

IN THE MATTER OF * BEFORE THE DEPUTY
CHESAPEAKE CONTRACTING * COMMISSIONER OF LABOR
GROUP, INC. * AND INDUSTRY
* MOSH CASE NO. C3811-038-01
* OAH NO.: DLLR-MOSH-41-
* 200200012

* * * * *

FINAL DECISION AND ORDER

This matter arose under the Maryland Occupational Safety and Health Act, Labor and Employment Article, Title 5, *Annotated Code of Maryland*. Following an inspection, the Maryland Occupational Safety and Health Unit of the Division of Labor and Industry (“MOSH”), issued a citation to Chesapeake Contracting Group, Inc. (“Employer”), alleging violations of certain safety standards. Following an evidentiary hearing, Judge Eleanor A. Wilkinson, sitting as Hearing Examiner, issued a Proposed Decision recommending that Citation 1, Item 1 be affirmed¹ and that the penalty provision be remanded to MOSH to determine the appropriate penalty amount in light of MOSH’s withdrawal of Citation 1, Item 2.²

The Employer filed a timely request for review. On April 24, 2003, the Deputy Commissioner of Labor and Industry (Deputy Commissioner”), held a review hearing and heard argument from the parties. At the review hearing, counsel for the parties stipulated that if the Deputy Commissioner affirmed Citation 1, Item 1, the penalty would

¹ In its brief to the Hearing Examiner, MOSH withdrew Citation 1, Item 2.

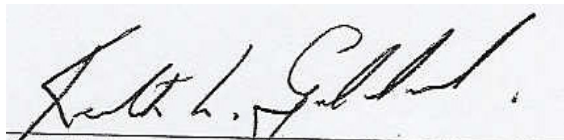
² At the evidentiary hearing, the parties stipulated that for penalty purposes, Citation 1, Item 1 and Citation 1, Item 2, had been grouped by MOSH for purposes of establishing the penalty of \$900.

be \$450. Based upon a review of the entire record, consideration of relevant law, and the parties' arguments and stipulations, the Deputy Commissioner affirms the Hearing Examiner's finding of fact and conclusions of law affirming Citation 1, Item 1. Accordingly, the Deputy Commissioner affirms Citation 1, Item 1, alleging a violation of 29 C.F.R. 1926.706(a)(1) by failing to establish a limited access zone for a masonry wall under construction, and pursuant to the stipulation of the parties, assesses a penalty of \$450.

ORDER

The Deputy Commissioner of Labor and Industry hereby ORDERS, this 18th day of June, 2003, that:

1. Citation 1, Item 1, alleging a violation of 29 C.F.R. § 1926.706(a)(1), is AFFIRMED, with a penalty of \$450.
2. This Order becomes final 15 days after its issuance. Judicial review may be requested by filing a petition for judicial review in the appropriate circuit court. See Labor and Employment Article, §5-215, *Annotated Code of Maryland*, and Maryland Rules, Title 7, Chapter 200.

A handwritten signature in black ink, appearing to read "Keith L. Goddard", is written over a horizontal line.

Keith Goddard
Deputy Commissioner of Labor and
Industry