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Sent: Tuesday, September 30, 2008 3:04 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219-

To Whom It May Concern:

Thank you MSHA for this rule on Alcohol- and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance and for the opportunity to comment. We are a small mining company with a current policy in place and are providing the following comments.

Section 66.202 Education and Awareness Program for Nonsupervisory Miners

We believe that 60 minutes initial training and 30 minutes annual refresher training is excessive. Sufficient information is available on substance abuse where 30 minutes initial training augmented with handouts would adequately cover the training provision for initial training. Regarding annual retraining there can be a segment on substance abuse with updated handouts. The annual refresher is filled with many safety topics to cover in 8 hours. If every topic required 30 minutes the 8 hours refresher would be inadequate. MSHA should make this a requirement in the training plan without a time stipulations.

Section 66.204 Miner Assistance Following Admission of Use of Prohibited Substances

We believe in zero tolerance as the best practice for the safety of all miners and feel that this section should indicate that it applies only to miners following admission of use of prohibited substances. Furthermore, this provision cannot be used as a defense to a required test.

Section 66.306 Post-accident Testing

It is necessary for all accidents to be included. There are accidents that are not reportable to MSHA that should fall under the rule. For instance, a haul unit driver that hits power lines however, does not get hurt, should be tested. Other incident with a loader operated hitting vehicles. We propose that any accident with injury or property damage would be subject to the rule.

Section 66.402 Substantiating Legitimate Use of Otherwise Prohibited Substances

It is important that the rule does not allow miner to perform safety-sensitive jobs while using prohibited substances even if authorized by a physician. The concern is not just the abuse of the legitimate prohibited substance but also the fact that the correct use may impair the miner. There are prescription and non-prescription drugs that contain warnings not to operate machinery while used. We are very concerned that the rule established to protect all miners does not adequately address this issue.

Section 66.403 Operator Actions After Receiving Verified Test Results

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Our mine has a zero tolerance policy. We are concerned for the safety of all miners first. We understand that there is value in an experienced miner but feel strongly that a second chance can lead to another accident. Statistics show that relapse rates are high. MSHA should leave it up to the mine operator to determine the actions after receiving verified test results.

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