

# PUBLIC SUBMISSION

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**Docket:** MSHA-2008-0011

Alcohol- and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

**Comment On:** MSHA-2008-0011-0001

Alcohol- and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

**Document:** MSHA-2008-0011-DRAFT-0005

Comment from Larry Evans, Oil-Dri Corporation of America

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## General Comment

Federal and state employment laws generally permit an employer to have a ??????????zero tolerance????????? policy forbidding the use of alcohol and controlled substances in the workplace, and permitting discipline (up to and including termination) for violation of that policy. After decades of ever-increasing awareness of the societal toll of alcohol and drug abuse, there are a wide variety of federal, state and local public health programs (and a wide array of private sector programs) addressing this toll. Against the well-developed background, MSHA?????????'s proposed rule is a poor solution in search of a non-existent problem. For this reason, Oil-Dri Corporation of America and its affiliates strongly object to the proposed rule.

MSHA would be exceeding its authority provided by Congress in requiring a mine operator to re-assign anyone to another position for any reason, and to require a mine operator to extend ??????????job security????????? to anyone in violation of any employment matter. MSHA cannot direct the workforce.

?????????The proposed rule would only require mine operators to offer job security to those

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miners who violate the alcohol- and drug-free mine policy for the first time provided they follow the SAP treatment recommendations and required return-to-duty procedures.?????????

MSHA?????????'s current requirement is clear and concise, and extending the current requirement to the coal industry should be the initial and logical step.

?????????Intoxicating beverages and narcotics shall not be permitted or used in or around mines. Persons under the influence of alcohol or narcotics shall not be permitted on the job.?????????

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