



October 24, 2005

MSH Standards, Regulations and Variances  
1100 Wilson Blvd., Room 2350  
Arlington, VA 22209-3939

The Kentucky Crushed Stone Association, Inc. supports MSHA's determination that substance abuse in mining (as in all working environments) represents a hazard to both the impaired worker and to anyone that their work may impact. As such, employers must recognize the dangers of passively accepting the elevated risks that result from a failure to control employees who abuse or misuse alcohol or illicit drugs.

To that end, our association has made substance abuse an agenda item in our annual winter safety seminars and has given the topic special emphasis in each of the past three years. Our members support this proactive approach of educating miners. Therefore, we applaud MSHA for its efforts to bring quality information into the industry that both educates and reinforces the virtues of the drug-free workplace.

We wholeheartedly understand MSHA's desire to strengthen the coal standards by bringing those miners under the same level of protection that Metal/ Non-metal miners are provided under 30 CFR 56 20001. This action would ensure that all of the nation's miners would have equal protection under the same rule. Further, it would elevate miners to a level above all but those transportation workers whose jobs have the greatest impact to the safety of the general public.

After much consideration, it is the opinion of the KCSA that it would be imprudent at this time for MSHA to propose a rulemaking that goes beyond the current Metal/ Non-Metal standard.

The merits of drug testing are well documented and as such, nearly all moderate to large scale producers have already instituted these programs so as to take advantage of such benefits as lower absenteeism, controlled losses and insurance incentives. Each of these companies has structured substance abuse programs based on their individual experience and organizational needs. Any new rulemaking that would force these companies to abandon or restructure their existing programs would put an undue burden on responsible producers without offering any added benefit to their employees.

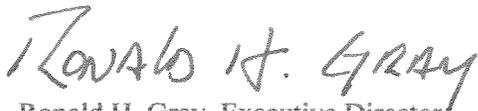
Moreover, small producers (due to the scarcity of their administrative resources) will bear the brunt of such rulemaking. MSHA already has two highly effective tools for promoting working environments free from the hazards that substance abuse brings. The EFS (Educational Field Services) and the Small Mines Office are both poised to bring the necessary information to the places where it is needed most.

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A further problem for MSHA (if it chooses to develop more far reaching standards than the ones that are currently in place) lies with independent contractors. How reasonable is it for MSHA to require each contractor to develop and enact a drug and alcohol policy to comply with this new regulation before beginning work on mine property?

We fervently hope that MSHA continues its efforts to address the hazards that are posed by the abuse of drugs and alcohol by miners through education and enforcement of the current standard. As an association, we will continue to support such proactive initiatives from MSHA and will convey all pertinent information for our members to use in developing the safest possible working environments.

Sincerely,

A handwritten signature in black ink that reads "Ronald H. Gray". The signature is written in a cursive, slightly slanted style.

Ronald H. Gray, Executive Director  
Kentucky Crushed Stone Association, Inc.