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October 26, 2007

Ronald L. Wooten
State of West Virginia
Office of Miners' Health & Safety Training
1615 Washington Street East
Charleston, WV 25311-2126

RE: Kentucky — West Virginia Reciprocity



Dear Ron:

You probably have already been informed that in our October 25, 2007 meeting, the Mining Board voted to authorize entering into the Reciprocity Agreement with West Virginia. Thank you so much for your prompt assistance with this matter. This has been way too long in the making and I truly believe will be a huge benefit to all states involved.

It has been a pleasure working with you. I look forward to seeing you in the future and hope you will not hesitate to contact me should you have any questions or concerns.

Very truly yours,

A handwritten signature in cursive script that reads "Jane Rice Williams".

Enclosure
JRW/ch

MEMORANDUM OF AGREEMENT
Certification of Reciprocity

PURPOSE:

This Memorandum of Agreement (MOA) is made this 25th day of October 2007, by and between the Commonwealth of Kentucky Mining Board (herein MB) and the West Virginia Office of Miners' Health, Safety and Training (WVOMHST). The purpose of this agreement is to enable coal mine personnel who have demonstrated competency through certification within one state to gain comparable certification within the neighboring state under the provisions established by this agreement. To efficiently and effectively administer a program for coal mine personnel certification reciprocity, Kentucky MB and WVOMHST desires to enter into this MOA.

OBJECTIVE AND INTENT:

Kentucky and West Virginia share a common border and have coal miners working the same coal beds within the Appalachian coalfields. Often the same operating companies employ coal miners and agents who are mobile within the region, transferring and moving from one state to the other, seeking to perform comparable duties as qualified and certified persons. This agreement will provide common benefits for mining citizens and operators, by enabling certified coal mine personnel of good standing to receive comparable certification in a neighboring state without repeating the entire rigorous training and examination process.

AUTHORITY:

Kentucky statute KRS 351.122 authorizes the MB to enter into reciprocal agreements with other states regarding the certification of miners. The MB may, pursuant to a reciprocal agreement, issue to any person holding a certification issued by another state a certification permitting a miner to perform similar tasks in the commonwealth provided the requirements for certification in such state are substantially equivalent to those of Kentucky.

Likewise, § 22A-1-39 of the West Virginia Code authorizes the Director of the West Virginia Office of Miners' Health, Safety and Training, in consultation with the West Virginia Board of Miner Training, Education and Certification, to offer reciprocity of mine foreman and/or experienced miner certifications to persons certified by states which accept West Virginia's mine foreman and/or experienced miner certifications, so long as the other state's qualification, examination, and certification criteria are equivalent to those utilized by West Virginia.

PROVISIONS OF AGREEMENT:

In consideration of the shared purpose, objectives, intent and authority established by acts of the respective state assemblies, the parties agree as follows:

1. This agreement shall not be construed as a delegation of authority from the MB to the WVOMHST, nor from the WVOMHST to the MB and nothing herein contained shall be construed to hinder, prevent, or impede the MB or WVOMHST from performing any duty or serving any function permitted or required by the respective Mine Safety Acts.
2. The Director of the Division of Miner Training, Education and Certification, Office of Mine

Safety and Licensing for the Department of Natural Resources in the Commonwealth of Kentucky and the Director of the WVOMHST shall serve as liaisons to facilitate communication and cooperation between MB and WVOMHST under this MOA.

3. The MB Chairman and WVOMHST shall each appoint a Reciprocity Coordinator within their respective states to develop and implement written procedures for the administration of this reciprocity agreement.
4. The Reciprocity Coordinators shall schedule and conduct within ninety (90) days of the signing of this MOA, a comprehensive, joint review of each state's certification program and policies and procedures for the purpose of gaining understanding of each other's program. Regular meetings will be conducted by the Reciprocity Coordinators to ensure that both programs maintain comparable, high standards for certification of applicants.
5. Both states agree to share and copy records and other information, and work toward a system for electronic capability to facilitate this effort.
6. Applicants for certification by reciprocity in Kentucky must:
 - a. Pass the applicable part of the examination with regard to Kentucky law which is uniquely different from the other state;
 - b. Submit proof, in accordance with KRS 351.182, that he or she is drug and alcohol free;
 - c. Submit proof of retraining sufficient to meet Kentucky requirements; and
 - d. Verify that certification in Kentucky or in any other state has not been suspended, revoked, or probated.
7. Applicants for certification by reciprocity in West Virginia must:
 - a. All applicants for certification by reciprocity in West Virginia shall submit photographic identification, a current copy of his or her certification card or certificate, verifiable documentation of all degrees held, continuing education successfully completed, and documentation of other training, if required for the certification, and shall also comply with any other criteria as the Director of WVOMHST, in consultation with the West Virginia Board of Miner Training, Education and Certification, may reasonably require from time to time to effectively carry out the requirements of West Virginia Code § 22A-1-39.
 - b. Applicants for electrical certification reciprocity must pass the hands-on part of the West Virginia electrical certification examination which is uniquely different from the other state's exam.
 - c. Applicants for mine foreman certification reciprocity must pass that part of the West Virginia Mine Foreman exam that pertains to specific West Virginia mining laws and rules and those other parts of the West Virginia Mine Foreman exam which are uniquely different from the other state's exam. The applicant must pass these parts of the West Virginia Mine Foreman exam with a score of at least 80 percent. All

mine foreman who have obtained certification by reciprocity must complete at least eight hours of continuing education every two years as required by W. Va. Code § 22A-7-7.

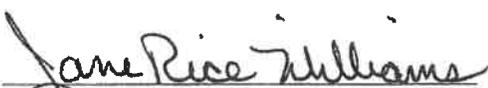
- d. Applicants for experienced miner certification reciprocity must pass those parts of the West Virginia experienced miner exam which are uniquely different from the other state's exam and shall receive hazard training in accordance with the provisions contained in 30 CFR Part 48.11 if the applicant is an underground miner, or in accordance with the provisions contained in 30 CFR Part 48.31 if the applicant is a surface miner, and shall receive instruction in West Virginia mining laws and rules pertinent to any duties that are or will be assigned the miner prior to the miner performing any duties.
8. When making applications for reciprocity with either state the miner must provide a current letter of good standing from the state from which he currently holds the certification being considered for reciprocity.
9. Continuing education and mandated retraining for certified mine personnel, where required, must be met in accordance with established state standards to maintain certification.
10. Both states agree to provide information related to suspension and decertification actions taken against any certified person. The Reciprocity Coordinators will formally review any such action involving a person holding a certification by reciprocity.
11. Nothing in the MOA shall relieve mine operators or certified agents of the operators of their responsibility to comply with applicable provisions of law and regulations.
12. This MOA may be modified in writing by the mutual consent of the parties.
13. This MOA may be terminated at any time by either party giving written notice to the other party at least thirty (30) days prior to the date termination is to take place.

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

WEST VIRGINIA OFFICE OF MINERS'
HEALTH, SAFETY & TRAINING

COMMONWEALTH OF KENTUCKY
MINING BOARD

BY: 
Ronald L. Wooten, Director

BY: 
Jane Rice Williams, Chairman