



KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

**REVIEW COMMISSION**

AIRPORT BLDG., LOUISVILLE RD., (U.S. 60-WEST)

FRANKFORT, KENTUCKY 40601

PHONE (502) 564-6892

October 15, 1981

JOHN Y. BROWN, Jr.  
GOVERNOR

JOHN C. ROBERTS  
CHAIRMAN

CARL J. RUH  
MEMBER

CHARLES E. BRADEN  
MEMBER

KOSHRC #744

COMMISSIONER OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

ORION BROADCASTING, INC.

RESPONDENT

DECISION AND ORDER OF  
REVIEW COMMISSION

Before ROBERTS, Chairman; RUH and BRADEN, Commissioners.

PER CURIAM:

A Recommended Order of Hearing Officer Charles A. Goodman, III, issued under date of August 4, 1981, is presently before this Commission for review, pursuant to an Order Granting Complainant's Petition for Discretionary Review, issued 1 September 1981.

At issue on review is whether the Hearing Officer erred in his findings of fact and conclusions of law which resulted in his ordering a total reduction in penalty assessment from \$400 for each of three serious violations of the Act to \$50 for each violation.

The Respondent was cited and fined \$400 for violations of 29 CFR 1910.213(c)(1), 29 CFR 1910.213(c)(2) and 29 CFR 1910.213(c)(3) (all as adopted by 803 KAR 2:020) for failure to provide an automatically adjusting hood, spreader, and non-kickback fingers and dogs on a Rockwell hand-fed table rip saw.

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744

Respondent was also cited and fined \$400 for alleged violations of 29 CFR 1910.213(h)(1) and 1910.213(h)(4) for failure to provide a device which will automatically adjust itself to the thickness of the stock being cut, and for not installing the radial arm saw so that the front end was slightly higher than the rear, so as to allow the cutting head to return gently to the starting position when released by the operator.

The third alleged violation for which Respondent was cited was 29 CFR 1910.213(a)(11), for failure to ground exposed non-current carrying metal parts of a cord and plug connected portable Rockwell hand-fed router. A \$400 penalty likewise was assessed for this citation.

Hearing Officer Goodman found that the duration of exposure to the alleged violations was so minimal as to warrant a substantial reduction in penalty amount; he thus recommended an 87% reduction in total penalty amount.

The Complainant specifically excepts from Hearing Officer Goodman's statement that, were "de minimus" violations recognized in this Commonwealth, the violation cited against the Respondent would surely qualify.

Since Hearing Officer Goodman did not conclude that the violations were in fact "de minimus," and in fact upheld them as serious violations of the Act and otherwise complied with the provisions of KRS Chapter 338, we find his remarks concerning the de minimus concept to be dicta and to have no bearing upon the ultimate outcome of this action.

We find the penalty reductions recommended by the Hearing Officer to be justified under the facts and circumstances of this case. The record adequately supports the Hearing Officer's conclusions.

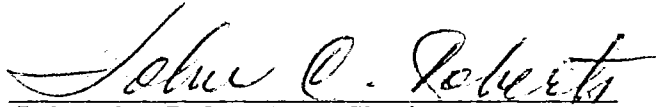
Compliance worksheets reveal that exposure to all of the violations in question was minimal--10 minutes per week for the unguarded twelve (12) inch radial arm saw, one-half ( $\frac{1}{2}$ ) hour per week for the table rip saw and five (5) minutes per month for the ungrounded router.

Concerning the actual seriousness of each of the violations, the record reveals that the rip saw in Item 1 was used only for sawing 3/4-inch plywood, and, as such, presented exposure to a puncture wound. Item 3, the ungrounded router, at 115 volts, presented the hazard of electrical shock, not electrocution. According to the testimony, the unguarded radial arm saw presented the most serious hazard.

In recommending the reduction, Hearing Officer Goodman has complied with KRS 228.991(2), which requires that any employer who has received a citation for a serious violation of the Act shall be assessed a civil penalty of up to one-thousand (\$1000) for each violation.

We therefore uphold the recommended penalty reductions. The primary concern of the Commissioner of Labor is to protect the worker, not to penalize the employer.

Accordingly, IT IS ORDERED that the Hearing Officer's Recommended Order in this matter is hereby SUSTAINED. Abatement of all subject contested violations shall be immediate.

  
John C. Roberts, Chairman

s/Carl J. Ruh  
Carl J. Ruh, Commissioner

s/Charles E. Braden  
Charles E. Braden, Commissioner

DATED: October 15, 1981  
Frankfort, Kentucky

DECISION NO. 1056

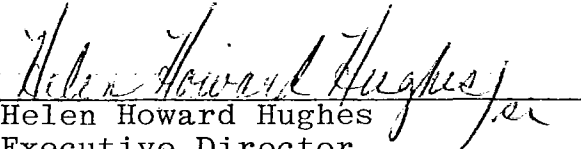
Copy of this Decision and Order has been served by mailing or personal delivery on the following parties:

Commissioner of Labor (Messenger Service)  
Commonwealth of Kentucky  
U. S. 127 South  
Frankfort, Kentucky 40601  
Attention: Hon. Michael D. Ragland  
Executive Director for  
Occupational Safety & Health

Hon. Kenneth J. Costelle (First Class Mail)  
Assistant Counsel  
Department of Labor  
620 South Third Street  
Louisville, Kentucky 40202

Mr. George D. Brown, Treas. (Cert. Mail #P32 1860989)  
Orion Broadcasting, Inc.  
P. O. Box 32970  
Louisville, Kentucky 40232

This 15th day of October, 1981.

  
Helen Howard Hughes  
Executive Director

W.W.  
8-29-81  
1-13-81



KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

**REVIEW COMMISSION**

AIRPORT BLDG., LOUISVILLE RD., (U.S. 60-WEST)

FRANKFORT, KENTUCKY 40601

PHONE (502) 564-6892

August 4, 1981

JOHN Y. BROWN, JR.  
GOVERNOR

JOHN C. ROBERTS  
CHAIRMAN

CARL J. RUH  
MEMBER

CHARLES E. BRADEN  
MEMBER

KOSHRC # 744

COMMISSIONER OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

ORION BROADCASTING, 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 within 25 days from date of this Notice submit a petition for discretionary review by this Commission. Statements in opposition to petition for discretionary review may be filed during review period, but must be received by the Commission on or before the 35th day from date of issuance of the recommended order.

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 40 days of the date of this order, on its own order, or the granting of a petition for discretionary review, 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.

744

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

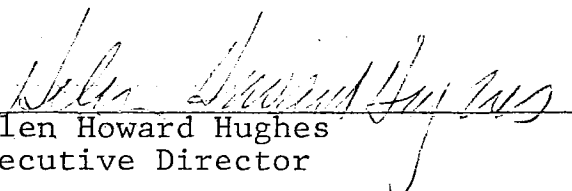
Copy of this Notice and Order has been served by mailing or personal delivery on the following:

Commissioner of Labor (Messenger Service)  
Commonwealth of Kentucky  
U. S. 127 South  
Frankfort, Kentucky 40601  
Attention: Honorable Michael D. Ragland  
Executive Director for  
Occupational Safety & Health

Hon. Kenneth J. Costelle (First Class Mail)  
Assistant Counsel  
Department of Labor  
620 South Third st., 5th Fl.  
Louisville, Kentucky 40202

Mr. George D. Brown, Treas. (Certified Mail #P32-1865053)  
Orion Broadcasting, Inc.  
P. O. Box 32970  
Louisville, Kentucky 40232

This 4th day of August, 1981

  
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Helen Howard Hughes  
Executive Director

KENTUCKY OCCUPATIONAL SAFETY  
AND HEALTH REVIEW COMMISSION

KOSHRC DOCKET  
NO. 744

COMMISSIONER OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

V. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
RECOMMENDED ORDER

ORION BROADCASTING, INC.

RESPONDENT

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FOR COMPLAINANT: Hon. Kenneth J. Costelle  
Assistant Counsel  
Department of Labor  
U. S. 127 South  
Frankfort, Kentucky 40601

FOR RESPONDENT: Mr. George D. Brown, Treasurer  
Orion Broadcasting, Inc.  
P. O. Box 32970  
Louisville, Kentucky 40232

GOODMAN, HEARING OFFICER

On or about May 15, 1980, an inspection was conducted by a Compliance Officer on behalf of the Commissioner of Labor (hereinafter referred to as "Commissioner"), said inspection being upon a radio and television broadcasting facility located on 725 South Floyd Street, Louisville, Jefferson County, Kentucky. At said time and place, employees of Orion Broadcasting, Inc., (hereinafter referred to as "Orion"), were engaged in the operation of a radio and television facility.

As a result of that inspection, the Commissioner issued one (1) Citation on May 28, 1980, (as amended on June 12, 1980 to include abatement dates), charging Orion with three (3) serious violations of said Act, with a proposed penalty for each of the alleged serious violations in the amount of Four Hundred Dollars (\$400.00), or a total proposed penalty in the amount of One Thousand Two Hundred Dollars (\$1,200.00).

The pertinent procedural information is as follows:

- 1) Inspection was conducted on or about May 15, 1980, by the Commissioner at the broadcasting facility of Orion at the location above set forth.
- 2) One (1) Citation was issued on May 29, 1980, and amended on June 12, 1980, containing three (3) serious violations, with a proposed penalty for each in the amount of Four Hundred Dollars (\$400.00), or a total proposed penalty therefor in the amount of One Thousand Two Hundred Dollars (\$1,200.00).
- 3) Notice of Contest received June 3, 1980, and Notice of Receipt of Contest was mailed June 10, 1980.
- 4) Complaint was received on June 12, 1980, and certification of Employer Form was received on June 25, 1980. No answer was filed by Orion.
- 5) Notice of Assignment to Hearing Officer and Notice of Hearing were mailed on July 18, 1980.
- 6) Motion of Commissioner to Withdraw Counsel and Substitute New Counsel was received on July 18, 1980, and Order allowing same was mailed on July 25, 1980.
- 7) Motion and Affidavit for Postponement of Hearing was received on August 6, 1980, and Order of Postponement and Rescheduling Hearing was mailed on August 13, 1980.
- 8) Hearing was conducted on Wednesday, September 10, 1980, at the Department of Labor Conference Room, 801 West Jefferson Street, Louisville, Kentucky.
- 9) Transcript of Testimony at hearing was received by Hearing Officer on October 9, 1980, and Notice of Receipt of Transcript and Order



of Briefs was mailed on October 10, 1980.

- 10) Brief for Commissioner was received on November 24, 1980, with no Brief being filed on behalf of Orion.

The above-mentioned hearing was held pursuant to KRS 338.071(4), which authorizes the Review Commission to hear and rule on appeals from citations, notifications and variances issued under the provisions of the Act, and to adopt and promulgate rules and regulations with respect to procedural aspects of the hearings. Under the provisions of KRS 338.081, the within hearing was authorized by the provisions of said Chapter and same may be conducted by a Hearing Officer appointed by the Review Commission to serve in its stead. The decisions of said Hearing Officer are subject to review by the Review Commission upon appeal timely filed by either party, or upon its own Motion, subsequent to which the Review Commission may sustain, modify or dismiss a citation or penalty.

The Standard alleged to have been violated in Item 1(a) of Citation No. 1, the description of the alleged violation, and the penalty proposed for same are as follows:

29 CFR 1910.213(c)(1) (as adopted by 803 KAR 2:020)	The "Rockwell" hand-fed table rip saw located on the south side of the maintenance shop, was not guarded by an automatically adjusting hood which completely enclosed that portion of the saw above the table and above the material being cut, exposing employees to the hazard of the rotating blade.	\$400.00 [combined with Items 1(b) and 1(c)]
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29 CFR 1910.213(c)(1), as adopted by 803 KAR 2:020, reads in pertinent part as follows:

Each circular hand-fed rip saw shall be guarded by a hood which shall completely enclose that portion of the saw above the table and that portion of the saw above the material being cut.

The Standard alleged to have been violated in Item 1(b) of Citation No. 1, the description of the alleged violation, and the penalty proposed for same are as follows:

29 CFR 1910.213(c)(2) (as adopted by 803 KAR 2:020)	The "Rockwell" hand-fed table rip saw located on the south side of the maintenance shop, was not furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator.	\$ 400.00 [combined with Items 1(a) and 1(c)]
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29 CFR 1910.213(c)(2), as adopted by 803 KAR 2:020, reads in pertinent part as follows:

Each hand-fed circular rip saw shall be furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator.

The Standard alleged to have been violated in Item 1(c) of Citation No. 1, the description of the alleged violation, and the penalty proposed for same are as follows:

29 CFR 1910.213(c)(3) (as adopted by 803 KAR 2:020)	The "Rockwell" hand-fed table rip saw, located on the south side of the maintenance shop, was not provided with nonkickback fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator.	\$ 400.00 [combined with Items 1(a) and 1(b)]
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29 CFR 1910.213(c)(3), as adopted by 803 KAR 2:020, reads in pertinent part as follows:

Each hand-fed circular rip saw shall be provided with nonkickback fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or throw it back toward the operator.

The Standard alleged to have been violated in Item 2(a) of Citation No. 1, the description of the alleged violation, and the penalty proposed for

same are as follows:

29 CFR 1910.213(h)(1) (as adopted by 803 KAR 2:020)	The lower exposed portion of the "Rockwell" radial arm saw, located on the south side of the maintenance shop, was not guarded to the full diameter of the blade by a device that automatically adjusted itself to the thickness of the stock and remained in contact with the stock being cut, exposing employees to the hazard of the rotating blade.	\$ 400.00 [Combined with Item 2(b)]
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29 CFR 1910.213(h)(1), as adopted by 803 KAR 2:020, reads as follows:

The upper hood shall completely enclose the upper portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters, broken saw teeth, etc., and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock being cut to give maximum protection possible for the operation being performed.

The Standard alleged to have been violated in Item 2(b) of Citation No. 1, the description of the alleged violation, and the penalty proposed for same are as follows:

29 CFR 1910.213(h)(4) (as adopted by 803 KAR 2:020)	The "Rockwell" radial arm saw, located on the south side of the maintenance shop, was not so installed that the front end of the unit was slightly higher than the rear, so as to cause the cutting head to return gently to the starting position when released by the operator.	\$ 400.00 [Combined with Item 2(a)]
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29 CFR 1910.213(h)(4), as adopted by 803 KAR 2:020, reads as follows:

Installation shall be in such a manner that the front end of the unit will be slightly higher than the rear, so as to cause the cutting head to return gently to the starting position when released by the operator.

The Standard alleged to have been violated in Item 3 of Citation No. 1, the description of the alleged violation, and the penalty proposed for same are as follows:

29 CFR 1910.213(a)(11) (As adopted by 803 KAR 2:020)	The exposed noncurrent-carrying metal parts of the cord- and plug-connected portable "Rockwell" Serial #61363, hand-fed router, located in the maintenance shop, which were liable to become energized, were not grounded.	\$400.00
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20 CFR 1910.214(a)(11), as adopted by 803 KAR 2:020, reads as follows:

The frames and all exposed, noncurrent-carrying metal parts of portable electric woodworking machinery operated at more than 90 volts to ground shall be grounded and other portable motors driving electric tools which are held in the hand while being operated shall be grounded if they operate at more than 90 volts to ground. The ground shall be provided for use of a separate ground wire and polarized plug and receptacle.

Jurisdiction of the parties and due and timely notice of the hearing is found by this Hearing Officer.

As to jurisdiction of the subject matter, the Notice of Contest filed by Orion spoke only in terms of contesting the proposed penalties, and not the existence of the violations themselves. This was understood between the parties at the beginning of the Hearing (Transcript of Hearing [hereinafter TR], p. 2). In such a case, this Hearing Officer is without jurisdiction to consider the merits of the violations, and their existence is found as a matter of fact pursuant to a Final Order of the Review Commission. See Commissioner of Labor v. General Power Systems, Inc., KOSHRC No. 765 (1981), and cases cited therein.

Similarly, this Hearing Officer is also without jurisdiction to review the question of whether the Commissioner properly characterized the violations as serious rather than nonserious, in that a Notice of Contest limited solely

to the proposed penalty also results in the nature of the violation (serious or nonserious) categorized by the Commissioner as being an unreviewable Final Order. Commissioner of Labor v. Kentucky Ignition Co., KOSHRC No. 683 (1980).

Upon review of the pleadings, testimony, evidence and Brief herein, the following Findings of Fact, Conclusions of Law and Recommended Order are hereby made.

#### FINDINGS OF FACT

On the day of the inspection, employees of Orion were engaged in the performance of their duties attendant to radio and television broadcasting, at Orion's facility located 725 South Floyd Street, Louisville, Kentucky. The Compliance Officer, Hardy Watson, testified that an Opening Conference was conducted at the beginning of his general scheduled inspection, at which time credentials were presented and a form notifying the employer of its entitlement to a Search Warrant was given. No refusal of entry or inspection was made (TR, p. 8,9). Although the inspection was of the entire facility, the violations concerned only the maintenance shop, more specifically three tools utilized in the maintenance shop.

As to the violations contained as Items 1, 2 and 3 in Citation No. 1, counsel for Commissioner introduced into evidence as Complainant's Exhibit No. 1 a photograph depicting a Rockwell table saw, or "hand-fed rip saw," which was without an automatically adjusting hood (or any hood), without a "spreader," and without nonkickback fingers or "dogs".

Concerning the absence of the guard, the Compliance Officer stated that there was nothing to prevent employees from sustaining severe lacerations or amputations of fingers or hands by accidentally coming into contact with the

rotating blade of the saw (TR, p. 17,18). As to the absence of the spreader, there was nothing to keep the material being cut from binding, and thereby causing objects to be thrown back onto the operator (TR, 16,18).

As to the absence of the nonkickback fingers or "dogs," the hazard presented was the same as that of the spreader, in that nothing prevented material from being thrown back into the operator, which would cause him to receive, according to the Compliance Officer, puncture wounds or broken bones. The Compliance Officer stated that the size of the material which would be thrown back into the operator due to the absence of the spreader and dogs would be dependent upon the size of wood being cut, which the Compliance Officer was unable to determine at the time of the inspection (TR, p. 19).

As to the violation contained as Item No. 2(a) of the Citation No. 1, counsel for Commissioner introduced into evidence as Complainant's Exhibit No. 2 a photograph depicting a Rockwell radial arm saw which was without a guard around the full diameter of the saw, the lower cutting edge being unprotected and thus exposing employees to the hazard of contacting the rotating blade (TR, p. 20).

As to the violation contained as Item No. 2(b) of Citation No. 1, the Compliance Officer testified that the radial arm saw was not installed so that it would automatically return to the starting position after operation, thus allowing employees passing by to come into contact with the exposed blade at the edge of the work table (TR, p. 47,48).

As to the violation contained as Item No. 3 of Citation No. 1, counsel for Commissioner introduced into evidence as Complainant's Exhibit No. 3 a

photograph depicting a Rockwell hand-held portable router whose cord had only a two-pronged plug. The router operated on 115 volts of electricity, which was in excess of the minimum of 90 volts prescribed by the Standard in question.

The Compliance Officer stated that at the time of his inspection there were two employees working in the maintenance shop, neither of whom were observed using the tools in question (TR, p. 23). According to information obtained by the Compliance Officer, the frequency of use for the tools was as follows: Ripsaw--one-half (1/2)<sup>hour</sup>/per week; Radial Arm Saw--ten (10) minutes per week; Router--five (5) minutes per month (TR, p. 23-27).

Under the revised policy guidelines promulgated by the Commissioner, if a violation is found to be a serious violation, the unadjusted penalty is derived by ascertaining the gravity of same, utilizing the OSHA 1-A Form. This Form takes into account a maximum of five (5) adjustment factors, the weight of each being determined by the Compliance Officer from the particular circumstances in question. From these calculations, a probability/severity quotion is obtained, which when inserted in the penalty table for serious violations, resulted in an adjusted gravity-based penalty for each violation in the amount of Five Hundred Dollars (\$500.00). Adjustments were further made by the use of the OSHA 10 Form, taking into account the good faith, size and history of Orion. This resulted in a final adjusted proposed penalty for each of the three (3) alleged violations in the sum of Four Hundred Dollars (\$400.00), or a twenty percent (20%) reduction by the Compliance Officer from the gravity-based penalty for each violation. Thus, the total proposed penalty was in the amount of Twelve ~~Hundred~~ Dollars (\$1,200.00).

Upon cross-examination, the Compliance Officer stated that he did not

observe the thickness of the wood to be cut by the rip saw (TR, p. 39). The Compliance Officer also stated that he had examined the injury records for Orion, and found them to be excellent (TR, p. 42). The Compliance Officer also recalled a discussion with representatives of Orion that a voluntary insurance safety inspection was conducted annually by an engineering firm under contract (TR, p. 44).

Upon examination by this Hearing Officer, the Compliance Officer stated that, assuming the thickness of the wood being cut by the rip saw to be that which was stated by Mr. Brown of Orion, 3/4 inch, the hazard presented by material being thrown back on the operator would more likely be a nonserious hazard (TR, p. 46). The Compliance Officer also admitted that the hazard presented by the absence of a grounded plug for the router was that of shock, not electrocution, but still categorized such a violation as serious (TR, p. 48).

Counsel for Commissioner attempted to have the Compliance Officer state that the hazard presented by material being thrown back into the operator by the rip saw consisted not only of bulk material, but also splinters which could be thrown into one's face, but the Compliance Officer stated that the possibility of same would be very remote (TR, p. 52).

Mr. Eversman, testifying on behalf of Orion, stated that two (2) employees observed by the Compliance Officer were the only employees allowed to use the tools in the maintenance shop, and, other than Mr. Eversman, were the only employees having a key to the door of the shop (TR, p. 54).



### CONCLUSIONS OF LAW

As above set forth, this Hearing Officer is without jurisdiction to determine either the existence of the cited violations, or their classification as serious in that those matters have not been placed in contest by Orion.

However, this Hearing Officer does have jurisdiction to recommend modification of the proposed penalty.

It is the opinion of this Hearing Officer that the penalties proposed are greatly excessive. As testified by the Compliance Officer, the combined time of exposure by the two employees to the hazard of the rip saw was one-half (1/2) hour per week. The combined time of exposure to the hazards of the radial arm saw and router were ten (10) minutes per week and five (5) minutes per month, respectively. Access to the maintenance shop is limited to the two employees charged with exclusive use of the tools in question. Furthermore, the Compliance Officer admitted that the hazard presented by material being thrown back by the rip saw, if in bulk form, would probably be nonserious, and that the possibility of splinters being thrown back into the operator would be very remote. The Compliance Officer also admitted that the hazard presented by the ungrounded router was one of electrical shock and not electrocution.

Additional factors mitigating against the imposition of substantial penalties are Orion's excellent employee injury record, and the fact that immediate action was taken by Orion to correct the violations, as set forth in its Notice of Contest.

Although the concept of a "de minimis" violation is not one which is recognized in this Commonwealth (Commissioner of Labor v. Genesco, Inc., KOSHRC No. 352 [1978]), it is the opinion of this Hearing Officer that if

such were recognized in this Commonwealth, the violation cited against Orion would certainly qualify.

It is recognized that the OSHA 1-A Form provides for adjustment by the Compliance Officer for number of employees exposed and duration of exposure, and that the OSHA 10 Form provides for further adjustments for good faith and history, and it is recognized that the Compliance Officer allowed Orion the maximum adjustments under the guidelines imposed upon him. However, the standardized adjustments prescribed by the Commissioner, while assuring uniformity, do not provide the flexibility which may be required in certain circumstances. In this particular case, the adjustments made by the Compliance Officer fell far short of adequacy.

Considering the above, it is the opinion of this Hearing Officer that each of the three (3) serious violations should carry with it a penalty in the amount of Fifty Dollars (\$50.00), or a total penalty of One Hundred Fifty Dollars (\$150.00).

#### RECOMMENDED ORDER

NOW THEREFORE, IT IS HEREBY ORDERED:

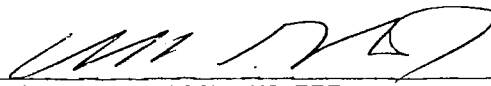
That the proposed penalty for Item 1(a)(b)(c) of Citation No. 1, a serious violation of 29 CFR 1910.213(c)(1), (2), and (3), in the amount of Four Hundred Dollars (\$400.00) is hereby reduced to Fifty Dollars (\$50.00).

That the proposed penalty for Items 2(a) and 2(b) of Citation No. 1, a serious violation of 29 CFR 1910.213(c)(3) and (h)(1), in the amount of Four Hundred Dollars (\$400.00) is hereby reduced to Fifty Dollars (\$50.00).

That the proposed penalty for Item 3 of Citation No. 1, a serious violation of 29 CFR 1910.213(a)(11), in the amount of Four Hundred Dollars (\$400.00) is

hereby reduced to Fifty Dollars (\$50.00).

That the above set forth penalties in the total amount of One Hundred Fifty Dollars (\$150.00) be paid without delay, but in no event later than thirty (30) days from the date of this Recommended Order.



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CHARLES A. GOODMAN III  
HEARING OFFICER

DATE: 4 August 1981  
Frankfort, Kentucky

DECISION NO. 1031