

MEMORANDUM OF AGREEMENT

INSPECTION COORDINATION

This Memorandum of Agreement is made this 1st day of January, 2003 by and between the **United States Department of Labor, Mine Safety and Health Administration** (herein **MSHA**) and the Commonwealth of Virginia's **Department of Mines, Minerals, and Energy, Division of Mines** (herein **DM**).

Whereas, MSHA is the regulatory authority of the United States Department of Labor for administering the Federal Mine Safety and Health Act of 1977 and the regulations promulgated thereunder, and amendments thereto, as the same may be or become effective any time or from time to time, for the purpose of providing for the health and safety of coal miners.

Whereas, DM is the regulatory authority of the Commonwealth responsible for administering the State Mine Safety Act, Virginia Code §§ 45.1-161.7 et. Seq., and the rules and regulations promulgated thereunder, (herein the State Mine Safety Act and the Rules and Regulations promulgated thereunder are collectively referred to as "**State Mine Safety Act**") for the purpose of providing for the safety and health of coal miners.

Whereas, both agencies are mandated to perform inspections of coal mines operating within the Commonwealth of Virginia thus leading to the potential for overlapping of inspection activities between MSHA and DM.

Whereas, DM is mandated by Section 45.1-161.85 A. to endeavor to coordinate the timing of inspections with the Mine Safety and Health Administration.

Whereas, to efficiently and effectively utilize resources and better administer the provisions of the respective Mine Safety Acts, MSHA and DM desire to enter into the Memorandum of Agreement to provide for cooperation and coordination in the administration of their respective duties with respect to the inspection of coal mines within the Commonwealth of Virginia.

Now, Therefore, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:


1. This agreement shall not be construed as a delegation of authority from the District Manager of MSHA (herein District Manager) to the Chief of the Division of Mines (herein Chief), nor from the Chief to the District Manager and nothing herein contained shall be construed to hinder, prevent, or impede the District Manager or Chief from performing any duty or serving any function permitted or required by the respective Mine Safety Acts.
2. The parties agree that DM inspectors will initiate to the extent reasonable and prudent prior coordination of inspection activities by contacting the assigned MSHA inspector for a mine to review tentative inspection schedules. Such coordination is intended to generally result in each agency inspector conducting complete health and safety inspection activities on different days, weeks, or months. It is understood that certain activities (such as plan approvals, and complaint and accident investigations) normally require joint activities.
3. It is further understood that individual mine circumstances may result in inspectors from both agencies conducting inspection activities during the same period of time. The parties agree that cooperation and coordination of activities will be undertaken to provide for the most efficient and effective application of the agencies' joint resources to benefit mine health and safety performance.

4. The parties agree that inspector supervisors will meet when necessary and appropriate to review and discuss mine inspection activities and specific mine compliance concerns.
5. It is agreed that the responsible supervisor of the agency receiving a complaint alleging smoking or smoking articles carried underground, illegal use of drugs, miners working beyond permanent support, or other imminent danger situations, will contact the appropriate supervisor of the other agency. It is further agreed that when joint investigations of such complaints are scheduled, careful planning and confidentiality will be maintained during the joint activity. The coordinating supervisors will perform necessary planning and scheduling of personnel to participate in the inspection with notification of location and assignments immediately before the inspection.
6. MSHA will provide updated listings of MSHA inspector mine assignments at appropriate intervals to enable DM inspectors to coordinate inspection activities.
7. The parties agree to review and discuss the objectives and content of this agreement with all affected personnel among their respective staffs.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto in manner and form sufficient to bind them as of the day and year first written.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS,
AND ENERGY, DIVISION OF MINES

UNITED STATES DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

By 
Frank A. Linkous, Chief

By 
Edward Morgan, District Manager