

PUBLIC SUBMISSION

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Alcohol-and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

Comment On: MSHA-2008-0014-0001

Alcohol- and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance

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Comment from Shawn Young, Southern Ute Growth Fund

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General Comment

The proposed regulation references the U.S. Department of Transportation's requirements under 49 CFR part 50, Procedures for Transportation Workplace Drug Testing Programs. The preamble to the proposed rule (p. 52150) states the process for removal, referral, and potential return to work has been modeled on the provisions of the DOT rule. Despite this reference, a significant departure has been taken in 66.400(b) where mine operators are prohibited from terminating miners who violate the mine operator's policy for the first time. The DOT rule allows employers the option to terminate. Such a restriction would be too confining for employers and takes away the employer's right to do what is in the best business interest of the company.

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