

**BEFORE THE SAFETY AND HEALTH REVIEW BOARD
OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA**

COMMISSIONER OF LABOR FOR
THE STATE OF NORTH CAROLINA,

COMPLAINANT,

DOCKET NO. OSHANC 2001-4005
OSHA INSPECTION NO. 302936919
CSHO ID NO. H6245

v.

MONROE ROADWAYS, INC.,

SUPPLEMENTAL FINAL ORDER

RESPONDENT.

THIS MATTER is before the undersigned in order to finalize the penalty amounts to be imposed on the respondent pursuant to the undersigned's Order of January 2, 2003.

In that Order, the undersigned determined that the respondent committed serious violations of certain of the cited standards, instead of willful violations as alleged. The proposed penalties were calculated based on categorization of the violations as willful, which does not permit credit for cooperation and for the respondent's safety and health programs. The Order requested the complainant to recalculate the penalties without a finding of willful, which the complainant has done, in a letter to the undersigned dated January 23, 2003.

Based on that letter, the respondent is entitled to an additional 10% credit for cooperation for items rated high severity-high probability, an additional 10% credit for respondent's safety and health programs and an additional 10% for cooperation on all other items. These adjustments were based on the Field Operations Manual.

IT IS ORDERED as follows:

1. Citation One, Item 1a is a serious violation of 29 CFR 1926.652(a)(1), with an adjusted penalty of \$4,200.00.
2. Citation One, Item 2 is a serious violation of 29 CFR 1926.651(j)(2), with an adjusted penalty of \$4,200.00.
3. Citation Two, Item 1 is a repeat non-serious violation of 29 CFR 1926.651(c)(2), with an adjusted penalty of \$500.00

4. Citation Three, Item 1a is a serious violation of 29 CFR 1926.100(a) with an adjusted penalty of \$625.00.
5. Citation Three, Item 1b is a serious violation of 29 CFR 1926.21(b)(2), with a penalty grouped with that of Item 1a.
6. Citation Three, Item 2a is a serious violation of 29 CFR 1926.201(a)(3), with a penalty of \$4,200.00.
7. Citation Three, Item 2b is a serious violation of 29 CFR 1926.201(a)(4), with a penalty grouped with that of Item 2a.
8. Citation Three, Item 3 is a serious violation of 29 CFR 1926.300(c), with an adjusted penalty of \$1,750.00.
9. Citation Three, Items 4a-b have no penalty.
10. These penalties shall be paid within twenty (20) days of the filing date of this Supplemental Final Order.
11. Except as specifically supplemented in this Order, the Order of January 2, 2003 remains in full force and effect.

This 31st day of January, 2003.

RICHARD M. KOCH
HEARING EXAMINER