

Enforcement

**JUDGE RULES FOREMAN RESPONSIBLE
FOR EMPLOYEE SAFETY; AFFIRMS CITATION**

A citation for serious violation and a proposed penalty of \$600 were affirmed because it was the ultimate responsibility of a foreman to require sufficient protective equipment to prevent accidental body contact with an energized primary wire.

The decision involved Cape & Vinery Division of the New Bedford Gas and Edison Light Company (No. 1136).

An employee was killed by reason of electrocution while at work on a utility pole to which he was belted. His assignment was to measure visually a tap wire which was tied to an insulator, a task that should have taken him about five to ten minutes. The deceased worker was promoted to Lineman First Class only 12 days before his death.

The decision as to whether a field side energized primary wire and its dead-end clamp should have been covered was left to the deceased employee. The foreman was not following his own safety rules which place upon the foreman the responsibility for the safety of the employees under his supervision. In the opinion of Occupational Safety and Health Review Commission Judge Abraham Gold. The employer's safety rules directed that a sufficient amount of protective equipment be used to prevent accidental contact of any part of the body with energized conductors or parts.

The foreman, acting as management, knew that the field side primary wire and its dead-end clamp were unprotected, and he should have taken the reasonable precaution of directing that they be covered by protective equipment, the judge said. The foreman knew that the employee was not an experienced first class lineman, yet he was not even observing him when the electrocution occurred. The conduct of the foreman was the responsibility of, and was imposed on, the employer, Gold concluded.

Enforcement

**JUDGE RULES REQUIRED NOISE CONTROL
NOT SHOWN; USE OF EAR PLUGS IRRELEVANT**

Evidence that an employer required the use of ear plugs made available to employees to reduce noise exposure was irrelevant if the employer had not shown that administrative and engineering controls had failed to reduce exposure to the noise standard's permissible level.

This was the ruling of Occupational Safety and Health Review Commission Judge Robert P. Weil in a decision involving International Harvester Company (No. 389).

The source of the excessive noise was a dynamometer test beds on which large internal combustion engines were run for hours at a stretch for testing purposes, during which tests, mechanics and engineers performed certain operations on the engines. Prior to the inspection, the Department of Labor was in touch with the employer regarding the installation of acoustical enclosures for the test beds. Because of delays, only one acoustical enclosure was completed at the time of the inspection, this enclosure was not in use, and a number of engines were on test without any engineering or administrative controls over the resulting noise exposure. Since there was no showing as to administrative or engineering controls, the evidence as to ear plugs was irrelevant, the judge said.

In view of the employer's representation that it would press for prompt completion of a plan for acoustical enclosures in the department described above, no penalty was assessed for the violation. However, a total of \$150 in penalties was assessed for noise violations in three other departments of the employer's plant.

In addition to the noise violations, the employer committed six other alleged serious violations. The Secretary of Labor moved to amend an item that alleged excessive levels of iron oxide in the working area to allege a violation due to nuisance dust. The amendment to bring in an entirely new issue was denied and the item was removed.