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MSHA/OSRV

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November 19, 2005

Rebecca J. Smith
Acting Director
M.S.H.A.
Office of Standards, Regulations, and Variances.
1100 Wilson Blvd.
Room 2350
Arlington, VA 22209-3939

Re: Bowie Resources LLC
Comments on Advanced Notice of Proposed Rulemaking
RIN 1219-AB41

Dear Ms. Smith:

There is no doubt that drug and alcohol abuse is pervasive in our society. It is therefore pervasive in the workforce of this country. It is a problem that mining companies must deal with.

It is my experience that the amount of drug and alcohol abuse, the types of illicit drugs abused, and the amount and types of prescription drugs abused varies greatly by location and time.

In my experience in Utah, Wyoming, and Colorado the coal companies that I have worked for have attempted to deal with this problem with several programs. They have and do use pre-employment screening, for cause and random testing, education, supervisor training, and employee assistance programs. As with any single segment of our society we have not solved the problem. We have simply been attempting to keep the problem out of our workforce. Obviously this will result in varying degrees of success in different locations and times.

M.S.H.A. will not solve this problem by regulation. It will accomplish absolutely nothing to write regulations, at least in the traditional sense, that prohibit the use or possession of drugs and alcohol on mine property. Laws and regulations have not and will not stop drug and alcohol abuse.

Writing regulations that require training, testing, and a program that must be approved by District Managers, without support, will place an undue burden on small operators and be counter productive to the programs that operators may have in place.

AB41-COMM-13

The information that M.S.H.A has, while understandably driving its concern to do something about the problem, also places the agency in a position to take a unique path to help the mining industry with the problem of drug and alcohol abuse.

Instead of writing regulations aimed at driving mine operators to action. M.S.H.A. needs to develop a program that educates miners.

This is a long term commitment. Education and changing behavior by education is not a rapid, easy solution.

While many companies have programs the mining industry does need help to improve the existing programs and to allow those who do not have a program get there without having to reinvent the wheel. The industry needs the following.

1. A good factual, expert supported, education program for employees on the medical effects of using the most common illicit drugs, alcohol and prescription drug abuse.
2. A training program for supervisors to recognize and deal with drug and alcohol abuse on the job.
3. A training program for managers and supervisors on the legal issues involved in dealing with drug and alcohol abuse.
4. Information and training for managers on drug testing, legal issues, types of testing, how to properly test, and what will defeat testing methods.

Education is the only tool which we can use to combat drug and alcohol abuse.

M.S.H.A. should have the resources to develop, produce, and distribute, a comprehensive drug and alcohol abuse education program. Such a program will be a start on the long term program of reducing drug and alcohol abuse by educating the users and potential users.

Sincerely

Ernal A. Shaw
Manager of Safety