

**TO: DEPARTMENT OF LABOR
(MSHA)**

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REFERENCE: RIN-1219-AB41

**FROM: LENTZ SAND & GRAVEL, L.L.C.
MINE ID #'S 03-01799 & 03-01416**

IT'S A CRIME TO DRIVE A CAR WHILE IMPAIRED BY ALCOHOL OR DRUGS AND A FATAL ACCIDENT CAUSED BY THE DRIVER COULD BE JUDGED AS MANSLAUGHTER. WHY NOT TAKE SOME OF THE BURDEN OFF OF THE EMPLOYER AND PLACE IT ON THE MINER TO STAY DRUG AND ALCOHOL FREE. WE CAN'T AFORD TO TEST MINERS EVERY DAY, AND THE EMPLOYER NEVER KNOWS FOR SURE IF THE MINER IS IMPAIRED.

IT SHOULD BE AT THE DISCRETION OF THE EMPLOYER TO TERMINATE A MINER FOR USING ALCOHOL OR DRUGS ON THE MINE SITE WHILE IN A SAFETY-SENSITIVE JOB DUTY. IF THE MINER COMES TO HIS EMPLOYER AND ASKS FOR HELP THEN THE EMPLOYER SHOULD ASSIST THE MINER. WE HAVE TWO (2) SMALL SAND PLANTS AND CAN'T AFORD TO TAKE A MINER BACK AFTER TREATMENT. THE JOB HAS TO BE FILLED AT ONCE. CONSIDERATION FOR THE SMALL MINES IN THIS AREA OF THE RULE WOULD BE APPRECIATED.

**MIKE MCCARTHY
SAFETY DIRECTOR**

AB41-COMM-35