

Week of July 28, 2014

OSHA Moves to Stem North Dakota's High Fatality Rate with Emphasis Program

On average, more than one worker per month has been killed in North Dakota's oil and gas and construction industries over the past 30 months, so OSHA has decided to step in with a focused enforcement program to curb the trend.

Since January 2012, the 34 deaths in these industries have accounted for 87 percent of all fatalities that OSHA has investigated in the state, the federal safety agency said in a news release announcing the launch of an enforcement emphasis program. The effort means more enforcement personnel will be relocated temporarily from other areas of the country to increase OSHA's presence in the state.

At 17.7 fatalities per 100,000 workers, North Dakota had the highest fatality rate in the nation in 2012. For the nation as a whole, the rate was 3.2 deaths per 100,000 workers in 2012. In 2007, before the energy boom, the state's fatality rate was seven per 100,000 workers.

"These industries are inherently dangerous, and workers are exposed to multiple hazards every day," said Eric Brooks, OSHA's area director in Bismarck. "Their safety must not be compromised because demand for production keeps increasing."

OSHA noted that 21 of the 34 fatalities occurred while the victim was working on and servicing drilling rigs or conducting production support operations in the oil and gas industry. Serious daily hazards inherent in such work include fires, explosions and equipment-related dangers.

Falls, struck-by hazards and trench cave-ins in construction claimed the lives of the other 13 accident victims.

OSHA's enforcement push supplements a local emphasis program combining education and enforcement that the agency has had in place over the last three years for the state's oil and gas industry. An oil and gas well drilling eTool (<https://www.osha.gov/SLTC/etools/oilandgas/index.html>) is available to help identify common hazards and provide possible solutions to reduce potentially injury-producing incidents. The enforcement program includes chemical sampling of fracking and tank gauging operations to test for atmospheric hazards.

OSHA also has participated in outreach events with oil and gas employers. This has included a multi-state stand-down with the Montana-North Dakota chapter of the National Service, Transmission, Exploration and Production Safety Network. In that effort, more than 160 employers and 1,000 workers voluntarily ceased operations for one day to discuss hazards and effective means to address them.

"Since we started the original emphasis program, we have seen improvement in North Dakota's oil fields, and the fatality rate has decreased," Brooks said. "But no death is ever acceptable, and these industries are still hazardous for North Dakota's workers. OSHA will continue to use its full enforcement authority – along with these new outreach efforts – to achieve the goal of every worker going home safely each day to their loved ones."



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Judge Bypasses Experts in Ruling on Electrical Violation

Accepting estimates of electrical output from a welding machine from experts representing MSHA and a mine operator, an MSHA judge nevertheless turned to reference literature to determine if contact with that current was likely to produce a serious injury.

Administrative Law Judge Priscilla Rae upheld a violation of MSHA's electrical standard against River View Coal, LLC at its mine of the same name in Kentucky. The citation was written in August 2012, after an inspector observed bare wires on the electrode holder of a welder mounted on a two-person diesel-powered mantrip. A mantrip is a shuttle for transporting miners underground, and an electrode holder is an insulated clamp that holds the welding rod in place during welding.

In court, MSHA's expert witness and counsel for River View jointly calculated the current a miner would experience if he or she touched the bare electrode. That calculation, coupled with another offered by River View's expert, led both sides to agree the range of the current would be between 28 and 35 milliamperes (mA).

However, they could not agree on the impact that current would have on the human body. MSHA asserted the

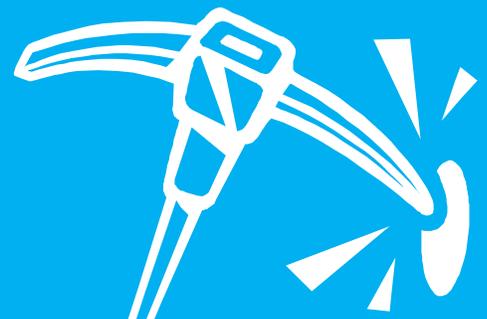
shock could affect the heart and/or produce an injury from a miner's involuntary reaction to being shocked. That conclusion had led the agency to classify the violation as significant and substantial (S&S), i.e., one likely to produce serious injury. Conversely, the operator asserted a miner would feel only a tingle.

Both parties submitted reference materials. Faced with the conflicting testimony, ALJ Rae turned to those materials for guidance. She noted that 300-500 mA would be needed to affect the heart. In addition, the so-called let-go threshold whereby the flexors of the arm contract but still allow release of the hand from a shock hazard is 75 mA for a 154-pound male. Since the estimated 28-35 mA current fell significantly below either the let-go or heart-damaging level, Rae determined that serious injury was unlikely and cut the S&S classification to non-S&S.

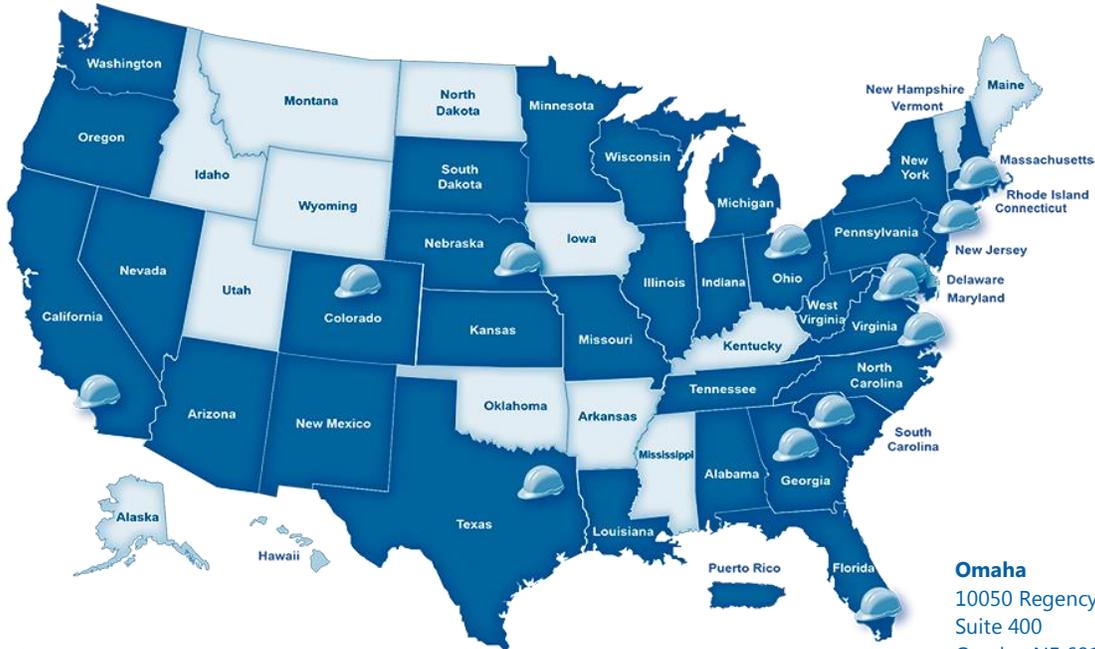
MSHA also had written the ticket as representing moderate negligence, but Rae said the operator's safety requirements and diligence in conducting weekly examinations of electrical equipment justified only a finding of a low level of negligence. As a result, she cut MSHA's \$687 fine to \$125 in a decision released in July.

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