
From: Terry Newton [mailto:tnewton@nelbro.com]
Sent: Thursday, September 11, 2008 10:58 AM
To: zzMSHA-Standards - Comments to Fed Reg Group
Cc: Jeff Minor; Marty Petrunyak; Sharon Christian
Subject: Proposed Rule RIN 1219-AB41

Please accept the following as comments on the proposed drug testing rule.

1. Our Company, Nelson Brothers, LLC, is in the **explosives** business. We provide explosives and blasting services to surface coal mines and quarries. **We cannot take the risk of giving "second chances"**. Our current substance abuse policy calls for an employee to be immediately terminated for a positive test. I would recommend that the Department consider giving the employer the flexibility to take more severe action (like termination) rather than it be mandatory that a second chance be given.
2. In addition to conducting individual random testing, we currently conduct random "unit" tests. A "unit" test is when you test an entire work site. We have small groups of employees (4-25) at various mines and on occasion, will test a particular mine. I did not see that option in the proposed rule. I would like to continue to have the ability to test "units".

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