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Alcohol-and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

Comment On: MSHA-2008-0014-0001
Alcohol- and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

Document: MSHA-2008-0014-DRAFT-0028
Comment from Richard Cohn, Ph.D., DrugScan, Inc.

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General Comment

Comments RIN 1219-AB41
Notice of Proposed Rulemaking
30 CFR Parts 56, 57, and 66
Alcohol and Drug-Free Mines:
Policy, Prohibitions, Testing,
Training & Assistance

Attachments

MSHA-2008-0014-DRAFT-0028.1: Comment from Richard Cohn, Ph.D., DrugScan, Inc.

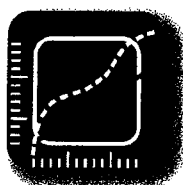
AB41-COMM-77

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Notice of Proposed Rulemaking

30 CFR Parts 56, 57, and 66

**Alcohol and Drug-Free Mines:
Policy, Prohibitions, Testing,
Training and Assistance**



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30 CFR Part 66.300

The proposed rule under subpart (f) mandates testing at a HHS /SAMHSA certified laboratory complying with the 49 CFR Part 40 requirements. Additionally, MSHA proposes certification by the College of American Pathology (CAP) predicated on the additional five substances identified 30 CFR Part 66.301 that are not included in the Part 40 protocol.

The HHS / SAMHSA certification is recognized as the most stringent, detailed, rigorous process for assuring laboratory proficiency and accuracy through its bi-annual inspection process. Every HHS / SAMHSA certified laboratory presently conducts testing beyond the current Part 40 substances in a Non Federal testing environment. Additionally, HHS / SAMHSA certified laboratories undergo submissions of both Federal and State proficiencies further confirming the accuracy and proficiency of the laboratory protocols and safeguards.

The proposed rule mandates an additional certification that burdens the present HHS / SAMHSA certified laboratories with added expense, scrutiny, and inspections into a limited laboratory market currently operating under intense regulatory oversight. Presently there are forty-two HHS / SAMHSA laboratories. Smaller HHS / SAMHSA laboratories may not seek the added expense of the CAP certification thereby limiting the available testing laboratories to the MSHA's 340,410 mining population.

Proficiency testing currently instills the added safeguards necessary to assure HHS / SAMHSA laboratories accuracy and proficiency. Proficiency testing meets the objective burden in routinely subjecting laboratories to reporting accurately and in compliance with mandated regulations.

This commenter suggests proficiency testing through the College of American Pathology (CAP) to meet the added demands of testing Barbiturates, Benzodiazepines, Methadone, Propoxyphene, and the Synthetic / Semi -synthetic Opioids as proposed in 30 CFR Part 66. Accuracy and proficiency as depicted in the proposed rule is successfully achieved and monitored through a successful proficiency testing program.

Placing additional certifications on the present HHS / SAMHSA regulated labs is burdensome, costly, and overkill which likely will reduce the number of available HHS / SAMHSA laboratories participating in the MSHA testing program should they not seek the CAP certification.

Respectfully submitted,

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