

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF LABOR,
MINE SAFETY AND HEALTH ADMINISTRATION
AND THE
U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT

I. Purposes

The purposes of this Memorandum of Understanding (MOU) are to specify bases for coordination between the Bureau of Land Management (BLM) and the Mine Safety and Health Administration (MSHA) and to foster the communication of information on geological conditions or mining practices that impact the health and safety of miners at underground coal mines on Federal and Indian lands.

II. Statutory and Regulatory Authorities for Underground Coal Mines

The MSHA:

1. The Federal Mine Safety and Health Act of 1977, as amended (the Mine Act) (30 U.S.C. § 801 *et seq.*).
2. Code of Federal Regulations, Title 30 Parts 1-199.

The BLM:

1. The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. § 181 *et seq.*).
2. The Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. §§ 351-359 *et seq.*).
3. The Federal Land Policy and Management Act of 1976, October 21, 1976 (43 U.S.C. § 1701 *et seq.*).
4. The Surface Mining Control and Reclamation Act of 1977, August 3, 1977 (30 U.S.C. § 1201 *et seq.*).
5. Code of Federal Regulations, Title 43 Parts 3400-3480.
6. Code of Federal Regulations, Title 25 Part 211.

III. Specific Responsibilities for Underground Coal Mines

The MSHA:

1. Enforces the Mine Act at all surface and underground mines.
2. Enforces compliance with mandatory safety and health standards as a means to eliminate fatal accidents, to reduce the frequency and severity of nonfatal accidents, to minimize health hazards, and to promote improved safety and health conditions in the Nation's mines.
3. Conducts inspections, including at least four complete annual inspections of underground mines and at least two complete annual inspections of surface mines.
4. Investigates mine accidents and complaints of hazardous mining conditions.
5. Issues citations and orders for all observed safety and health violations.
6. Reviews roof control, ventilation, emergency response, and training plans submitted by mine operators.
7. Upon determining that conditions pose an immediate threat to miners' safety or health, issues a withdrawal order for the affected area and orders the removal of related equipment from service until the conditions are corrected.

The BLM:

1. Issues coal leases on Federal lands, manages coal leases on Indian lands after the Bureau of Indian Affairs issues the lease, processes readjustments, modifications, terminations, and cancellations of leases, and approves transfers of Federal coal leases and licenses.
2. Processes Resource Recovery and Protection Plans (R2P2) on Federal and Indian coal leases to commercially extract coal.
3. Makes recommendations to the Assistant Secretary for Land and Minerals Management, through the Office of Surface Mining, on approval of the R2P2. The R2P2 provides information concerning the mining methods, the mine development plan, and the mining sequence. The BLM develops the R2P2 to meet the statutory requirement for maximum economic recovery of the Federal coal or tribal coal resources with due respect to conservation of other resources. The recovery of coal is secondary to the health and safety of miners and others underground.
4. Monitors mine development to ensure compliance with the approved R2P2 and for approval of non-significant modifications of the R2P2.
5. Inspects Federal and Indian coal mines at least once every 3 months for active mines and once a year for inactive mines. In keeping with the statutory requirement for maximum

economic recovery of the Federal or tribal coal resources, the purpose of BLM inspections is to account for the amount of coal removed, and to determine if other mineral or non-mineral resources or deposits are threatened to be damaged, wasted, or degraded, and to avoid, minimize, or mitigate such undesirable effects of the mining operation.

6. Approves abandonment of mine workings for Federal or Indian coal to protect remaining recoverable Federal or Indian coal or other resources.

IV. Furtherance of Cooperation and Communication

The MSHA will:

1. Encourage routine cooperation and communication between MSHA mine inspectors and BLM mine inspectors to effectuate the agencies' mutual interests in administering Federal statutory and regulatory provisions at particular mining operations.
2. Upon request, provide the BLM with access to copies of MSHA-approved plans and MSHA citations/orders issued at mines inspected by the BLM. MSHA will provide information to BLM officials with respect to the use of MSHA's online Data Retrieval System (DRS).
3. Promptly notify the appropriate BLM official of an emergency at a BLM underground coal mine for the purpose of coordinating surface access to the underground coal workings when people are trapped underground.
4. Ensure that each Coal Mine Safety and Health Administration District Manager, who administers the Mine Act in a District in which the BLM conducts mine inspections, will meet in person or by telephone on an annual basis with the BLM Deputy State Director(s) to exchange data, analysis, research, and other information that may assist MSHA and the BLM in carrying out their respective missions and furthering the purposes of this MOU.
5. Post a copy of this MOU on its intranet and internet web sites. MSHA will take appropriate steps to ensure that personnel in all MSHA District offices are aware of this MOU.

The BLM will:

1. Encourage routine cooperation and communication between the BLM mine inspectors and MSHA mine inspectors to effectuate the agencies' mutual interests in administering Federal statutory and regulatory provisions at particular mining operations.
2. Ensure that each BLM Deputy State Director will meet in person or by telephone on an annual basis with the Coal Mine Safety and Health Administration District Manager that administers the Mine Act in the state to exchange mining data, analysis, research, and other information that may assist MSHA and the BLM in carrying out their respective missions and furthering the purposes of this MOU.

3. Promptly notify the appropriate MSHA District Manager of any data, analysis, research or field observation discovered during the normal course of mining plan review or field inspection that indicate the presence of a condition or practice at a mine that has the potential to negatively impact the safety and health of the miners, including unsafe personnel practices of which they become aware. Note: BLM inspectors are not specifically trained to recognize violations of worker safety, personnel practices, and health standards under the Mine Act or other laws but will endeavor to report any conditions or practice that the BLM inspector recognizes as potentially unsafe for any further action as deemed appropriate by MSHA.

4. Provide the appropriate MSHA District Manager with the location of any existing or abandoned Federal oil and gas wells, or applications to drill oil or gas wells.

5. Post a copy of this MOU on its intranet and internet web sites. The BLM will take appropriate steps to ensure that the BLM state, district and field office personnel are aware of this MOU.

V. Mine and Contact Information

1. To facilitate the coordination and communication contemplated by this MOU, the BLM will develop a list of all underground coal mines on Federal or Indian lands at which it exercises jurisdiction. This list will provide the following information for each mine:

- (a) the name of the mine;
- (b) the BLM number or code used to identify the mine;
- (c) the location of the mine, by county and state;
- (d) the name of the mine operator; and
- (e) the name, postal address, e-mail address, telephone number, and telecopy number for the BLM manager who oversees the BLM regulatory activities at the mine.

Once completed, the BLM will provide the list to MSHA. MSHA will supplement the list with the following information for each mine identified by the BLM:

- (a) the name of the mine, if listed differently in MSHA's records;
- (b) the mine's MSHA Mine Identification Number;
- (c) the name of the mine operator, if listed differently in MSHA's records; and
- (d) the name, postal address, e-mail address, telephone number, and telecopy number for the MSHA District Manager who administers the Mine Act at the mine.

Once supplemented, MSHA will provide the BLM with a finalized list.

2. To ensure the continued accuracy of information, the BLM will provide MSHA with updated BLM information on an annual basis. Upon receipt of the updated information, MSHA will update relevant MSHA information and return the finalized, updated list to the BLM.

3. The BLM's State Director and MSHA's District Manager will be responsible for developing and maintaining the list described in paragraphs 1 and 2 above.

4. Each BLM State Director will ensure that a list with accurate, current information is available at each of the BLM state, district and field offices within their jurisdiction. The MSHA District Manager will ensure that a list with accurate, current information is available at each MSHA Coal Mine Safety and Health Administration district and field office.

VI. MSHA and the BLM -- Supplemental Agreements

The BLM State Directors and MSHA Coal Mine Safety and Health Administration District Managers may develop supplemental agreements, consistent with this MOU, to address issues relating to specific underground coal mines and/or to involve state or local officials in the coordination and communication contemplated by the MOU.

VII. Resolution of Issues under MOU

If resolution of interagency policy issues concerning this MOU and specific areas of implementation cannot be resolved between the relevant BLM State Director and the MSHA District Manager, they will be elevated to the Assistant Secretary for MSHA and the BLM Director, or their appointed representatives for appropriate resolution.

VIII. Terms of Agreement

This MOU shall continue in effect unless modified in writing by mutual consent of the parties. Before MSHA may modify or extend this MOU, it must comply with the Department of Labor Manual Series 3-1700 procedures.

This MOU will continue in effect unless modified in writing by mutual consent of the parties.

A party may terminate its participation under this agreement upon at least 30 days written notice to the other party.

This Agreement constitutes the entire agreement between the parties concerning the subject matter and supersedes any prior understanding, written or oral.

IX. MOU Review and Development

Representatives from the BLM and MSHA will meet annually to discuss, review, and propose improvements to the MOU. During these meetings, the two agencies also will consider the appropriateness of expanding the MOU (or developing an additional MOU) that would facilitate coordination between the U.S. Department of Labor and the U.S. Department of Interior at underground metal/non-metal (non-coal) mines and/or surface mines.

X. No Rights in Third Parties

This MOU creates no legally enforceable rights. Nothing herein creates any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or in equity by any person, entity, or party against the United States, its agencies, or its employees.

XI. No Diminution of the Agencies' Authorities, Policies, Functions, or Activities

Nothing in this MOU is intended to diminish or otherwise affect the authority of either agency to act in a manner it deems advisable to implement its respective regulatory and statutory functions. This agreement does not limit or restrict the parties to this MOU from participating in similar activities or arrangements with other entities. Nothing in this MOU supersedes or negates in any way the policies, directives, and procedures of either agency.

XII. Anti-deficiency Act


This MOU is not to be construed as obligating funds and is limited to the available resources of each agency. Nothing in this MOU shall be construed to obligate either of the parties to any current or future expenditure of money in advance or in excess of the availability of appropriations.

XIII. The Privacy Act

This agreement will be executed in full compliance with the Privacy Act of 1974, 5 U.S.C. § 552a.


XIV. Public Information Coordination

Public disclosure of information regarding activities conducted under this MOU will be subject to the Freedom of Information Act (5 U.S.C. § 552). Prior to disclosure of requested information, the agencies may consult or refer documents to each other, as appropriate.



for Robert V. Abbey
Director
Bureau of Land Management

12/27/2011
Date



Joseph A. Main
Assistant Secretary of Labor for
Mine Safety and Health

12-22-2011
Date