



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.

DELEK REFINING, LTD.,

Respondent.

OSHRC Docket No. 08-1386

**BRIEFING NOTICE**

The Commission requests that the parties brief the following issues:

- (1) Did the judge err in concluding that Respondent was liable for violations of 29 C.F.R. § 1910.119(e)(5) and 29 C.F.R. § 1910.119(o)(4) as alleged under Serious Citation 1, Items 4 and 12, respectively?
- (2) Did the judge err in deferring to the Secretary's interpretation and concluding that the Process Safety Management Standard, 29 C.F.R. § 1910.119, and specifically 29 C.F.R. § 1910.119(j)(4)(i), applies to the positive pressurization unit as alleged under Serious Citation 1, Item 8?
- (3) Did the judge err in concluding that Respondent's use of a steam lance was a "change" requiring the updating of Respondent's process safety information under 29 C.F.R. § 1910.119(l)(4) as alleged under Serious Citation 1, Item 9(b)?
- (4) Did the judge err in concluding that the Secretary established exposure to unguarded rotating shafts in violation of 29 C.F.R. § 1910.219(c)(2)(i) as alleged under Serious Citation 1, Item 13?
- (5) Did the judge err in affirming a violation of 29 C.F.R. § 1910.1200(f)(5)(i) as alleged under Serious Citation 1, Item 15?

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.<sup>1</sup> 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 Commission in writing setting forth the reason therefor 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: June 14, 2011

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

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<sup>1</sup> 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 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.