Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 50—Public Contracts, Department of Labor

PART 50–201—GENERAL REGULATIONS

PART 50–204—SAFETY AND HEALTH STANDARDS FOR FEDERAL SUPPLY CONTRACTS

Safety and Health Standards

On November 6, 7, and 8, 1968, interested persons were afforded an opportunity to submit orally data, views, and arguments on proposals to revise Part 50–204 of Title 41, Code of Federal Regulations, and section 50–201.502 of that title published in the FEDERAL REGISTER on September 20, 1968 (33 F.R. 14252). Interested persons were also afforded an opportunity to submit written data, views, and arguments concerning the proposals.

After consideration of all such relevant matter as was presented by interested persons, Part 50–204 and § 50–201.502 are hereby revised as indicated below. The revised § 50–204.30 republishes the radiation standards for mining published in the FEDERAL REGISTER on December 28, 1968 (33 F.R. 19947), which are presently in effect.

The revisions shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

1. Part 50–204 is revised to read as follows:

Subpart A—Scope and Application

Sec.
50–204.1 Scope and application.

Subpart B—General Safety and Health Standards

50–204.2 General safety and health standards; incorporation by reference.
50–204.3 Material handling and storage.
50–204.4 Tools and equipment.
50–204.5 Machine guarding.
50–204.6 Medical services and first aid.
50–204.7 Personal protective equipment.
50–204.8 Use of compressed air.
50–204.10 Occupational noise exposure.

Subpart C—Radiation Standards

50–204.20 Radiation—Definitions.
50–204.21 Exposure of individuals to radiation in restricted areas.
50–204.22 Exposure to airborne radioactive material.
50–204.23 Precautionary procedures and personnel monitoring.
50–204.24 Caution signs, labels and signals.
50–204.25 Exceptions from posting requirements.
50–204.26 Exemptions for radioactive materials packaged for shipment.
50–204.27 Instruction of personnel; posting.
50–204.28 Storage of radioactive materials.
50–204.29 Waste disposal.
50–204.30 Notification of incidents.
50–204.31 Reports of overexposure and excessive levels and concentrations.
50–204.32 Records.
50–204.33 Disclosure to former employee of individual employee's record.
50–204.34 AEC licensees—AEC contractors operating AEC plants and facilities—AEC agreement State licensees or registrants.
50–204.35 Application for variation from radiation levels.
50–204.36 Radiation standards for mining.

Subpart D—Coal, Vapors, Fumes, Dusts, and Mists

50–204.50 Gases, vapors, fumes; dusts, and mists.
50–204.51 Inspection of compressed gas cylinders.
50–204.64 Acetylene.
50–204.67 Oxygen.
50–204.68 Hydrogen.
50–204.69 Nitrous oxide.
50–204.70 Compressed gases.
50–204.71 Safety relief devices for compressed gas containers.
50–204.72 Safe practices for welding and cutting on containers which have held combustibles.

Subpart E—Transportation Safety

50–204.75 Transportation safety.

Subpart F—Variations

50–204.80 Variations.

AUTHORITY: The provisions of this Part 50–204 issued under secs. 1, 4, 49 Stat. 2036, 2038, as amended; 41 U.S.C. 35, 38; 5 U.S.C. 550.

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" (sec. 1(c), 49 Stat. 2036, 41 U.S.C. 35(c)). 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) Except in the conduct of formal enforcement proceedings provided for in Part 50–203 of this chapter and as otherwise provided in this part, 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(c) of the Act and the contract stipulation it requires. Every such investigator or every such officer shall have technical competence in safety, industrial hygiene, or both as may be appropriate, in the matters under investigation or consideration.

(c) Whenever any applicable standard in this Part 50–204 is relied upon by the Department of Labor in a formal enforcement proceeding under section 5 of the Walsh-Healey Public Contracts Act to support a finding of violation of the safety and health provisions of the Act and of a contract subject thereto, any respondent in the proceeding shall have the right and shall be granted the opportunity to challenge the legality, fairness or propriety of any such reliance.

(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.

(f) Whenever this part adopts by reference standards, specifications and codes published and available elsewhere, it only serves to adopt the substantive technical portions of such standards, specifications and codes.

Subpart B—General Safety and Health Standards

§ 50–204.2 General safety and health standards; incorporation by reference.

(a) Every contractor shall protect the safety and health of his employees by complying with the applicable standards, specifications, and codes developed and published by the following organizations:

United States of America Standards Institute (American Standards Association).
National Fire Protection Association.
American Society of Mechanical Engineers.
American Society for Testing and Materials.
United States Government Agencies, including by way of illustration the following publications of the indicated agencies:

PLAINTIFF'S EXHIBIT
UC-5460

UCASB00719162

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(1) *Atomic Energy Act Sources.* Any employer who possesses or uses source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and has either registered such sources with, or is operating under a license issued by, a State which has an agreement in effect with the Atomic Energy Commission pursuant to section 274(b) (42 U.S.C. 2021(b)) of the Atomic Energy Act of 1954, as amended, and in accordance with the requirements of that State's laws and regulations shall be deemed to be in compliance with the radiation requirements of this part, insofar as his possession and use of such material is concerned, unless the Secretary of Labor, after conference with the Atomic Energy Commission, shall determine that the State's program for control of these radiation sources is incompatible with the requirements of this part. Such agreements currently are in effect only in the States of Alabama, Arkansas, California, Kansas, Kentucky, Florida, Mississippi, New Hampshire, New York, North Carolina, Texas, Tennessee, Oregon, Idaho, Arizona, Colorado, Louisiana, Nebraska, and Washington.

(2) *Other sources.* Any employer who possesses or uses radiation sources other than source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and has either registered such sources with, or is operating under a license issued by a State which has an agreement in effect with the Atomic Energy Commission pursuant to section 274(b) (42 U.S.C. 2021(b)) of the Atomic Energy Act of 1954, as amended, and in accordance with the requirements of that State's laws and regulations shall be deemed to be in compliance with the radiation requirements of this part, insofar as his possession and use of such material is concerned, provided the State's program for control of these radiation sources is the subject of a currently effective determination by the Secretary of Labor that such program is compatible with the requirements of this part. Such determinations currently are in effect only in the States of Alabama, Arkansas, California, Kansas, Kentucky, Florida, Mississippi, New Hampshire, New York, North Carolina, Texas, Tennessee, Oregon, Idaho, Arizona, Colorado, Louisiana, Nebraska, and Washington.

§ 50-204.35 Application for variations from radiation levels.

(a) In accordance with policy expressed in the Federal Radiation Council's memorandum concerning radiation protection guidance for Federal agencies (25 F.R. 4402), the Director, Bureau of Labor Standards may from time to time grant permission to employers to vary from the limitations contained in §§ 50-204.21 and 50-204.22 when the extent of variation is clearly specified and it is demonstrated to his satisfaction that (1) such variation is necessary to obtain a beneficial use of radiation or atomic energy, (2) such benefit is of sufficient value to warrant the variation, (3) employees will not be exposed to an undue hazard, and (4) appropriate actions will be taken to protect the health and safety of such employees.

(b) Applications for such variations should be filed with the Director, Bureau of Labor Standards, U.S. Department of Labor, Washington, D.C. 20210.

§ 50-204.36 Radiation standards for mining.

(a) For the purpose of this section, a "working level" is defined as any combination of radon daughters in 1 liter of air which will result in the ultimate emission of 1.3×10^5 million electron volts of potential alpha energy. The numerical value of the "working level" is derived from the alpha energy released by the total decay of short-lived radon daughter products in equilibrium with 100 pico-curies of radon 222 per liter of air. A working level month is defined as the exposure received by a worker breathing air at one working level concentration for 4⅓ weeks of 40 hours each.

(b) (1) Occupational exposure to radon daughters in mines shall be controlled so that no individual will receive an exposure of more than 2 working level months in any consecutive 3-month period and no more than 4 working level months in any consecutive 12-month period. Actual exposures shall be kept as far below these values as practicable.

(2) In enforcing this section, the Director of the Bureau of Labor Standards may at any stage approve variations in individual cases from the limitation set forth in subparagraph (1) of this paragraph to comply with the requirements of the Act upon a showing to the satisfaction of the Director by an employer having a mine with conditions resulting in an exposure of more than 4 working level months but not more than 12 working level months in any 12 consecutive months that (i) under the particular facts and circumstances involved the working conditions of the employees so exposed are such that their health and safety are protected, and (ii) the employer has a bona fide plan to reduce the levels of exposure to those specified in subparagraph (1) of this paragraph as soon as practicable, but in no event later than January 1, 1971.

(c) For uranium mines, records of environmental concentrations in the occupied parts of the mine, and of the time spent in each area by each person involved in underground work shall be established and maintained. These records shall be in sufficient detail to permit calculations of the exposures, in units of working level months, of the individuals and shall be available for inspection by the Secretary of Labor or his authorized agents.

(3) For other than uranium mines or for surface workers in all mines, subparagraph (1) of this paragraph will not be applicable: *Provided, however,* That no environmental sample shows a concentration greater than 0.33 working level in any occupied part of the mine, the maintenance of individual occupancy records and the calculation of individual exposures will not be required.

(d) (1) At the request of an employee (or former employee) a report of the employee's exposure to radiation as shown in records maintained by the employer pursuant to paragraph (c) of this section, shall be furnished to him. The report shall be in writing and contain the following statement:

> This report is furnished to you under the provisions of the U.S. Department of Labor, Radiation Safety and Health Standards (41 CFR 50-204.36). You should preserve this report for future reference.

(2) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

Subpart D—Gases, Vapors, Fumes, Dusts, and Mists

§ 50-204.50 Gases, vapors, fumes, dusts, and mists.

(a) No employee shall be exposed by inhalation, ingestion, skin absorption or contact to any material or substance at a concentration above that specified in the "Threshold Limit Values of Airborne Contaminants for 1968" of the American Conference of Governmental Industrial Hygienists except for the following standards—the values listed in Table I of this section which are the subject of current USASI standards and except for the values of Mineral Dusts—Table II of this section as they appear herein.

(b) In all cases, feasible engineering controls must first be determined and implemented. Methods of control in the working environment include local exhaust ventilation, general room air ventilation for dilution of the contaminant, substitution of less toxic material, and isolation or enclosure of the process or operation. In cases where protective equipment or protective equipment in addition to other measures is used as the method of protecting the employee, such protection must be approved for each specific case by a competent industrial hygienist.

TABLE I

	8-hr. time weighted average
Hydrogen Sulfide (237.2-1968)	20ppm
Toluene (237.12-1967)	200ppm
Formaldehyde (237.16-1967)	3ppm
Carbon Tetrachloride (237.17-1967)	10ppm
Trichloroethylene (237.18-1967)	100ppm
Tetrachloroethylene (237.22-1967)	100ppm
Hydrogen Fluoride (237.23-1968)	3ppm
Fluoride Dust as F (237.28-1968)	2.5mg/M³

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Table H

[illegible]

Substance	Ceiling	Eight-hour time-weighted average
Silica:		
Crystalline:		
Quartz (respirable).....	250	[illegible]
	%SiO2+5	%SiO2+2
Quartz (total dust).....		[illegible]
		%SiO2+2
Cristobalite: Use ½ the value calculated from the formula for quartz.		
Tridymite: Use ½ the value calculated from the formula for quartz.		
Amorphous, including natural diatomaceous earth.....	20	[illegible]
		%SiO2
Tremolite.....	5	[illegible]
		%SiO2
Silicates (less than 1% crystalline silica):		
Asbestos—12 fibers (or bundles of fibers greater than 5 microns in length) or more per milliliter of air.....	12	
Mica.....	20	
Soapstone.....	20	
Talc.....	20	
Portland Cement.....	50	
Graphite (natural).....	15	
Coal Dust (Respirable fraction less than 5% SiO2).....		1 [illegible] of [illegible]
		%SiO2+5
Inert or Nuisance Dust:		
Respirable Fraction.....	15	[illegible]
Total Dust.....	50	[illegible]

Note: Conversion factors

mppcf×3.3=million particles per cubic meter
=particles per cc.

¹Millions of particles per cubic foot of air, based on impinger samples counted by Aerkodell technique.

²The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

³As determined by the membrane filter method at 43 X phase contrast magnification.

⁴As counted by the standard impinger, konimeter count technique.

⁵Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	% passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

§ 50–204.65 Inspection of compressed gas cylinders.

Each contractor shall determine that compressed gas cylinders under his control are in a safe condition to the extent that this can be determined by visual inspection. Visual and other inspections shall be conducted as prescribed in the Hazardous Materials Regulations of the Department of Transportation (49 CFR Parts 171–179 and 14 CFR Part 103). Where those regulations are not applicable, visual and other inspections shall be conducted in accordance with Compressed Gas Association Pamphlets C–6–1963 and C–8–1962.

§ 50–204.66 Acetylene.

(a) The in-plant transfer, handling, storage, and utilization of acetylene in cylinders shall be in accordance with Compressed Gas Association Pamphlet G–1–1966.

(b) The piped systems for the in-plant transfer and distribution of acetylene shall be designed, installed, maintained, and operated in accordance with Compressed Gas Association Pamphlet G–1.3–1959.

(c) Plants for the generation of acetylene and the charging (filling) of acetylene cylinders shall be designed, constructed, and tested in accordance with the standards prescribed in Compressed Gas Association Pamphlet G–1.1–1966.

§ 50–204.67 Oxygen.

The in-plant transfer, handling, storage, and utilization of oxygen as a liquid or a compressed gas shall be in accordance with Compressed Gas Association Pamphlet G–4–1962.

§ 50–204.68 Hydrogen.

The in-plant transfer, handling, storage, and utilization of hydrogen shall be in accordance with Compressed Gas Association Pamphlets G–5.1–1961 and G–5.2–1966.

§ 50–204.69 Nitrous oxide.

The piped systems for the in-plant transfer and distribution of nitrous oxide shall be designed, installed, maintained, and operated in accordance with Compressed Gas Association Pamphlet G–8.1–1964.

§ 50–204.70 Compressed gases.

The in-plant handling, storage, and utilization of all compressed gases in cylinders, portable tanks, rail tankcars, or motor vehicle cargo tanks shall be in accordance with Compressed Gas Association Pamphlet P–1–1965. Compressed gas cylinders, portable tanks, and cargo tanks shall have pressure relief devices which shall be installed and maintained in accordance with Compressed Gas Association Pamphlets S–1.1–1963 (with 1965 addenda) and S–1.2–1963.

§ 50–204.71 Safety relief devices for compressed gas containers.

Compressed gas cylinders, portable tanks, and cargo tanks shall have pressure relief devices installed and maintained in accordance with Compressed Gas Association Pamphlets S–1.1–1963 and 1965 addenda and S–1.2–1963.

§ 50–204.72 Safe practices for welding and cutting on containers which have held combustibles.

Welding or cutting or both on containers which have held flammable or combustible solids, liquids, or gases, or have contained substances which may produce flammable vapors or gases will not be attempted until the containers have been thoroughly cleaned in a manner in accordance with the rules and procedures embodied in American Welding Society Pamphlet A–6.0–65, edition of 1965.

Subpart E—Transportation Safety

§ 50–204.75 Transportation safety.

Transportation in connection with public contracts, as listed in § 50–204.3(a)(3) shall be conducted in accordance with the U.S. Department of Transportation requirements. Where such requirements do not apply, Chapters 10, 11, 12, and 14 of the Uniform Vehicle Code of the National Committee on Uniform Traffic Laws and Ordinances, 1962 Edition, shall be used.

Subpart F—Variations

§ 50–204.80 Variations.

(a) Upon the written request of any interested person, the Director of the Bureau of Labor Standards may in particular cases apply variations from the provisions of this part in enforcing the Walsh-Healey Public Contracts Act following consideration of the particular facts and circumstances involved whenever he is satisfied that the safety and health of employees is equally protected by such variations.

(b) The provisions of this section shall not apply to §§ 50–204.35 and 50–204.36, which contain separate and specific variations procedures.

2. Section 50–201.502 is revised to read as follows:

§ 50–201.502 Record of injuries.

(a) Every person who is or shall become a party to a Government contract which is subject to the provisions of the Walsh-Healey Public Contracts Act and the regulations thereunder, or who is performing or shall perform any part of such contract subject to the provisions of such act or regulations, shall maintain the records specified below which shall be available for inspection by authorized representatives of the Secretary of Labor:

(1) Records of all injuries to employees, including a brief description of the manner of occurrence and the date and duration of disability.

(2) Records of injury frequency rates, calculated annually on a calendar year basis commencing the first of January of each year, as defined in United States of America Standards Institute, Z16.1–1967 "Method of Recording and Measuring Work Injury Experience."

(3) Records of injury severity rates, calculated annually on a calendar year basis commencing the first of January of each year, as defined in United States of America Standards Institute, Z16.1–1967 "Method of Recording and Measuring Work Injury Experience."

(b) The records required in paragraph (a) of this section shall be kept on file at least 3 years from the date of entry.

(c) Where records are kept on a fiscal or insurance year basis, they shall be accepted as being in compliance with subparagraphs (2) and (3) of paragraph (a) of this section.

(Sec. 4, 49 Stat. 2036; 41 U.S.C. 353)

Signed at Washington, D.C. this 10th day of January 1969.

William Wirtz,
Secretary of Labor.

[F.R. Doc. 69–543; Filed, Jan. 16, 1969; 8:45 a.m.]

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