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Review Commission Activity

ACTIVITY OF OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

This Section includes —

Review Commission Decisions: Decisions and orders of the full commission.

Court Cases: Filings and dispositions of appeals from commission decisions in the federal courts.

Notices of Contest: Notices of contest to Labor Department citations.

REVIEW COMMISSION DECISIONS

General Dynamics Land Systems Division Inc., Secretary of Labor v., 3/24/89—on remand from the U.S. Court of Appeals for the District of Columbia Circuit, which reversed review commission's order vacating citation for violation of general duty clause (exposure to hazard of poisoning and asphyxiation by entering confined spaces containing trichlorotrifluoroethane); D.C. Circuit held that specific standard does not pre-empt applicability of general duty clause if employer knows specific standard will not protect workers against particular hazard; while standard at 1910.1000(a)-(d) places limit on permissible level of time-weighted exposure to freon vapors over eight-hour shift, citation referred to danger in confined spaces of short-term exposure to toxic vapors in concentrations that may displace oxygen; in remanding case, court concluded that hearing judge should have determined whether hazard described was present in workplace and, if so, whether employer had knowledge of hazard and took appropriate measures to mitigate it; case is hereby remanded to administrative law judge with instructions to determine whether record establishes violation of general duty clause and, if so, whether violation was willful (No. 83-1293).

Lee Roy Westbrook Construction Co., Secretary of Labor v., 3/22/89—see article p. 1802 (No. 84-09).

Lee Roy Westbrook Construction Co., Secretary of Labor v., 3/22/89—see article p. 1802 (No. 85-0601).

COURT CASES

Collier-Keyworth Co., Secretary of Labor v., 3/22/89, CA 1, No. 88-2140—petition for review is dismissed and case is remanded to Occupational Safety and Health Review Commission with instructions to vacate its decisions and orders in this case in accordance with settlement agreement.

Otis Elevator Co. v. Secretary of Labor, 3/21/89, CA DC, No. 88-1478—see article p. 1801.

NOTICES OF CONTEST

AM Productions Co., Austin, Texas, is contesting a serious citation and a \$1,650 penalty for seven items, including 1910.106(d)(2)(i) for failure to use approved containers for storage of flammable liquids, 1910.106(e)(9)(iii) for failure to store combustible waste material in covered metal recepta-

cles, and 1910.304(f)(4) for failure to keep the path from an electrical circuit to the ground continuous (No. 89-0703).

Celotex Corp., San Antonio, Texas, is contesting a serious citation and a \$350 penalty for 1910.1200(e)(1) for failure to develop and implement a written hazard communication program.

The employer also is contesting a non-serious citation for 1904.2(a) for failure to maintain a log of occupational injuries and illnesses and 1910.95(i)(3) for failure to allow employees to select approved respirators (No. 89-0720).

Cen-Tex Marine Fabricators Inc., Smithville, Texas, is contesting a serious citation and a \$210 penalty for 1910.1200(e)(1) for failure to develop and implement a written hazard communication program, 1910.1200(f)(5)(ii) for failure to ensure that each container of hazardous chemicals was tagged with the appropriate hazard warning, and 1910.1200(h) for failure to provide hazard communication training for all employees (No. 89-0701).

Centric/Jones Constructors, Ponca City, Okla., is contesting a serious citation and a \$700 penalty for 1926.251(a)(1) for failure to inspect rigging equipment to ensure that it was in safe, operable condition and 1926.251(a)(2) for loading rigging equipment in excess of the recommended safe working load.

The employer also is contesting a repeat citation and a \$1,400 penalty for 1926.104(a) for failure of employees to wear safety belts and lifelines when working on a workdeck.

The employer also is contesting a non-serious citation for 1926.21(b)(2) for failure of employees to wear fall protection equipment (No. 89-0713).

Covington Roofing & Sheet Metal Co., Conway, Ariz., is contesting a serious citation and a \$200 penalty for 1926.500(b)(1) for failure to cover floor openings (No. 89-0711).

Faulkner Construction Co., Austin, Texas, is contesting a serious citation and a \$280 penalty for 1926.351(b)(4) for failure to repair damaged welding cables (No. 89-0698).

L. Ray Ferguson Interests, Houston, Texas, is contesting a serious citation and a \$450 penalty for 1926.302(b)(1) for failure to secure power tools to prevent them from being displaced and 1926.302(b)(7) for failure to install a shut-off valve on a compressor (No. 89-0710).

Ford-Sign Envelope Co., San Antonio, Texas, is contesting a serious citation and a \$640 penalty for six items, including