



**SCOTT'S CONTRACTING  
& STONE, LLC**

2914 Wilson Blvd. #200  
Arlington, VA 22209

Phone: 703-333-9334  
Fax: 703-333-9339

www.scottsc contracting.com

September 30, 2008

**Mine Safety & Health Administration**  
Office of Standards, Regulations and Variances  
1100 Wilson Boulevard - Room 2350  
Arlington, VA 22209-3939

Subject: RIN 1219-AB41

\*Comment on MSHA's proposed rule on Alcohol & Drug Free Workplace

To Whom it May Concern:

I would like to make a few comments and recommendations regarding the proposed rule on Alcohol and Drug-Free Workplace for the mining industry.

Comments

First of all, I am glad to see that MSHA is putting more emphasis in the area of drugs & alcohol in the workplace. I have no objection to a rule/regulation that requires "a written policy, employee education, supervisory training, & alcohol and drug testing". I do disagree with most of the Evaluation & Referral section

Our company has a Zero Tolerance policy pertaining to Drug & Alcohol use. We have several employees who have CDL's and fall under the D.O.T. requirements . . . however ALL of our employees are included in our Drug & Alcohol Free policy. The policy includes pre-employment testing, random testing, post-accident testing, reasonable cause testing, return-to-duty testing as well as D.O.T. testing for CDL Drivers. A positive drug/alcohol test results in immediate termination.

We typically utilize a "rapid test" for all non-D.O.T. required drug tests. There are many products currently available that allow you to conduct your own drug and alcohol tests and get results within minutes. This is convenient, fast and cost effective. The D.O.T. actually uses the same type of "rapid test" at weigh stations along the interstate. Hospitals, clinics and most drug test collection sites also utilize this type of "rapid test" for non-D.O.T. testing. A 5-panel urine drug screen "rapid test" costs about \$5 . . . the same test done by a "certified collection site" and "certified Lab" costs between \$50 and \$100 . . . not counting the time and expense that each miner would spend off the job, traveling to and from the collection site.

If an employee tests positive on one of the "rapid tests", our policy includes a provision that allows employees to have a confirmation drug/alcohol test done by a certified lab. If the confirmation test is negative . . . no-harm, no-foul. If the confirmation test is positive, the employee is terminated.



SCOTTY'S CONTRACTING  
& STONE, LLC

2000 Kuylen Ave. E.  
PO Box 4090  
Eugene, Oregon, OR 97402

Phone: 270-793-7227  
Fax: 270-793-7229

www.scottyscontracting.com

Recommendations:

- Limit the list of prohibited substances to illegal or illicit drugs (SAMHSA-5). Testing for all of the 'prescription' drugs would increase the cost of the tests substantially. Testing for illegal drugs is already complicated enough without introducing substances that require even more verification of prescriptions, etc.
- Allow mine operators to utilize commercially available "rapid tests" for conducting drug & alcohol tests. Certified labs should only be required for confirmation testing.
- Don't require the mine operator to provide a 'second chance' to a miner that tests positive. The mine operator (employer) should determine disciplinary consequences (up to and including termination) for violations of the alcohol/drug-free policy. Employers should not be *required* to continue employing individuals that test positive for drugs or alcohol.

If you have any questions about our policy, or if you would like additional information, please do not hesitate to contact me.

Sincerely,

Doug Vernon

*Safety Director*

Office: 270-793-7227

Mobile: 270-783-1435

e-mail: [doug@scottyscontracting.com](mailto:doug@scottyscontracting.com)