
From: Hwdgravel@aol.com [mailto:Hwdgravel@aol.com]
Sent: Thursday, October 06, 2005 1:11 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN: 1219-AB41

RE: Proposed Rulemaking Addressing Risks to Miners of Drug & Alcohol Use

To Whom It May Concern:

I am writing in response to the DOL Press Release –05-1839-NAT on proposed rulemaking for drug and alcohol use in mines.

Hollywood Gravel Company, a small sand and gravel mining company in Las Vegas, Nevada, has had a written drug and alcohol use policy since March 1998. We instituted the policy for several reasons: (1) we felt it was in the best interest of safety to have a written policy with pre-employment, post-accident, annual and probable cause testing; (2) our workers compensations self-insured group established a drug testing policy, encouraging all member companies to adopt it; (3) our general liability carrier encouraged such a written policy; and, (4) intoxicating drugs and alcohol are not permitted under Section 56.20001 (or 57.20001) of the Federal Mine Safety, Health and Training Regulations.

We have requirements for a Part 46 written training program, a written HAZMAT program, and a written hearing conservation program. We don't need another written program on drugs and alcohol use in the mines when there is already a regulation in place, which forbids the use of such substances on the mine site. Small mines are struggling to keep up with the growing paperwork burden of Part 46 Training and the HAZMAT and hearing conversation programs on top of individual mine inspector's interpretations of the various mine regulations. Training programs that met all Part 46 requirements didn't need MSHA approval. But, experience showed us that an un-approved program was open for individual mine inspector scrutiny for lack of a dotted 'i' or crossed 't'. Mine inspectors could and did mandate changes even though our training program met all Part 46 requirements and had been reviewed by the local MSHA training advisor. We had our program formally approved by MSHA to prevent further quarterly hassles.

As an open shop company, we were able to form our drug & alcohol policy in such a way as to provide the greatest benefit to both the company and our employees. Many larger companies must deal with union negotiators. Their policies do not necessarily protect the best interests of the company and the safety of other workers. Those policies, which have been negotiated between the union and the individual company, tend to be a compromise solution that protects the privacy of the individual above the safety of other workers and above the liability issues of the company.

I feel the current regulations are clear enough that mine inspectors could and should ask the hard questions of: "what is your company doing to ensure compliance with Section 56.20001 (or 57.20001) of the Federal Mine Safety, Health and Training Regulations?" Enforcing the rule on drugs and alcohol on the mine site is no different than enforcing a requirement for berms or guards.

Sincerely,

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