Hydraulic Oil Poses Greater Fire Risk than Motor Oil, Judge Says

A judge has upheld four MSHA citations against an operator involving hydraulic oil leaks on mobile equipment, but dismissed four identical violations involving accumulations of combustible motor oil materials because, under the circumstances, their locations did not present a fire hazard.

Justice Energy Co., Inc. was cited for eight alleged violations of MSHA’s combustible materials standard (30 C.F.R. § 77.1104) during an inspection at the operator’s Red Fox Surface Mine in West Virginia in September 2011. The standard states that combustible materials may not be allowed to accumulate where they can create a fire hazard. All eight citations were written as “moderate negligence” and “significant and substantial” (S&S) which means the condition is reasonably likely to lead to serious injury. Proposed fines totaled $49,976.

Administrative Law Judge Jerold Feldman of the Federal Mine Safety and Health Review Commission vacated the four motor oil citations, holding that MSHA could not make its case that the motor oil leaks occurred in locations near engine surfaces hot enough to raise the temperature of the oil to its 399°F flashpoint. He said MSHA’s arguments were based on “supposition,” not empirical evidence.

“Thus, in the absence of evidence of potential exposure to relevant flashpoint temperature, the Secretary’s general assertion that motor oil deposits on hot engine components would be a fire hazard rendering use of such mobile equipment inherently dangerous is illogical,” the judge said in a January 20 decision.

Judge Feldman took a different view of the potential fire risk from hydraulic oil leaks. “However, unlike motor oil, normal hydraulic oil usage relies on properly functioning pressurized lines, equipped with fittings and gaskets that can withstand such pressurization,” Feldman said. “When [these] fail, it is reasonably likely that the released pressurized hydraulic oil may be atomized, and sprayed or misted onto hot engine surfaces, thus posing a serious risk of ignition and resultant fire.”

The judge upheld the four hydraulic oil citations, but rejected MSHA’s S&S determinations for three of them after finding the enforcement agency had failed to show either proximity of the leak to a heat source or atomization at the source of the leak. Feldman said the last of these citations properly was S&S because the leak was found near a hot turbocharger and exhaust of a highwall drill. Combined fines were lowered to $14,003, down from the proposed $21,739.

Of the three other alleged violations involving maintenance defects on mobile equipment in this case, Feldman vacated one and upheld two, adding $16,506 to the operator’s overall fine. A settlement was reached for the seven remaining citations in the docket.
OSHA Issues Alert on Non-Silica Fracking Hazards

OSHA has issued an advisory on non-silica health and safety hazards in the hydraulic fracturing industry.

OSHA said the purpose of its 41-page document, *Hydraulic Fracturing and Flowback Hazards Other than Respirable Silica*, is to inform employers and workers about the known hazards that result from hydraulic fracturing and flowback and to offer ways to reduce exposure to these hazards. It leaves discussion of silica-related hazards to publications previously released, including a joint OSHA-NIOSH hazard alert and an OSHA “infosheet.”

The agency makes clear the document does not impose additional legal or compliance obligations on employers beyond existing OSHA standards, regulations, and OSH Act’s general duty clause.

“Fracking” is a process that blasts through underground formations to release oil and natural gas. Flowback, the flow of fluids and hydrocarbons back out of the formations fractured by chemical- and sand-containing fluids, is part of the process. According to OSHA, some 35,000 wells are hydraulically fractured in the United States every year. Fracking is classified as a subsector of the oil and gas extraction industry. The industry experiences a higher fatality rate than most of U.S. general industry; however, no information is publicly available on worker injuries, illnesses, or fatalities connected specifically with fracking or flowback operations.

The OSHA publication, considered a guidance document by the agency, breaks down the fracturing operation into three other hazard areas in addition to flowback: (1) transport, rig-up, and rig-down; (2) mixing and injection; and (3) pressure pumping. Each section of the publication on hazard areas includes a comprehensive set of hazard-reduction recommendations.

For instance, the flowback section explains that fluids and materials flowing back at very high pressures from the well may contain debris such as rocks and mud, plugs and other parts, toxic chemicals, oil, water, and sand. A variety of prevention strategies to deal with these pressures and with potentially flammable atmospheres are listed. A separate section suggests ways to prevent exposure to hydrogen sulfide and volatile organic chemicals. A lengthy matrix in an appendix breaks down the job of hydraulic fracturing into its multiple steps with their associated hazards.

In an introductory section, OSHA offers pre-job planning advice that includes giving workers stop-work authority if unsafe conditions or practices exist. The agency also advises that “before beginning work, personnel should receive instruction in hazard recognition and safe work practices to reduce the chance of injury on the job site.” OSHA urges employers to develop injury and illness prevention programs.

Finally, a section is dedicated to worker rights, including the right to report injuries or raise safety and health concerns, along with a statement that employees have recourse to OSHA in the event of retaliation.
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