



Drug and Alcohol Testing Industry Association
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October 14, 2014

Dr. David Michaels
Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210
Re: OSHA Docket No. OSHA-2013-0023 and RIN 1218-AC49
Proposed Rules to Improve Tracking of Workplace Injuries and Illnesses
79 Fed. Reg. 47605, August 14, 2014

Following are the comments of the Drug & Alcohol Testing Industry Association (DATIA) on the OSHA NPRM regarding rules to improve tracking of workplace injuries and illnesses. DATIA is a 1,500+-member industry trade association representing the full spectrum of drug and alcohol testing providers including laboratories, collection sites, C/TPAs, BATs, MROs, SAPs, employers, and testing device manufacturers. DATIA's mission includes working closely with key policy makers in Federal Agencies and in Congress to ensure that the interests of the industry are heard and taken into account when changes to drug-free workplace rules are proposed. DATIA works to ensure that these changes provide for safe and effective drug-free workplaces. DATIA further works to educate the industry on current standards of service and regulatory policies and procedures. DATIA's comments on behalf of its constituency are based upon input from DATIA's members, Legislative & Regulatory Committee, and Board of Directors.

DATIA actively supports initiatives to promote drug-free workplaces thereby increasing workplace safety. According to the OSHA website, "With the Occupational Safety and Health Act of 1970, Congress created the Occupational Safety and Health Administration (OSHA) to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education and assistance." Drug-free workplaces are a key component in creating safe and healthful working conditions, however, new changes included in the August 14, 2014 amendment seriously threaten the ability of employers to maintain a drug-free workplace.

In the August 14, 2014 amendment OSHA proposed that employers be prohibited from requiring employees to submit to drug testing following the report of a workplace injury (including post-accident testing). Post-accident testing is a key component of effective drug-free workplaces. Employees who test positive for marijuana use have 55% more industrial accidents and 85% more injuries, according to the U.S. Dept. of Health and Human Services (HHS). In a recent study conducted by DATIA and the Society for Human Resource Management (SHRM), data showed that employers with high workers compensation incidence claims after accidents decreased by more than half (57%) after implementing a drug testing program. Also, According to the Substance Abuse and Mental Health Services

Administration (SAMHSA) approximately 40% of all Workers Compensation claims are related to substance abuse. This data shows the positive impact that drug and alcohol testing has on fostering a safe and healthful workplace.

In addition, post-accident drug and alcohol testing is a requirement of many workers compensation insurance programs, union contracts, state subcontractor contracts, and federal regulations for safety-sensitive employers to name a few. Should OSHA move forward with the regulation prohibiting employers from conducting a drug and alcohol testing following an injury that also qualifies as an accident, it will result in a more dangerous workplace, contract complications for a majority of employers, and mass confusion for employers that must comply with both OSHA regulations prohibiting such testing and other federal regulations (i.e. Department of Transportation) explicitly requiring post-accident testing.

DATIA thanks OSHA for the opportunity to provide comments on the NPRM. Given that both DATIA and OSHA work to ensure safe and healthful workplaces, we cannot support the portion of the proposed rule prohibiting post-injury drug and alcohol testing. Please feel free to contact me if you would like to further discuss any of the preceding comments.

Sincerely,

A handwritten signature in black ink that reads "Laura E. Shelton". The signature is written in a cursive style with a large initial "L" and "S".

Laura Shelton
Executive Director