



United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3457

SECRETARY OF LABOR,

Complainant,

v.

SHAW AREVA MOX SERVICES, LLC,

Respondent.

OSHR Docket No. 09-1284

BRIEFING NOTICE

The issues that follow have been identified by the Review Commission as of particular interest on review. The parties, however, are free to brief issues that are presented in the Petition for Discretionary Review in addition to that below.

- (1) Under Citation 1, Item 2, did the judge err in affirming a violation of 29 C.F.R. § 1926.404(f)(6) with respect to the adapter? In addressing this question, the parties are asked to discuss the following:
 - a. Does the cited provision's applicability to the adapter depend upon whether a requirement to ground the adapter exists elsewhere in 29 C.F.R. subpart K?
 - b. Did the judge err in finding exposure to the conditions alleged regarding the adapter?
- (2) Under Citation 1, Item 2, did the judge err in finding that the Respondent had constructive knowledge of the conditions alleged regarding the electrical cord for the fuel tank pump?

The parties are advised that when the merits or characterization of an item are before the Commission for review, the appropriateness of the penalty is also subject to review. Accordingly, the parties may address the amount of the penalty if they so choose.

All briefs are to be filed in accordance with Commission Rule 93.¹ The first brief is to be filed within 40 days of this notice. A party who does not intend to file a brief must notify the

¹ The Commission requests that all briefs include an alphabetical table of authorities with references to the pages on which they are cited, and that an asterisk be placed in the left-hand margin of the table to indicate those authorities on which the brief principally relies. The

Commission in writing setting forth the reason therefore within the applicable time for filing briefs, and shall serve a copy on all other parties. The time for filing briefs (or similar notices of intent) of opposing parties shall commence on the date of service.

BY DIRECTION OF THE COMMISSION

Dated: January 29, 2010

/s/ _____
Ray H. Darling, Jr.
Executive Secretary

Commission also requests that copies of cited authority, other than statutes, case law, law journal articles and legal treatises, be provided to the Commission and to the opposing party. Parties should be cautioned that these materials will be considered only if appropriate.

09-1284

NOTICE IS GIVEN TO THE FOLLOWING:

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