

From: SafetyLawyer@aol.com
Sent: Wednesday, November 09, 2005 8:18 AM
To: zzMSHA-comments@dol.gov.
Subject: Supplement to Oral Testimony

Re: RIN 1219-AB41

Rebecca J. Smith
Acting Director
Office of Standards, Regulations, and Variances
Mine Safety & Health Administration
US Department of Labor
1100 Wilson Blvd.
Arlington, VA 22209

Dear Ms. Smith:

Thank you for giving me the opportunity to present oral testimony at the November 8, 2005, public hearing concerning MSHA's Advance Notice of Proposed Rulemaking related to substance abuse prevention in the mining industry (Oct. 7, 2005, Federal Register). This is an extremely important subject and is one that should be covered in new and annual refresher training for miners as part of the existing Part 46/48 standards.

I noted during testimony, regarding accident investigation reports, that although I believe any acceptable root cause investigation must explore whether worker impairment played a role in accident causation, mine operators may find it difficult to obtain this information - especially in fatality cases where the victim's family may block an autopsy, or where such results may take months to obtain. As stated in my testimony, because many states' worker's compensation systems preclude payment to the injured worker (or a deceased worker's family) if the worker was impaired by alcohol or illegal drugs, there is often resistance to permitting an employer to obtain this information quickly. Mine operators should make every reasonable effort to include this information in their mandatory reports under 50.11 but should not be penalized for "incomplete" reports if this information is unavailable. Moreover, the voluntary production of this information in an accident report should not form the basis for a citation against the mine operator. If MSHA uses the reports in such a manner, it will have a chilling effect on self-incriminating disclosures in light of the potential criminal penalties under Section 110 of the Mine Act.

In addition, MSHA should support efforts to implement drug-free workplace programs and assist small mines by making model programs available through MSHA's Small Mines Office and on the website. MSHA should also consider posting links to free resources such as Alcoholics Anonymous, Narcotics Anonymous and Alanon (for family members) as these programs are extremely effective in helping alcoholics and addicts maintain recovery and, unlike programs through a company's Employee Assistance Program, do not require the miner to "self-disclose" to his/her employer in order to get assistance.

With respect to drug testing, many companies already do testing under the DOT program for individuals holding commercial driver's licenses (CDLs). I urge the agency to consider adoption of this program or to otherwise harmonize any regulatory efforts to ensure that mine operators do not have to abandon existing programs or have to deal with two competing regulatory requirements on the same issue. Moreover, MSHA should ensure that there are no conflict of law issues that could be created by any rulemaking - e.g., placing mine operators in a position that by complying with MSHA they are violating the Americans With Disabilities Act (which protects alcoholics and addicts under certain circumstances) and/or the Family and Medical Leave Act (which recognizes addiction and alcoholism as "serious illnesses" that entitle qualified individuals to up to 12 weeks of unpaid leave for treatment, with their job rights preserved during this period). There may also be collective bargaining agreements that must be considered when mandating any programs in this area.

Although the ANPRM did not list it among the questions, MSHA needs to also consider how it will address independent contractors who work sporadically on mine sites and who may not be willing to implement a full-blown program (or testing scheme) in order to perform work for fewer than 5 days at a mine. This is a complicated issue, with many legal aspects to consider, and I suggest that mine operators who have exercised due diligence in selection of contractors through a prequalification process that requires contractors to affirm that they enforce Drug-Free Workplace criteria

should be exempt from citations arising from contractor violations of 30 CFR 56/57.20001 or any future rules involving substance abuse prevention.

Finally, MSHA may want to consider reviving its tripartite Committee on Substance Abuse Prevention. As a member of the earlier Committee in the late 1980s and early 1990s, I can attest that this Committee was extremely productive in stimulating cooperative discussion and outreach by industry, labor and state mining agencies and it produced several significant work products that remain useful today for training purposes. I would be happy to again participate in such an effort if appropriate. Given the length of time that most MSHA rulemaking take to come to fruition, this may be a good supplementary approach to address issues immediately through development of guidance and supporting collateral materials.

During my testimony on November 7, 2005, I referenced a PowerPoint presentation that I presented on October 12, 2005, at MSHA's TRAM conference concerning substances abuse prevention in mining. The MSHA panel asked that I submit it for the record. Please find this PowerPoint attached hereto.

Again, thank you for the opportunity to participate in this significant rulemaking. Please let me know if I can provide any additional information.

Adele L. Abrams, Esq., CMSP
Law Office of Adele L. Abrams P.C.
4740 Corridor Place, Suite D
Beltsville, MD 20705
301-595-3520
301-595-3525 fax
www.safety-law.com

Received 11-09-05
MSHA/OSRV

Substance Abuse Prevention in the Mining Industry

Adele L. Abrams, Esq., CMSP
Law Office of Adele L. Abrams P.C.
www.safety-law.com

AB41-COMM-5-1A

Overview

- ◆ Progress has been made overall in the battle against substance abuse in the workplace.
- ◆ Smaller employers (including mining and construction industries) lag behind.
- ◆ Reason? Perceived lack of resources and administrative staff.
 - Some employers do not know where to start in putting a program together.
 - Others lack information about the true consequences of taking no position on this critical issue.

Overview

- Failure to address issue proactively makes such companies the employer of “last resort” for addicts and alcoholics.
 - Between 10 and 20 percent of the nation’s workers who die on the job test positive for alcohol or other drugs
 - Moreover, 47 percent of industrial injuries are linked to alcohol consumption and alcoholism.
 - One in seven miners has serious alcohol problem; 12.3 % used illicit drugs in past month.
- ◆ **BOTTOM LINE:** Don’t let your mine become a “work free drug place”!!!!

Substance Abuse Impact

- ◆ In addition to accident costs, substance abuse at work increases:
 - absenteeism
 - judgment errors
 - medical insurance claims, and
 - decreases employee morale and productivity.
- ◆ 25 % of construction/mining laborers and supervisors between the ages of 18 and 49 admit to illegal drug use within the past year!
- ◆ 44 % of current illicit drug users report that they work for companies with 1-24 employees, while only 13 % work for establishments with more than 500 employees.

Challenges to Prevention

- ◆ Workers cover up the impaired actions of their colleagues because of a reluctance to “narc” on buddies.
 - This can have grave consequences because if worker is too drunk or stoned to work, he is probably too impaired to drive home!
 - If management is not notified and the individual is permitted to leave the site, liability may result in the event of an accident.
- ◆ Companies must make it clear that confidentiality of “whistleblowers” will be protected.
- ◆ Companies must protect the privacy of workers who come forward voluntarily and seek help or who, post-testing, opt to enroll in a treatment program or use a company Employee Assistance Program (EAP).

Protecting Investment in Workers

- ◆ Addiction and alcoholism must be recognized as a disease, not as a moral failing.
- ◆ A draconian approach of simply firing workers because of addiction/alcoholism involves other costs, including loss of the investment in the worker's training.
- ◆ It costs less to treat an addiction than to replace a skilled employee.
- ◆ A worker who is helped into recovery by the employer will be loyal and productive.
 - U.S. Department of Labor and Hazelden suggest that reported job problems, such as accidents, absenteeism and incomplete work, are reduced 75 percent among treated employees.

Drug/Alcohol Testing

- ◆ While drug testing may not be cheap, it is essential that this be a component of the program.
- ◆ Many companies test post-accident, as this provides a legitimate basis for disciplinary action, and may offer a possible defense to worker's compensation claims).
- ◆ Certain individuals (e.g., CDL drivers) may be subject to random testing.
- ◆ Some companies test individuals who behave in a manner that suggests the worker is impaired and poses a danger to himself and others.
 - Caution: Collective Bargaining Agreements may have specific provisions on drug/alcohol testing and it is important to coordinate such programs with the union and abide by the CBA.

Supervisor Training

- ◆ Supervisors need to be informed on how to identify an addiction-related problem in advance of a catastrophic event, as well as how to get help for addicted workers.
- ◆ Workers who are suspected of being “under the influence” should be taken to a private area, and a second supervisor or witness should be present to document any action or statements.
- ◆ Senior management must be notified of these events.
- ◆ It may be necessary to suspend a worker until an investigation can take place and/or until the worker completes treatment or is evaluated by the company EAP.

Dealing with Impaired Workers

- ◆ Impaired workers should be escorted home.
- ◆ The cost of a single drug-or-alcohol related accident to the company far outweighs the price of implementing a preventative program!
- ◆ If a worker is caught possessing or dealing drugs on the employer's worksite, local law enforcement authorities should be contacted for assistance.

Developing Substance Abuse Prevention Programs

There are five basic components of substance abuse prevention programs:

1. A written policy
2. Supervisor training
3. Employee education
4. Employee assistance
5. Drug and alcohol testing

Tools for Program Development

- ◆ The U.S. Department of Labor has drug-free workplace advisor program builder e-tools aimed at helping small businesses develop appropriate programs and policies.
 - www.osha.gov/SLTC/substanceabuse/smallbusiness.html
 - <http://www.dol.gov/workingpartners/>.

Federal Laws Addressing Substance Abuse

- ◆ Two main federal laws apply to the employer's rights and obligations with respect to maintaining a workplace that is free of substance abuse, while also handling human resource issues legally.
 - *Drug-Free Workplace Act of 1988* and
 - *Americans with Disabilities Act*.
- In addition, mining/construction companies that perform work under government contracts may be subject to the requirements of the *Rehabilitation Act of 1973* (Section 503 pertains to employment of persons with disabilities, including those addicted to drugs or alcohol).

Other Federal Laws . . .

- ◆ *Family and Medical Leave Act* (and analogous state laws) may require 12+ weeks of leave to attend rehabilitation (addiction/alcoholism are considered serious diseases by the AMA)
- ◆ U.S. Department of Transportation's regulations pertaining to individuals who hold commercial driver's licenses (CDLs).
- ◆ Mine operators face enforcement sanctions from the MSHA and OSHA if they fail to protect employees by permitting individuals who are "under the influence" to work at the jobsite.

Drug-Free Workplace Act

- ◆ The Drug-Free Workplace Act requires some Federal contractors and all Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency.
- ◆ The Act does not apply to small contracts (< \$100K) nor to subcontractors or subgrantees.
- ◆ Contractors performing work in federal facilities are required to have drug-free workplace programs.
- ◆ The Act does not require, authorize OR prohibit drug testing.
- ◆ Alcohol and non-prescription drug use are exempt from the program requirements.

Drug-Free Workplace Act

To comply with the Drug-Free Workplace Act, employer must:

1. Publish policy statement to employees informing them that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace is prohibited.
2. Establish a drug-free awareness program letting employees know of the dangers of drug abuse, the policy of maintaining a drug-free workplace, available drug counseling, and EAP, and the penalties for violations.
3. Notify employees that they must abide by the policy as a condition of employment on the federal contract, AND that they must notify the employer if the employee is convicted of a workplace drug violation.
4. Notify the contracting agency within 10 days after learning that a covered employee has been convicted of a criminal drug violation in the workplace.
5. Impose a penalty on any violating employee OR require satisfactory participation in a drug abuse assistance or rehabilitation program.
6. Make an ongoing, good faith effort, to maintain a drug-free workplace by meeting the requirements of the Act.

Drug-Free Workplace Act

- ◆ The penalties for violations of the Act include:
 - Payments for contract or grant activities may be suspended.
 - Contract or grant may be suspended or terminated.
 - Contractor or grantee may be prohibited from receiving, or participating in, any future contracts or grants awarded by any Federal agency for a specified period, not to exceed five years.

Americans With Disabilities Act

- ◆ Applies to companies with 15+ employees (analogous state laws may cover smaller companies)
- ◆ Enforced by Equal Employment Opportunity Commission (EEOC) or by state human rights agencies
- ◆ Drug addiction and alcoholism are covered disabilities “affecting major life activities” BUT little case law to establish true “bright line” tests on what employers can and cannot do.
 - The case precedent may vary depending upon which Court of Appeals Circuit controls in your area.

Americans With Disabilities Act

In a nutshell . . .

- ◆ Employers may prohibit the illegal use of drugs and the use of alcohol in the workplace.
- ◆ The ADA is not violated by tests for illegal use of drugs (but remember to meet state requirements, which may differ from federal standards).
- ◆ Employers may discharge or deny employment to persons who currently engage in the illegal use of drugs.
- ◆ Employers may not discriminate against drug addicts who are not currently using drugs and have been rehabilitated or have a history of drug addiction.

Americans With Disabilities Act

- ◆ Employers may not discriminate against drug addicts who are currently in a rehabilitation program, EAPs, outpatient treatment and support groups such as NA or AA,
 - Employers must provide reasonable accommodation such as allowing time to attend such programs.
- ◆ Employers may discipline, discharge or deny employment to alcoholics whose use of alcohol impairs job performance or conduct to the same extent that such conduct would result in disciplinary action for other employees.
- ◆ Employees who use drugs and alcohol may be required to meet the same standards set for other employees.
- ◆ Individuals with a record of addiction, or who are erroneously perceived as being addicts, are covered by the ADA guidelines even if they are not actually addicts.

Rehabilitation Act

- ◆ The *Rehabilitation Act of 1973* is enforced under the same legal precedent as the ADA and covers the same conditions.
- ◆ The Rehabilitation Act requires federal contractors and subcontractors with Government contracts in excess of \$10,000, to take affirmative action to employ and advance in employment qualified individuals with disabilities.

OSHA Enforcement

- ◆ OSHA has no specific regulations addressing substance abuse on-the-job, but it has issued citations to employers whose workers had illegal drugs in their systems or were “under the influence” of alcohol during workplace accidents.
- ◆ These citations are issued under OSHA’s “General Duty Clause” (Section 5(a)(1) of the *Occupational Safety & Health Act of 1970*).

OSHA Enforcement

- ◆ Citations for violation of the General Duty Clause are issued when:
 - (1) the employer failed to keep its workplace free of a "hazard;"
 - (2) the hazard was "recognized" either by the cited employer individually or by the employer's industry generally;
 - (3) the recognized hazard was causing or was likely to cause death or serious physical harm; and
 - (4) there was a feasible means available that would eliminate or materially reduce the hazard.

MSHA Enforcement

- ◆ 56/57.20001: “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.”
 - No analogous rule for coal.
- ◆ MSHA and Appalachian States held summit in 12/04 to consider:
 - Employer responses to substance abuse situations
 - The miners’ experience.
 - Creation of a drug-free workplace
 - Government’s role in substance abuse
 - Role of workers’ compensation carriers, and
 - Priority setting for the mine substance abuse task force and integrated efforts among government, industry, labor and community resources.

MSHA Enforcement

- ◆ MSHA does not keep data on mine accidents involving alcohol drugs but cited 75 violations of 56/57.20001 in past 5 years.
 - 19 % of nation's workforce who die on the job test positive for alcohol and other drugs (BLS data)
 - 10% of fatal work injuries, 5% of non-fatal work injuries involve acute alcohol impairment.

MSHA Enforcement

- ◆ On December 12, 1995, a dredge operator was fatally injured when he fell from a work boat into 14 feet of water and drowned. The autopsy report showed the victim's blood contained 0.20% ethyl alcohol. The employee was intoxicated at the time the accident occurred and management permitted him to work while under the influence.
- ◆ A maintenance man was fatally injured at this operation on February 1, 1999, when he was crushed while dismantling a crane boom in order to insert a section to extend the length. The toxicology report indicated the victim was impaired and under the influence of cannabis at the time of the accident.



MSHA Enforcement

- ◆ The mine operator was fatally injured at this operation on July 23, 1998 in an accident involving a water truck he was operating. Medical tests indicated alcohol levels in the victim exceeded the legal limit permitted to operate a motor vehicle.
- ◆ In 1997, the operator of truck was sitting or lying in the drift about ten feet from the truck, waiting for the loader operator to return from the shop to load his truck. The truck driver, not seen by the operator of loader, was fatally injured when he was run over by the returning loader. A partially consumed bottle of vodka was found in his lunch cooler.
- ◆ A haul truck operator was fatally injured on 12/24/95. The truck operator was crushed between a rib on the 6385 level ramp and the truck he was operating. The rear wheel of the truck then ran over the victim. Test results revealed a blood alcohol content of .258, indicating that the victim was intoxicated.



State Laws Impacting Drug-Free Workplace and Drug-Testing Issues Kentucky, Virginia and West Virginia

State	Unemployment Compensation (UC)	Workers' Compensation (WC)	WC Discounts	Drug-Free Workplace Act	Mine-related	Medical Examinations
KY	Disqualification for misconduct, including reporting to work "under the influence" or consuming alcohol or drugs at work. <i>Note: How determined is not specified; drug testing not mentioned.*</i>	Denied if "intoxication" is the "proximate cause" of injury, death or disease. <i>Note: Doesn't specify whether intoxication can be from either illicit drugs or alcohol. How "causation" is determined is not specified; drug testing not mentioned.*</i>	None available	None	Entering a mine property "under the influence" or intoxicated by alcohol or drugs is prohibited.* Alcohol and drugs prohibited in/about mines – private vehicles exempted.	N/A
VA	Disqualification if discharged for confirmed positive drug test; performed according to employer policy and using certified lab.** Disqualification during any week of a positive pre-employment drug test. <i>Note: Not tied to "misconduct" or intoxication.</i>	Denied if injury caused by "intoxication" or use of illicit drugs. Positive drug test or .08 BAC creates a rebuttable presumption of intoxication. <i>Note: Positive drug test doesn't necessarily indicate causation and "rebuttable presumption" doesn't apply to causation.</i>	5% discount for drug-free workplace programs (DFWP). <i>Note: What constitutes a DFWP is not defined but rather left to WC insurance carrier (so can vary).</i>	Those with State contracts over \$10,000 must have a DFWP and include such provisions in subcontracts. <i>Note: Does not specify requirements for DFWP other than simple "prohibition" against "unlawful manufacture, sale, distribution, dispensation, possession or use." Drug testing not mentioned.</i>	No specific mining-related drug laws identified.	Employers cannot require employees to pay for required medical exams. <i>Note: Doesn't specify whether drug tests are considered a medical exam.***</i>
WV	Disqualified if discharged for misconduct related to being "under the influence" or "intoxicated" at work. <i>Note: Implies but doesn't specify that intoxication could be due to either alcohol or drugs (controlled substance); How intoxication is determined is not specified; drug tests not mentioned.*</i>	Denied if "intoxication" is cause of death/injury. Employer authorized to do blood tests if reasonable suspicion exists. <i>Note: Doesn't specify whether intoxication can be from either illicit drugs or alcohol. Blood test doesn't measure intoxication level.</i>	None available	None	Surface mine inspectors can be removed from office for drunkenness. <i>Note: Doesn't specify how that is determined; doesn't apply to illicit use of drugs.</i>	Employers can't require employees to pay for required medical exams. <i>Note: Doesn't specify whether drug tests are considered a medical exam.***</i>

*Drug tests show recent use; they do not show whether someone is currently "intoxicated" or "under the influence."

** Multiple acceptable certifying bodies (including, but not limited to HHS/SAMHSA, College of American Pathology, or American Association for Clinical Chemistry)

***The Americans with Disabilities Act (ADA) does not consider drug tests to be a medical exam, though other laws (e.g., HIPAA) do.

MSHA Rulemaking

- ◆ MSHA has initiated rulemaking to consider regulatory and non-reg approaches to address use & impairment from alcohol and drugs.
- ◆ Comment deadline is November 27, 2005 (text is in Oct. 4th Fed. Reg.)
- ◆ Seven public hearings set:
 - Oct. 24, Salt Lake City, Utah
 - Oct. 26, St. Louis, Missouri
 - Oct. 28, Birmingham, Alabama
 - Oct. 31, Lexington, Kentucky
 - Nov. 2, Charleston, West Virginia
 - Nov. 4, Pittsburgh, Pennsylvania
 - Nov. 8, MSHA headquarters, Arlington, Virginia

MSHA Rulemaking

Comments sought on:

- ◆ Nature, extent and impact of problem;
- ◆ Whether standard should be established for coal (and whether M/NM standard should be changed);
- ◆ What should be prohibited and how should impairment be determined;
- ◆ What training requirements should be mandated – and what are operators doing now in terms of substance abuse training;
- ◆ Should 50.11 require mine operators to address drug/alcohol use as part of accident investigation; and
- ◆ What drug-free workplace programs are in place currently at mines, and what data demonstrate effectiveness (cost/benefits) of programs.

DOT Rules for Commercial Drivers

- ◆ *Omnibus Transportation Employee Testing Act of 1991* requires drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines and other transportation industries.
- ◆ The rules apply to operators of commercial motor vehicles, both intrastate and interstate.

DOT Rules - CDL

- ◆ DOT publishes rules on who must conduct drug and alcohol tests, and these are codified at 49 CFR Parts 40 and 382. See http://www.dot.gov/ost/dapc/odapc_faq.html for answers to common questions.
- ◆ Required tests include pre-employment/pre-duty, reasonable suspicion, random, post-accident, and return to duty.
- ◆ “Commercial Motor Vehicle” means a motor vehicle used in commerce to transport passengers or property if the vehicle
 - Has a gross combination weight rating of 26,001 or more pounds, or
 - Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation and which require the motor vehicle to be placarded.

DOT Rules - CDL

- ◆ The critical program element will be to test drivers in positions that require the driver to drive CMVs and perform attendant safety-sensitive functions.
- ◆ Employer must formulate controlled substances and alcohol policies, communicate them to CDL drivers, and conduct testing.
- ◆ The goals of these activities are to enhance worker productivity and safety and ensure positive acceptance of the program.

DOT Rules - CDL

The DOT's FMCSA regulations require that the following program elements be implemented or updated:

- ◆ A policy statement on controlled substances use and alcohol misuse in the workplace
- ◆ Supervisor education and training program
- ◆ A controlled substances and alcohol testing program for persons, used in duties requiring the driving of CMVs
- ◆ Evaluation of the driver who has violated the controlled substances and alcohol regulations
- ◆ Administrative procedures for recordkeeping, reporting, releasing information, and certifying compliance

DOT Penalties

- ◆ Penalties are assessed administratively by the FMCSA for violations of parts 382 and 40 and administrative orders may be issued to bring about satisfactory compliance.
- ◆ The maximum amounts of civil penalties that can be assessed for regulatory violations are established in the statutes. The determination is based on defined limits and consideration of information concerning the nature, circumstances, extent and gravity of the violation, degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, etc.
- ◆ Criminal penalties may be sought against a motor carrier (employer), its officers or agents, a driver, or other persons when it can be established that violations were deliberate or resulted from a willful disregard for the regulations.
- ◆ Criminal penalties may be sought against an employee only when a causative link can be established between knowing and willful violation and an accident or the risk thereof.

FMLA Requirements

- ◆ *Family and Medical Leave Act (FMLA)* permits workers to take reasonable unpaid leave for certain family events and medical reasons.
- ◆ The Wage and Hour Division of the U.S. Department of Labor enforces the FMLA.
- ◆ FMLA provides that employers with 50 or more employees must allow employees who worked at least 12 months and 1,250 hours to take up to 12 weeks of unpaid leave to care for their own serious medical condition, which renders them unable to perform essential job functions.

FMLA Requirements

- ◆ Workers exercising FMLA leave have their jobs protected, which means that the employees cannot be fired while on leave or retaliated against for requesting leave and further, and they must be given the same job or a similar job when they return.
- ◆ The employer must continue group health insurance benefits during the employee's leave on the same terms that it provided them when the employee was working.
- ◆ The FMLA interfaces with substance abuse issues because an employee's decision to seek in-patient treatment for alcoholism or drug addiction qualifies as treatment for a "serious medical condition."

FACTS About Substance Abuse

- ◆ **FACT:** The majority (74 percent) of current (past month) illicit drug users 18 or older are working either full-time or part-time.
 - This means that 12.4 million drug addicts are actively employed in the workplace, with the highest percentage working in the construction industry.
- ◆ **FACT:** The job classification with the highest rate of active drug use (17.2 percent) and illicit drug use within the past year (25.9 percent) is "Construction Supervisor." An additional 13 percent of supervisors admit to current heavy alcohol use.
 - That means the unsafe and negligent actions of the drug-using supervisor will be directly imputed to the employer for purposes of tort liability and MSHA/OSHA enforcement actions, because those individuals are considered "agents" of management.

FACTS About Substance Abuse

- ◆ **FACT:** Drug users at a minimum consume almost twice the medical benefits as nonusers, are absent 1.5 times as often, and make more than twice as many workers' compensation claims.
- ◆ **FACT:** Positive drug test rates are INCREASING in certain areas (Oregon has 6.9% positive test rate in 2005 – up 18% in job applicants)
- ◆ **FACT:** Although marijuana is most-detected drug, methamphetamine is growing fastest (positive test rate up 15% between 2003 and 2004).

Conclusion

- ◆ Accidents and injuries create severe hardships, not just for the victims, but also for the employer.
- ◆ A serious drug/alcohol related incident can shut down a small operation due to the financial impact from litigation.
- ◆ There is clear evidence that utilization of a substance abuse prevention program will ultimately save lives of the substances abusers and those they work with.
- ◆ Don't let your company be the employer of choice for active drug addicts and alcoholics!

QUESTIONS?

Adele L. Abrams, Esq., CMSP

301-595-3520

safetylawyer@aol.com