MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA) AND THE U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT (BLM)

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to specify bases for coordination between the BLM and 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 pts 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 pt. 3400.

6. Code of Federal Regulations, Title 25 pt. 211

III. Specific Responsibilities for Underground Coal Mines

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, 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, and 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 assure 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 three 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:

MSHA will:

1. Encourage routine cooperation and communication between MSHA mine inspectors and the BLM mine inspectors to effectuate the inspectors' 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. Make reasonable efforts to 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, meets 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 goals of this MOU; and

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 inspectors' mutual interests in administering federal statutory and regulatory provisions at particular mining operations;

2. Make reasonable efforts to ensure that each BLM Deputy State Director meets 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 goals of this MOU.

3. Make reasonable efforts to timely provide the appropriate MSHA District Manager with any data, analysis, research, and other available information that addresses geological conditions or mining practices that impact the safety or health of underground miners;

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; and

5. Post a copy of this MOU on its intranet and internet web sites. The BLM will take appropriate steps to assure that the BLM State, District and Field office personnel are aware of this MOU.

V. Mine and Contact Information

1. To permit 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. The BLM's State Director will ensure that a list with accurate, current information is available at each of the BLM State, District and Field offices. 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. Term of Agreement

This MOU shall continue in effect unless modified in writing by mutual consent of the parties or terminated by either party upon 30 days advance written notice to the other.

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. Implementation

This MOU creates no legally enforceable rights. 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 MOU is not to be construed as obligating funds and is limited to the available resources of each agency.

This agreement will be executed in full compliance with the Privacy Act of 1974.

This MOU is effective upon signature by both parties.

For James L. Caswell
Director
Bureau of Land Management

4/5/08
Date

Richard E. Stickler
Acting Assistant Secretary
Mine Safety and Health Administration

4/8/08
Date