
From: Gamble,Jacci [mailto:jgamble@concocompanies.com]
Sent: Monday, September 29, 2008 3:53 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219-AB41 -- Alcohol & Drug-Free Mines: Policy, Prohibitions, Testing, Training and Assistance Comments [Scanned]

The basis of the ruling that compares to the DOT ruling is not in question. As stated in the summary, Conco does NOT object to having "an established alcohol and drug-testing mine program, which includes a written policy, employee education, supervisory training, alcohol and drug-testing." Conco Quarries already has this program in place for ALL employees because we believe that ALL employees work in "Safety-sensitive jobs."

However, Conco Quarries does object to the ruling stating that the first offense an employer must continue employing the employee that tested positive.

Our company has had a consistent drug/alcohol policy since 1994 that is consistent with the DOT ruling and includes all Conco employees—DOT, non-DOT, Miners, non-miners, office workers and management. All are treated equally. If an employee that has a drug/alcohol issue come forward to management and requests counseling and help for the problem, the company is willing to provide the help needed, without termination, as long as the employee follows all the determined counseling and drug testing required.

HOWEVER, if there is a random drug test and any employee tests positive for drugs/alcohol (.08 or higher), the employee is immediately terminated. All four unions that have Miners at Conco Quarries-- Teamsters, Laborers, Operators and Boilermakers have never had a problem with this policy and; in fact, all employees appreciate knowing that their safety is not put into jeopardy or compromised with a "lukewarm" approach to drugs/alcohol and safety in the workplace.

WHY would the government, specifically the Mine, Safety and Health Administration, want to put a regulation in place that penalizes companies and employees that already have a strong Drug/Alcohol in place and working well????

If this proposed rule is passed as written, Conco Quarries and many other companies that do have a "SAFETY FIRST! SAFETY ALWAYS!" policy and work ethic will have to revise and "water-down" our company policy for drug/alcohol offenders and give them a second chance. In II. Background, the first sentence states "The Mine Act expressly states that the health and safety of the miner is the first priority and concern of all in the coal or other mining industry. The prevention of deaths and serious injuries from unsafe and unhealthful conditions and practices in the coal or other mines continues to be one of the many priorities of the Act." We do NOT want to put our quarry families at risk of this potential unsafe behavior being repeated. For the quarries that work hard to have a safe working environment and already have a very good Drug/Alcohol policy in place, and when MSHA states right in your rule that health and safety should be the first priority, why would MSHA write into that rule a "loophole" for encouraging unsafe behavior?

As stated in IV. Section-by-Section Discussion, paragraph 5, "The proposed rule would require mine operators, at a minimum, to remove those miners who violate the prohibitions from the performance of safety-sensitive job duties until the miner completes the recommended treatment and their alcohol- and drug-free status is confirmed by a return-to-duty test. Although the proposed rule requires mine operators to provide one opportunity for those violating the rule to get help and retain their job, it leaves it to the mine operator to determine the disciplinary consequences for subsequent violations."

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Conco Quarries respectfully requests the sentence highlighted in red be ELIMINATED from this ruling, as well as any other references to providing one opportunity for those violating the rule.

If you have any questions about our policy, please call me at 417-742-3521 or email me at jgamble@concocompanies.com.

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