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SECRETARY OF LABOR,	:	
Complainant,	:	
	:	
v.	:	OSHRC
	:	Docket No. 97-0474
MONADNOCK ERECTORS,	:	
INC.,	:	
Respondent.	:	
	:	
	:	

Appearances:

Kevin E. Sullivan, Esq.  
Office of the Solicitor  
U.S. Department of Labor  
For Complainant

Mark Aho, Treasurer  
Monadnock Erectors, Inc.  
Rindge, NH  
For Respondent

Before: Administrative Law Judge Robert A. Yetman

**DECISION AND ORDER**

This proceeding arises under § 10(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, *et seq* (“the Act”) to review a citation issued by the Secretary of Labor pursuant to § 9(a) of the Act and a proposed assessment of penalty thereon issued pursuant to § 10(a) of the Act.

On March 10, 1997, Monadnock Erectors, Inc. was issued one serious citation alleging a single violation of the standard set forth at 29 CFR 1926.105(a). The citation reads as follows:

29 CFR 1926.105(a): Safety nets were not provided when workplaces were more than 25 feet above the ground or water surface, or other surfaces(s) where the use of ladders, scaffolds, catch platforms, temporary floors, safety lines or safety belts was impractical:

(a) Location - Acton Street side of site:

On February 15, 1997, the employer did not provide nets when the workplace was more than 25 feet from the ground level. Employees were erecting steel over 30 feet from the ground level.

A penalty in the amount of \$2,000 was proposed by the Secretary.

Respondent filed a timely notice of contest and this matter was assigned for E-Z Trial proceedings pursuant to commission Rules 29 CFR 2200.200 *et seq.* A hearing was conducted on June 13, 1997 and in accordance with Commission Rule 209(f), a decision was issued from the bench affirming the citation as a serious violation and assessing a penalty in the amount of \$1,500. Findings of fact and conclusions of law as required by commission Rule 90(a) are set forth at transcript pages 92 to 99 attached hereto.

All findings of fact relevant and necessary to a determination of the contested issues have been made as required by Fed. R. Civ. P. 52(a). Respondent admits jurisdiction (Tr. 90). All proposed findings of fact and conclusions of law inconsistent with this decision are denied.

**ORDER**

Serious Citation No. 1, Item No. 1 alleging a violation of 29 CFR 1926.105(a) is affirmed and a penalty in the amount of \$1,500 is assessed.

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ROBERT A. YETMAN  
Judge, OSHRC

Dated: \_\_\_\_\_  
Boston, MA