

DRUG TESTING

Block OSHA from Prohibiting Post-Accident Drug Testing (Injury and Illness Reporting Rule)

Action Needed:

In the House, sign on to the letter by Congressman Phil Roe (R-Tenn.) opposing OSHA's attempt to restrict post-accident drug testing. Urge OSHA to reconsider its unjustified position against post-accident drug testing.

Background:

- OSHA issued a final rule requiring employers to publicly and electronically report workplace injuries. The rule also suggests that the risk of employer retaliation against workers for reporting injuries is so great that there must be a limitation of post-accident drug testing as a means to determine whether drugs or alcohol was a factor. This could have a chilling effect on deterring employee use of drugs on the jobsite.

AGC Message:

- **The Rule Could Enable Employee Use of Drugs on Construction Sites.** The rule suggests that post-accident drug testing could be considered a practice that would discourage employees from reporting work-related injuries or illnesses. However, nothing can be further from the truth. While OSHA states that the final rule does not ban employee drug and alcohol testing, the rule is already causing employers to rethink their drug testing program despite its effectiveness.
- **Construction Contractors And Unions Agree On The Need For Drug Testing Of Employees.** Construction is not office work. Even the most innocent mistake can result in serious bodily injury and death. One employee's drug use can expose many others to harm. As such, labor unions and construction contractors across the country include provisions for post-accident drug testing in their collective bargaining agreements.
- **The Rule was Crafted Outside the Regulatory Process, without Stakeholder Input.** The rulemaking process was controversial and OSHA failed to solicit comments on post-accident drug testing when the rule was proposed. The process they chose didn't allow input from stakeholders and even failed to recognize that employers and unions have historically permitted post-accident drug testing in their collective bargaining agreements. Further, OSHA has not cited any data that validates OSHA's controversial position that these drug policies deter injury and illness reporting by employees.