

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE WYOMING DEPARTMENT OF WORKFORCE SERVICES
DIVISION OF MINES INSPECTION AND SAFETY
AND
THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION
CONCERNING
BLASTING AND CERTIFICATION OF BLASTERS
AT SURFACE MINING OPERATIONS**

1. **Parties.** This Memorandum of Understanding (MOU) is made and entered into by and between the Wyoming Department of Workforce Services, Division of Mines Inspection and Safety (State Mine Inspector) whose address is P.O. Box 1094, Rock Springs, WY 82902 and the Wyoming Department of Environmental Quality, Land Quality Division (DEQ) whose address is 200 W. 17th Street, Suite 10, Cheyenne, WY 82002.
2. **Purpose.** On January 28, 1981, a cooperative agreement became effective between the State of Wyoming and the United States Department of the Interior by which Wyoming became the regulatory authority for surface coal mining operations within the State.

Section 515(b)(15)(D) of the Surface Mining Control and Reclamation Act requires that all blasting operations at coal mines be conducted by trained and competent persons as certified by the regulatory authority. The Office of Surface Mining and Reclamation Enforcement, pursuant to 30 C.F.R. Part 850, has delegated responsibility for the development and implementation of blaster certification programs to the State regulatory authorities with permanent regulatory programs. Accordingly, DEQ has its own blaster certification program. DEQ's blaster certification program conforms to the requirements in 30 C.F.R. Part 850.

The State Mine Inspector, among other duties, is responsible for enforcing all laws, rules, and regulations pertaining to the safety of mine operations in Wyoming, including the certification of persons qualified to handle explosives at all of Wyoming's mines, including coal and non-coal operations. The State Mine Inspector is also responsible for inspecting mining operations to ensure that certified persons are properly conducting and supervising blasting activities.

It is the mutual desire of DEQ and the State Mine Inspector to avoid unnecessary duplication and overlap of their respective responsibilities and to provide a uniform and effective means for implementing Wyoming's blaster certification program.

3. **Term of MOU.** This MOU shall commence upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU, and shall remain in full force and effect until terminated.
4. **Payment.** No payment shall be made to either party by the other party as a result of this MOU.

5. Responsibilities of DEQ.

A. DEQ shall make its Blaster Training, Examination, and Certification Program available to blasters involved in surface coal and non-coal mining operations.

B. DEQ shall issue certificates to those persons who successfully complete DEQ's Blaster Training, Examination, and Certification Program for surface coal mining operations. The DEQ's Director, and the Land Quality Administrator, and Blasting Program Principal shall each sign the certificates for blasters in surface coal mining operations. DEQ shall also present these certificates to the State Mine Inspector for signature, in accordance with Section 6(B), below.

C. DEQ shall prepare certificates for those persons who successfully complete DEQ's Blaster Training, Examination, and Certification Program for surface non-coal mining operations. DEQ's Blasting Program Principal shall sign the certificates for blasters in surface non-coal mining operations to confirm Blasting Program completion. DEQ shall also present these certificates to the State Mine Inspector for signature, in accordance with Section 6(C), below.

D. DEQ will maintain records of those persons certified as Wyoming blasters at surface coal and non-coal mines. An updated list of all certified blasters shall be provided to the State Mine Inspector at least quarterly or at any time upon request of the State Mine Inspector.

E. If, as part of its inspection activities, DEQ finds that blasting activities are not being supervised by a certified blaster, DEQ shall promptly inform the State Mine Inspector.

F. DEQ agrees to cooperate in any investigations or inspections as may be reasonably requested by the State Mine Inspector in order to provide technical assistance to ensure that surface mine blasting operations are being conducted in accordance with federal and state laws.

G. DEQ will promptly notify the State Mine Inspector after initiating any action to revoke the certification of a blaster in surface coal mining operations.

6. Responsibilities of the State Mine Inspector.

A. For the purpose of determining whether a person is qualified to be a certified blaster at surface coal mining operations, the State Mine Inspector agrees to accept those requirements set out in DEQ's Blaster Training, Examination, and Certification Program, in accordance with Chapter 1, Section 3(b) of the Mine Inspector's Rules (Shot-Firer Certification Rules).

B. The State Mine Inspector shall sign the certificates issued by DEQ to those persons who successfully complete the DEQ's Blaster Training, Examination, and Certification Program for surface coal mining operations.

C. The State Mine Inspector shall review and audit DEQ's Blaster Training, Examination, and Certification Program, at least annually, to determine whether it satisfies the criteria for the State Mine Inspector to certify blasters in surface non-coal mining operations. Subject to this review and audit, the State Mine Inspector shall sign the certificates prepared by DEQ for those persons who successfully complete the DEQ's Blaster Training, Examination, and Certification Program for surface non-coal mining operations.

D. If, as part of its inspection activities, the State Mine Inspector finds that surface coal blasting activities are not being supervised by a certified blaster, the State Mine Inspector shall promptly inform DEQ.

E. The State Mine Inspector agrees to cooperate in any investigations or inspections as may be reasonably requested by DEQ in order to provide technical assistance to ensure that the surface mine blasting operations are being conducted in accordance with federal and state laws.

F. The State Mine Inspector will promptly notify DEQ after initiating any action to revoke the certification of a blaster in surface coal or non-coal mining operations.

7. Additional Agreed-Upon Terms for Blaster Certification.

A. DEQ and the State Mine Inspector agree, for the purposes of Chapter 6, Section 6 of DEQ's Coal Rules (Blasting for Surface Coal Mining Operations) and Chapter 1, Section 6 of the Mine Inspector's Rules (Shot-Firer Certification Rules), that years of blasting experience in surface coal mining operations and surface non-coal mining operations will be deemed equivalent.

B. DEQ will provide the State Mine Inspector with copies of all applications submitted to DEQ for the Blaster Training, Examination, and Certification Program, whether for surface coal or surface non-coal mining operations. DEQ and the State Mine Inspector agree that an application submitted initially to DEQ shall be treated as an application to the State Mine Inspector under Chapter 1, Section 5 of the Mine Inspector's Rules (Shot-Firer Certification Rules).

8. General Provisions.

A. Amendments. Either party may request changes in this MOU. Any changes, modifications, revisions, or amendments to this MOU which are mutually agreed upon by and between the parties to this MOU shall be incorporated by written instrument, executed and signed by all parties to this MOU.

B. Applicable Law. The construction, interpretation, and enforcement of this MOU shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over any action arising out of this MOU and over the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

C. Entirety of Agreement. This MOU, consisting of four (4) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.

D. Prior Approval. This MOU shall not be binding upon either party unless this MOU has been reduced to writing before performance begins as described under the terms of this MOU, and unless this MOU is approved as to form by the Attorney General or his representative.

E. Severability. Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

F. **Sovereign Immunity.** The State of Wyoming, the State Mine Inspector, and DEQ do not waive their sovereign immunity by entering into this MOU, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

9. **Signatures.** In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

The effective date of this MOU is the date of the signature last-affixed to this page.

DEPARTMENT OF WORKFORCE SERVICES, DIVISION OF MINES INSPECTION AND SAFETY



Heather Kroupa, State Mine Inspector

12/2/19
Date

DEPARTMENT OF ENVIRONMENTAL QUALITY, LAND QUALITY DIVISION



Kyle Wendtland, Land Quality Administrator

11/19/19
Date

ATTORNEY GENERAL'S OFFICE APPROVAL AS TO FORM



Peter Howard, Senior Assistant Attorney General

11/20/19
Date



Matt VanWormer, Senior Assistant Attorney General

11/19/19
Date