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Sent: Thursday, October 02, 2008 1:16 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219-AB41

Comments relating to the Proposed Rule regarding Alcohol and Drug Free Mines: Policy, Prohibitions, Testing, Training and Assistance:

Our Organization currently has a very rigorous drug and alcohol policy which follows the guidelines set forth by the Department of Transportation. We have all miners at our facilities covered by this policy. Areas of comment regarding the proposed rule include:

Proposed rule requires a pre-employment alcohol test, which we feel is not beneficial unless the employee is to start work the same day. The requirement for pre-employment alcohol testing is similar to what DOT originally drafted in their regulation, but later changed and did not require.

Proposed rule requires 60 minutes of training on the drugs and alcohol prior to the employee starting work and then 30 minutes a year there after. The initial training should contain a 15-30 minute requirement and the annual training should require 15-30 minutes. This would be sufficient time in our opinion to cover these topics.

Proposed rule requires first time offenders to be given one chance at their own expense to seek treatment through a SAP prior to termination. Our policy now for both DOT covered and non-DOT (includes miners) covered employees is that probationary status employees can be terminated and regular status employees might be given the option for treatment. Our recommendation is that probationary status employees (employees not employed for 90 days) not be given the option for treatment. We believe the requirement to offer probationary status employees evaluation and treatment causes an undue hardship on the employer for an employee who has made it thru the standard probationary period of employment. We also believe that a regular status employee should be given the option at the discretion of the employer as long as this is spelled out in the employers employment policy. In most cases, where there are no other employment issues, we do offer the employee this time to go seek evaluation and treatment at their own expense. This option for treatment needs to be left to the discretion of the employer.

The other major change we see is that the proposed rule requires testing for 10 different drugs rather than the 5 panel that DOT requires. This 10 includes prescription medications, which we can see benefit to testing. Our concern lies with how we will incorporate several requirements, i.e.. DOT and MSHA, into our testing program without over complicating the process and record keeping.

Overall, the DOT program has worked well for our organization and we would recommend that the new MSHA rule mirror the DOT rule as closely as possible.

Thank you,

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