

Jewell Smokeless Coal Corporation
P.O. Box 70
Vansant, Virginia 24656
276-935-8810

November 22, 2005

U.S. Department of Labor
Mine Safety and Health Administration
Office of Standards, Regulations and Variances
1100 Wilson Blvd., Room 2350
Arlington, Virginia 22209-3939

Re: Regulation Identifier Number 1219-AB41

Dear Sir or Madam:

We appreciate this opportunity to comment on potential regulations that MSHA is studying concerning drug and alcohol abuse. We recognize that drug and alcohol problems are a major concern for all coal companies; however, companies that currently have good drug and alcohol programs should not be targeted for additional regulations.

Our company has had a drug and alcohol program in effect for many years which includes pre-employment screening, post-accident screening, and for-cause screening. Additionally, we do random screening for those company employees covered under the U.S. D.O.T. Program. In this regard, our history of screenings has not recognized a work force problem with respect to drug and alcohol abuse. There has been no correlation between drug and alcohol abuse and accidents based on post-accident testing.

Our company has major concerns with any MSHA proposed drug and alcohol abuse regulation which would include companies with existing programs. Due to the remote locations of mines and the distances to testing facilities, random testing of employees would place an extreme burden in both administration and expense to our company and to other small mine operators in our area. Additionally, coal companies do not have or cannot find extra employees in today's labor market; therefore, employees sent for random testing would be sent alone, unsupervised, which could make it difficult, if not impossible, to obtain valid random drug tests.

We can only believe that any regulation imposed by MSHA would hold the coal companies accountable for the actions of individuals that in most situations would be impossible for companies to control.

We are very concerned with any potential regulation that might be cause for anonymous, frivolous phone calls, or comments from disgruntled employees, members of the public, or others who might have a problem with mine employees or management. We feel that any proposed regulation should not include such calls or comments as probable cause or create a reasonable suspicion for further inquiries about such complaints.

Other drug testing concerns are when employees taking some over-the-counter medications may show up as a substance that has metastasized in his/her system and be read as something else. Another concern is the usage of legally prescribed medications. This could pose a huge problem, especially in our area where prescribed drugs are an issue in itself, and could unjustly pinpoint a person who does not have a drug problem.

Any further MSHA regulations can only add yet another layer of unnecessary administrative expense to all coal companies. It is our opinion that any regulations should exempt those companies that have a drug and alcohol abuse program in place. Additionally, any potential regulations should include only pre-employment, post-accident, and for-cause testing, as these are most functional.

We currently have some small operators, who are totally independent of our company, that mine/lease our coal. Any proposed regulation should differentiate between contractor and lease operators.

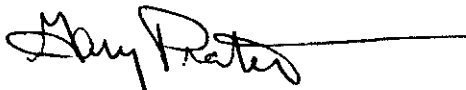
Should a drug and alcohol program be required by MSHA, we take the position that any contractor that has been issued an MSHA ID number be required to implement and comply with their drug and alcohol program.

Currently there are several questions as to the legality, from a HIPPA standpoint, of the releasing of medical information including drug test results. Based upon current workers' compensation laws, medical information/test results in work injury cases would not be released without a court ordered subpoena.

In closing, we would like to thank MSHA for the ability to comment on the proposed drug and alcohol regulations; however, it is our opinion that MSHA should focus more on drug and alcohol employee education and less on regulation.

Respectfully,

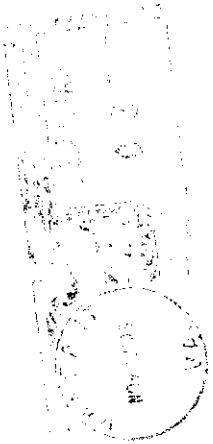
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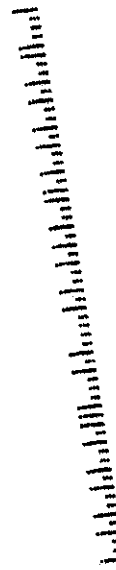
Gary Prater
Manager Human Resources



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