MEMORANDUM OF UNDERSTANDING

BETWEEN THE

UNITED STATES DEPARTMENT OF LABOR,
MINE SAFETY AND HEALTH ADMINISTRATION

AND THE

INTERSTATE MINING COMPACT COMMISSION

I. Introduction

In this Memorandum of Understanding (MOU or Agreement), the U.S. Department of Labor, Mine Safety and Health Administration (MSHA) agrees with the Interstate Mining Compact Commission (IMCC) to facilitate coordinated and timely communications that promote and protect the mining industry's most precious resource, miners.

As part of the Department of Labor (DOL), MSHA administers the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), Pub. L. 109-236, and regulations to enforce 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. MSHA's first priority is the miner's health and safety.

The IMCC is an organization composed of the Governors of its member states concerning mining regulatory matters. The Commission provides a forum for interstate action and communication on issues concerning mining and related issues. This interstate action stimulates the development and production of each member State's mineral wealth through an effective cooperative regulatory effort that insures the health and safety of our Nation’s miners and is protective of human health and the environment. In September of 1996, the Chairman, by way of a resolution adopted by the Commission, established the Mine Safety and Health Committee as an official standing Committee to serve as a liaison between MSHA and IMCC on issues concerning the health and safety of miners. The resolution provided that "[t]he Committee is tasked with responsibility for monitoring issues, policies, regulations and statutes that would impact the states; and for establishing a meaningful state/federal relationship with MSHA that will ensure effective communication and cooperation on matters of mutual concern and interest."

II. Purposes

A. The objectives of this MOU are to set forth an understanding between MSHA and the member states of the IMCC to consult, coordinate, and cooperate effectively and efficiently in carrying out their respective duties concerning miners' health and safety and:

1. To minimize duplication of efforts;
2. To reduce the potential for conflicting standards and procedures; and
3. To provide consistent enforcement of standards.

B. It is in the best interest of the Federal and State governments as well as the public that a coordinated federal-state effort should be conducted to:

1. Encourage a culture of safety in the mining industry.
2. Encourage mine operators to live up to their legal and moral responsibility to provide a safe and healthful workplace for all miners.
3. Encourage mine operators to fully comply with state and federal regulations.
4. Encourage mine operators to provide effective training for their miners.

C. By working together, member States of the IMCC and MSHA intend to increase governmental efficiency and provide for an enhanced health and safety environment in our Nation’s mines through more effective training and improved intergovernmental communications and coordination.

III. Authorities

The authorities for this MOU are the following:

A. The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 *et seq*.;
B. 30 U.S.C. § 962;
C. Title 30 of the Code of Federal Regulations (C.F.R.) parts 1-199;
D. Section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. § 1534; and
E. Exec. Order No. 13132 "Federalism" (Aug. 10, 1999).

IV. Consultation and Coordination

A. To realize the maximum benefit of a cooperative relationship, taking into account the mission of MSHA and the member States of the IMCC, it is necessary to maintain regular communication. This regular communication should be at the District offices and Headquarter levels of MSHA with the respective agencies of the member States of the IMCC.

B. This communication should include the exchange of information and discussion of common issues of concern. The member States of the IMCC and MSHA commit to work toward an effective working relationship on key issues that impact both State and Federal governments in the area of miner health and safety in order to:

1. Achieve a higher level of communication and coordination on key governmental functions;
2. Provide meaningful sharing of information on Federal rules and policies that may impact State mine safety and health regulatory programs and proposed State rules, regulations, and policies;
3. Establish the practice of sharing of information on unsafe mining practices or willful conduct to violate mine safety and health laws;
4. Insure effective training of miners through state-administered programs;
5. Increase governmental efficiency and effectiveness;
6. Encourage a culture of safety in the mining industry;
7. Encourage mine operators to live up to their legal and moral responsibility to provide a safe and healthful workplace for all miners; and
8. Enhance the health and safety of the Nation's miners.

C. To promote open and effective communication, MSHA intends to meet with the member States of the IMCC on a regular basis, at least annually. The parties may conduct these meetings through online conferencing or other available electronic resources.

D. MSHA, through its Coal Mine Safety and Health Administrator, will provide a contact person within MSHA for the member States of IMCC to resolve differences between the States and MSHA that may arise in the field or at the local level.

E. To achieve a higher level of coordination on key governmental functions, the member States of the IMCC and MSHA may enter into supplemental memoranda of understanding at the District or Headquarters levels. These key governmental functions may include, but are not limited to:

1. Accident investigation and reporting,
2. Emergency notification and response,
3. Mine rescue teams and training,
4. Certification, decertification, and qualification of key miner positions--foreman, examiners, blasters and electricians,
5. Coal waste impoundment safety;
6. Underground mine mapping;
7. Mine plan approvals; and
8. Liaisons with family members and the public following mine accidents.

V. Administrative

A. This agreement creates no private right of action against the Federal Government, IMCC, or the member States of IMCC. This agreement creates no rights in any third parties.

B. This agreement is subject to the availability of funds. This agreement will not be construed as obligating funds. Any work that requires the expending or obligating of funds will be accomplished through a separate agreement. Nothing in this agreement obligates MSHA to expend appropriations or enter into any contract or other obligations.

C. Nothing in this agreement shall be interpreted as limiting, superseding, or otherwise affecting MSHA's, IMCC's, or the IMCC member States' normal operations or decisions in carrying out their statutory or regulatory duties. This agreement does not limit or restrict the parties from participating in similar activities or arrangements with other entities. This agreement also does not limit or restrict the parties from taking any other action necessary.

D. Any modification to this agreement must be signed by both parties. Before MSHA may modify this MOU, it must comply with the Department of Labor Manual Series 3-1700 procedures.

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

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

VI. Points of Contact

For MSHA:
Name: Kevin G .Stricklin
Title: Administrator for Coal Mine Safety and Health
Address: 1100 Wilson Blvd., Suite 2424
Arlington, VA 22209
Telephone: (202) 693-9502
E-mail: stricklin.kevin@dol.gov

For IMCC:
Name: Gregory E. Conrad
Title: Executive Director
Address: 445-A Carlisle Drive
Herndon, VA 20170

Telephone: (703) 709-8654
E-mail: gconrad@imcc.isa.us

VII. 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) and the public information and disclosure laws of IMCC and its member states. Prior to disclosure of requested information, the parties may consult regarding any proposed disclosure.

VIII. Resolution of Issues

The Parties should refer conflicts arising under this MOU to their respective points of contact for resolution. If a satisfactory resolution cannot be achieved at this level, the responsible points of contact must refer the matter to the Assistant Secretary of Labor for Mine Safety and Health and the Chairman of the IMCC Mine Safety and Health Committee.

IX. Period of Agreement

This MOU will become effective upon the date of final signature of both parties, as designated below, and remain in effect for three years.

Gregory E. Conrad — Date: May 11, 2011
Executive Director
Interstate Mining Compact Commission

Joseph A. Main — Date: May 11, 2011
Assistant Secretary of Labor for Mine Safety and Health
MSHA, U.S. Dept. of Labor