

From: Norris Aggregate Products Company

Date: 10/8/08

Subject : Alcohol and Drug Policy / RIN 1219-AB41

Norris Aggregate Products Co. does not object to MSHA's new drug testing program, which includes employee education, supervisor training, and a written policy. Norris does however, object to specific provisions included in the proposed rule.

Primarily, we object to the provision that requires a mine operator to keep an individual employed that has tested positive for drugs or alcohol. Many companies already have a "zero tolerance" policy in place and this would discount those policies. To make matters worse, the rule stipulates that a miner be returned to a safety-sensitive job if he or she adheres to an education and treatment program and tests negative on all follow up testing. This will give a miner a free pass for a first time offense, which is a dangerous policy when it involves any individual that is at risk for substance abuse.

Norris also objects to being restricted to using breath testing for alcohol and urine testing for drugs at this time. Sampling of oral fluids is another accepted test method. MSHA says its intent is to allow alternative test procedures that are approved by the Department of Health and Human Services in the future, but the timeliness of such approval is unknowable.

MSHA also specifies that only laboratories certified by the College of American Pathologists as well as the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration are qualified to conduct drug testing. There are, however, only six labs that meet these MSHA requirements. During a possible long wait time for test results due to lab backlogs, small mine operations are likely to have difficulty finding non-safety-sensitive duties for an employee tested under post-accident or reasonable suspicion circumstances.

We appreciate your consideration of these comments.

AB41-COMM-56



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COMMENTS Comments on Drug and Alcohol Policy.

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