMISSED; Item #15 shall be and the same hereby is SUSTAINED; Item 16 shall be and the same hereby is DISMISSED and the proposed penalty of \$34.00 shall be and the same hereby is VACATED; Item #18 and the proposed penalty of \$41.00 shall be and the same hereby are SUSTAINED; Item #20 shall be and the same hereby is DISMISSED; Item #24 shall be and the same hereby is DISMISSED and the proposed penalty of \$34.00 shall be and the same hereby is VACATED; Item #26 and the proposed penalty of \$34.00 shall be and the same hereby are SUSTAINED; Item #28 and the proposed penalty of \$41.00 shall be and the same hereby are SUSTAINED; Item #29 and the proposed penalty of \$34.00 shall be and the same hereby are SUSTAINED; Item #33 and the proposed penalty of \$34.00 shall be and the same hereby are SUSTAINED; Item #34 shall be and the same hereby is SUSTAINED and the penalty of \$41.00 shall be and the same hereby is REDUCED to \$20.00; Item #35 shall be and

the same hereby is SUSTAINED; Item #37 shall be and the same hereby is DISMISSED and the proposed penalty of \$34.00 shall be and the same hereby is VACATED; Item #42 shall be and the same hereby is SUSTAINED and the penalty of \$34.00 shall be and the same hereby is VACATED; Items #43, 44, 45, 46, 48, and 50 shall be and the same hereby are SUSTAINED; Item #51 and the proposed penalty of \$41.00 shall be and the same hereby are SUSTAINED.

IT IS ORDERED AND ADJUDGED that Citation Number 2, Item #1 and the proposed penalty of \$550.00 shall be and the same hereby are SUSTAINED. This violation shall be abated IMMEDIATELY. All other items shall be abated by July 1, 1975.

  
\_\_\_\_\_  
Roger D. Riggs  
Hearing Officer, KOSHRC

DATED: May 9, 1975

Decision No. 119