

Office of Surface Mining



We work with state regulatory programs.

Henry Austin is a reclamation specialist at the Western Regional Coordinating Center. He is currently conducting state oversight in both Colorado and Utah. His primary responsibility is conducting complete and special focus inspections in both states. In addition to inspecting mines Henry is also a technical training instructor. He is currently involved in educational outreach to the Navajo Nation.

Henry has a B. Sci. degree in forestry and has 19 years experience with the Office of Surface Mining in Kentucky, Indiana, Tennessee, New Mexico, and now Denver.

Henry says, "There is never a dull moment at the Office of Surface Mining! It's a challenge working in regions with very different mining and reclamation practices."

Henry enjoys hiking, canoeing, skiing, and other outdoor activities.

14



We oversee the Pennsylvania Anthracite Program

Eric Brummer has inspected anthracite coal mines for the Office of Surface Mining since 1978. Under the anthracite exemption to the Surface Mining Law, before Pennsylvania achieved primacy, the Office of Surface Mining was responsible for enforcement of the existing state statutes and regulations. Eric and his fellow specialists inspected over 500 active surface mines, 125 underground mines, and 15 coal processing facilities. Today his role is oversight of the Pennsylvania Anthracite and Abandoned Mine Land programs.

Eric has a degree in Forest Resource Management and recently has been active in the Appalachian Clean Streams Initiative by collecting water samples in a watershed that has been polluted by acid mine drainage flowing from abandoned mines.

In his free time Eric can be found on his Pennsylvania farm where he raises beef cattle.

We conduct oversight inspections on active coal mines

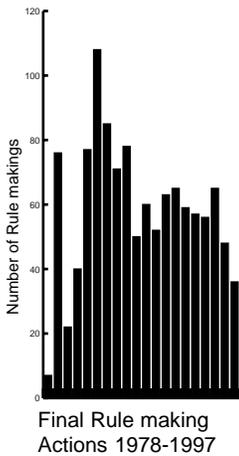
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Environmental protection

Shared federal/state/Indian active surface and underground coal mining and reclamation program

Under the Surface Mining Control and Reclamation Act, the Office of Surface Mining is responsible for publishing the rules and regulations necessary to carry out the Law. The permanent regulatory program and related rules provide the fundamental mechanism for ensuring that the Surface Mining Law's goals are achieved. A major objective is to maintain a stable regulatory program by improving the regulation development process and obtaining a broad spectrum of viewpoints on rule making activities.

Rule making and State Program Amendments



The 1997 rule making process included discussions with coal industry representatives, citizen groups, and state regulators to obtain their input and suggestions.

During the year, the Office of Surface Mining published four proposed permanent program rules in the Federal Register: Valid Existing Rights (RIN 1029-AB42), Prohibitions of 522(e) (RIN 1029-AB82), Coal Moisture (RIN 1029-AB78), and the Removal of 870.17 (RIN 1029-AB93). In addition, two final permanent program rules were published in 1997: State Program Amendments (RIN 1029-AB86

and 1029-AB87) and Coal Moisture (RIN 1029-AB78). Subject to Office of Surface Mining approval, states have the right to amend their programs at any time for appropriate reasons. Whenever the Surface Mining Law or its implementing regulations are revised, the Office of Surface Mining is required to notify the states of the changes needed to make sure that the state programs continue to meet federal requirements. As a result, the states have submitted a large number of complex amendments. The Office of Surface Mining has taken several steps to process states' submissions more efficiently. For example, the amendment review process within the Office of Surface Mining has been decentralized, and standard format and content guidelines for state program submissions have been issued to the states. Also, in response to current funding levels and resource constraints, an Office of Surface Mining team reevaluated the agency's amendment process, recommending a number of changes to streamline processing efficiency and responsiveness. In 1997, the Office of Surface Mining published 44

**TABLE 5
FINAL RULES PUBLISHED DURING 1997**

State Program Amendments (RIN 1029-AB86 and 1029-AB87)
62 FR 9932 30 CFR 901-950 3/5/97

This rule revises the information currently reported in the Code of Federal regulations (CFR) regarding the Office of Surface Mining Director's approval of amendments to the state regulatory programs and abandoned mine land reclamation plans. The information was condensed to a three-column tabular presentation.

Coal Moisture (RIN 1029-AB78)
62 FR 45920 30 CFR 870 8/29/97

The rule amends regulations governing how the excess moisture allowance is determined for reclamation fee purposes. The rule clarifies and simplifies technical guidance, and provides the coal industry with standard criteria for calculating the excess moisture allowance on all coals subject to reclamation fee payment.

proposed and 34 final state program amendments in the Federal Register.

State Programs

Since May 3, 1978, all surface coal mines have been required to have permits and to comply with either Office of Surface Mining regulations or corresponding approved state program provisions (in states that have primacy). Currently, there are 24 primacy states that administer and enforce approved programs for regulating surface coal mining and reclamation under the Surface Mining Law. An effective relationship between the Office of Surface Mining and the states is fundamental to the successful implementation of the Surface Mining Law. This shared federal-state commitment to carry out the requirements of the Surface Mining Law is based on common goals and principles that form the basis for the relationship.

Oversight of State Programs

Section 517(a) of the Surface Mining Law requires the Office of Surface Mining to make inspections as necessary to evaluate the administration of approved state programs. To implement these duties, the Office of Surface Mining works with states and other interested parties to seek consensus on oversight techniques. To maintain objectivity, the Office of Surface Mining also plans and conducts inspections, independent reviews, and technical analyses.

Office of Surface Mining

Table 7 summarizes the Office of Surface Mining's oversight inspection and enforcement activities during 1997.

Prior to 1996, the Office of Surface Mining focused its oversight activities on the states' procedural compliance with state program processes and procedures. Under revised oversight guidance

implemented in January 1996, and further enhanced in 1997, the Office of Surface Mining's evaluation activities now primarily focus on the successes of states in meeting the Surface Mining Law's goals of protecting the public and the environment against off-site impacts to the land and water and achieving prompt, effective reclamation of land mined for coal. Based in part on input the

TABLE 6 1997 SIGNIFICANT COURT DECISIONS

TAKINGS

Helmick v. United States, No. 95-0115 (N.D. W. Va.)

On September 8, 1997, Judge Robert Maxwell, United States District Court for the Northern District of West Virginia, granted plaintiff's motion for summary judgment in the valid existing rights case. The Court ruled that OSM had a mandatory duty under SMCRA to define "valid existing rights" and ordered the Department within 30 days to file a schedule for publishing a VER rule by a date certain. Noting that the Department had previously published proposed rules defining VER which had been withdrawn or invalidated in some way, the Court rejected the Department's argument that the January 31, 1997, publication of a proposed rule defining VER had made the rulemaking issue moot. The Court also ruled that OSM had failed to carry out its mandatory duty under SMCRA when, because of a property rights dispute between plaintiff and the U.S. Forest Service, OSM had not issued a final decision on plaintiff's pending application for VER. Finally, the Court declared moot plaintiff's claim that the Department's refusal to process the VER application constituted a taking of its property without just compensation.

Eastern Minerals International, Inc., et al. v. United States, No. 94-1098-L (Fed. Cl.)

On April 21, 1997, Judge Hodges issued an opinion awarding \$12,016,254 to plaintiff Eastern Minerals and \$2,720,712 to plaintiffs Wilson and Ann Wyatt, and, on April 25, the court entered final judgment. The monetary award in *Eastern* follows from an October 2, 1996, decision holding that OSM's delay in processing plaintiff Eastern Minerals' permit application had effected a permanent regulatory taking of Eastern Minerals' leasehold interest and the Wyatts' royalty interest but dismissing the claims of other plaintiffs in the case. Both the Government and plaintiffs filed motions for reconsideration on May 9. Those motions remain pending.

RULE CHALLENGES

National Mining Ass'n v. Department of Interior, Nos. 95-5434; 95-5435; 95-5436 (D.C. Cir.) (consolidated)

On January 31, 1997, the U.S. Court of Appeals for the District of Columbia Circuit invalidated OSM's 1988 ownership and control rule finding that one aspect of the rule was inconsistent with the express language of SMCRA § 510(c). The court also invalidated OSM's 1989 permit information and improvidently issued permits rules explaining that they were "founded on the ownership and control rule." The invalidated rules implemented SMCRA § 510(c), which provides that a permit shall not be issued when a surface coal mining operation "owned or controlled by the applicant" is currently in violation of SMCRA. Federal defendants and Appellees National Wildlife Federation and Kentucky Resources Council filed petitions for rehearing, which were denied without explanation on March 28, 1997. The court's mandate was issued on April 16, 1997. All three regulations had previously been upheld in their entirety by the District Court on August 31, 1995. In response to the Court of Appeals' decision, OSM promulgated interim final rules on April 21, 1997, to replace the rules invalidated by the court. NMA then filed a series of motions, in both the Court of Appeals and the District Court, asking the courts to assert jurisdiction over OSM's interim rules and strike them down as being contrary to the Court of Appeals' January 31 opinion, and for other alleged defects in their promulgation.

On June 19, 1997, after a hearing on that same day, the District Court filed a written opinion denying NMA's motion to enforce the mandate and dismissing the case from the court's docket. In doing so, the court found that OSM complied with the mandate by doing "exactly what the Court of Appeals required." On August 20, 1997, the D.C. Circuit entered an order denying NMA's motion to recall and enforce the mandate, noting that any challenge to the interim final rules must be in the form of a new complaint in District Court. NMA filed such a complaint in District Court on June 20, 1997. On October 15, 1997, NMA filed an application for preliminary injunction, asking the District Court to prohibit implementation or enforcement of the interim final rules.

OWNERSHIP AND CONTROL

Arch Mineral Corp. v. Babbitt, No. 95-2793 (4th Cir.)

On January 16, 1997, a panel of the court held that the district court had jurisdiction, that the case was ripe, and that the statute of limitations at 28 U.S.C. § 2462 precluded OSM from making links based on unpaid civil penalties more than five years old. On August 1, 1995, the U.S. District Court for the Southern District of West Virginia had entered a final order granting summary judgment to OSM on the issue of whether under the ownership and control rules, OSM may link an applicant to Abandoned Mine Land (AML) fees more than five years old. The court, however, had granted summary judgment to Arch on all other counts, including holding that OSM may not link applicants to unpaid Federal or State civil penalties more than five years old. The Government did not appeal or seek a rehearing on the January 16, 1997 decision.

1997 SIGNIFICANT ADMINISTRATIVE DECISIONS

OFFICE OF HEARINGS AND APPEALS —INTERIOR BOARD OF LAND APPEALS

Kentucky Resources Council, et al., ("KRC") v. OSM, IBLA No. 94-161 (*Branham & Baker*) (attorneys fees)

On January 17, 1997, in a long-awaited decision, the Board clarified the scope of Section 525(e) of SMCRA, which authorizes fees reasonably incurred in connection with participating in administrative proceedings and is expected to minimize subsequent litigation over fee entitlement in administrative cases. At issue was the extent to which attorneys for citizen complainants should be compensated for time spent prior to initiation of an adversarial proceeding before the Office of Hearings and Appeals. KRC had argued that a party successfully prosecuting a SMCRA citizen's complaint is entitled to recover fees regardless of whether the Board ruled on the substantive or procedural issues raised in the complaint. In its decision, however, the Board adopted the position advocated by OSM, *i.e.*, that a fee applicant must generally show that there was either a procedural or a substantive infirmity in OSM's response to a citizen's complaint and that the citizen made a substantial contribution to resolution of the issues as a result of filing an appeal to the Board.

Office of Surface Mining actively sought from its customers, the Office of Surface Mining and the states developed state-specific evaluation plans tailored to the unique conditions of each state program and governed by performance agreements. Through these performance agreements, the Office of Surface Mining and the states jointly are identifying common goals and are making progress in implementing the new oversight guidance. The new approach has resulted in more meaningful oversight and allows the Office of Surface Mining to focus its limited resources on those program aspects that have the greatest influence on actual on-the-ground conditions in a state.

If oversight activities indicate that a desired end result is not being achieved, the Office of Surface Mining will conduct an independent review to determine the root cause of the problem. Of course, if a safety or design issue arises, the Office of Surface Mining will work with the state to assure that the problem is corrected expeditiously.

Federal Programs

Section 504(a) of the Surface Mining Law requires the Office of Surface Mining to regulate surface coal mining and reclamation activities on non-federal and non-Indian lands in any state if:

- the state's proposal for a permanent program has not been approved by the Secretary of the Interior;
- the state does not submit its own permanent regulation program; or
- the state does not implement, enforce, or maintain its approved state program.

Although the Office of Surface Mining encourages and supports state primacy in the regulation of surface coal mining and reclamation operations, certain states with coal reserves have elected not to submit or maintain regulatory programs. Those states are called federal program states, and their surface coal mining and reclamation operations are regulated by the Office of Surface Mining. Full federal programs are in effect in 12 states: Arizona, California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington.

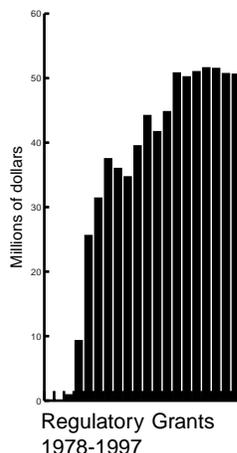
Of the federal program states, only Tennessee and Washington had active coal mining in 1997. Table 8 includes the Office of Surface Mining's regulatory actions in those two states during 1997.

**TABLE 7
FEDERAL OVERSIGHT OF STATE PROGRAMS
1997**

State	Inspections	Violations Cited in Office of Surface Mining Enforcement					
		Notice of Violations		Failure-To-Abate		Imminent Harm	
		Actions	Violations	Actions	Cessation Orders	Actions	Cessation Orders
Alabama	138	0	0	0	0	0	0
Alaska	0	0	0	0	0	0	0
Arkansas	13	0	0	0	0	0	0
Colorado	13	0	0	0	0	0	0
Illinois	142	0	0	0	0	0	0
Indiana	187	0	0	0	0	0	0
Iowa	16	0	0	0	0	0	0
Kansas	7	0	0	0	0	0	0
Kentucky	870	11	11	6	6	0	0
Louisiana	4	0	0	0	0	0	0
Maryland	48	1	1	0	0	0	0
Mississippi	15	0	0	0	0	0	0
Missouri	45	0	0	0	0	0	0
Montana	22	0	0	0	0	0	0
New Mexico	2	0	0	0	0	0	0
North Dakota	30	0	0	0	0	0	0
Ohio	197	0	0	0	0	0	0
Oklahoma	85	1	1	1	1	1	3
Pennsylvania	371	14	14	5	5	0	0
Texas	19	0	0	0	0	0	0
Utah	9	0	0	0	0	0	0
Virginia	335	0	0	0	0	0	0
West Virginia	432	20	20	11	11	0	0
Wyoming	14	0	0	0	0	0	0
Total	3,014	47*	47	23	23	1	3

* Of the 47 Notices of Violation and 23 Cessation Orders issued by the Office of Surface Mining, 45 NOV's and 20 CO's were related to Abandoned Mine Land fees.

Grants to States and Tribes



Section 201 of the Surface Mining Law authorizes the Office of Surface Mining to help state regulatory authorities develop or revise surface mining regulatory programs. In 1997, the Office of Surface Mining awarded \$600,000 for program development grants to the Crow, Northern Cheyenne, Hopi, and Navajo Tribes.

Section 705 of the Surface Mining Law authorizes the Office of Surface Mining to provide grants to states with approved regulatory programs in amounts not exceeding 50 percent of annual state program costs, matching state regulatory costs dollar for dollar. In addition, when a state elects to administer an approved program

Office of Surface Mining

on federal land through a cooperative agreement with the Office of Surface Mining, the state becomes eligible for financial assistance of up to 100 percent of the amount the federal government would have spent to regulate coal mining on those lands. Table 9 shows grant amounts provided to states during 1997 to administer and enforce regulatory programs.

Regulation of Surface Mining on Federal and Indian Lands

Section 523(a) of the Surface Mining Law requires the Secretary of the Interior to establish and implement a federal regulatory program that applies to all surface coal mining operations that take place on federal land. The Office of Surface Mining enacted the current federal lands program on February 16, 1983.

The federal lands program is important because the federal government owns significant coal reserves, primarily in the West. The development of federal coal reserves is governed by the Federal Coal Management Program of the Department of the Interior's Bureau of Land Management. Of the 234 billion tons of identified coal reserves in the western United States, 60 percent is federally owned.

Through cooperative agreements, the administration of most surface coal mining requirements of the federal lands program may be delegated by the Secretary of the Interior to states with approved regulatory programs. By the end of 1997, the Secretary had entered into such cooperative agreements with Alabama, Colorado, Illinois, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Virginia, West Virginia, and Wyoming. Also, a cooperative agreement with Kentucky was proposed in 1997.



We enforce the Surface Mining Law requirement to return reclaimed

18

**TABLE 8
REGULATORY PROGRAM STATISTICS
1997**

	Alabama	Alaska	Arizona	Arkansas	Colorado	Crow Tribe**	Georgia*	Hopi Tribe**	Illinois	Indiana	Iowa	Kansas	Kentucky	Kentucky*	Louisiana	Maryland	Missouri
Regulatory Program Staffing (FTE's 9/30/97)	29	3.4	NA	6.35	25	1	NA	NA	49.95	60.2	4.7	3.6	320	4.3	3.7	13.8	15.7
Abandoned Mine Land Staffing (FTE's 9/30/97)	22	3.5	NA	6.3	12	6.5	NA	2.5	17.96	26	5.3	11.5	86	0	1.5	5.8	12.3
New Permits	10	0	0	0	1	0	0	0	4	19	0	2	99	1	0	2	1
New Acreage Permitted	1,071	0	0	0	2,327	0	0	0	418	11,524	0	229	22,319	349	0	217	445
Total Acreage Permitted	94,994	5,871	417	1,395	159,770	5,440	303	62,830	99,043	284,758	6,000	6,036	1,642,700	25,710	45,100	6,346	45,735
Inspectable Units (9/30/97)	296	9	1	21	62	1	8	7	283	368	28	15	2,782	50	2	69	59
Complete Inspections	3,494	24	0	79	240	4	6	27	423	1,278	112	62	12,692	229	8	390	140
Partial Inspections	748	61	0	162	484	8	1	16	937	2,880	224	124	17,758	280	16	520	208
Notices of Violations (Actions)	161	1	0	3	19	0	0	7	36	111	77	6	1,062	17	3	9	74
Notices of Violations (Violations)	217	1	0	7	19	0	0	9	46	123	77	6	1,926	20	6	9	74
Failure -to-Abate Cessation Orders (Actions)	16	0	0	0	0	0	0	0	1	9	69	9	126	0	0	1	22
Failure-to-Abate Cessation Orders (Violations)	21	0	0	0	0	0	0	0	1	9	69	9	NA	0	0	1	22
Imminent Harm Cessation Orders (Actions)	1	0	0	0	0	0	0	0	0	0	0	0	11	6	0	0	1
Imminent Harm Cessation Orders (Violations)	1	0	0	0	0	0	0	0	0	0	0	0	11	7	0	0	1
Bond Forfeitures	12	0	0	0	0	0	0	0	0	0	0	0	44	0	0	0	24
Acreage of Phase III Bond Release	4,140	0	0	133	296	0	0	0	1,168	3,725	0	4,875	19,925	469	0	643	1,110

*Federal Lands Program, **Indian Lands Regulatory Program, NA - Information not available

1997 Annual Report



land to its approximate original contour

Under the Surface Mining Law, once the Secretary and a state have signed a cooperative agreement, the state regulatory authority assumes permitting, inspection, and enforcement responsibilities for surface coal mining activities on federal lands in that state. The Office of Surface Mining maintains an oversight function to ensure that the regulatory authority fully exercises its delegated responsibility under the cooperative agreement. In states without cooperative agreements, the required permitting, inspection, and enforcement activities under the Surface Mining Law are carried out by the Office of Surface Mining. During 1997, one new permit was issued by the Office of Surface Mining on federal land in Kentucky.

For states with leased federal coal, the Office of Surface Mining prepares the Mining Plan Decision Documents required by the Mineral Leasing Act, as amended, and documentation for other non-delegable authorities, for approval by the Secretary of the Interior. During 1997, nine mining plan actions were prepared and approved for coal mines on federal land.

Pursuant to Section 710 of the Surface Mining Law, the Office of Surface Mining regulates coal mining and reclamation on Indian lands. In the Southwest, three mines on the Navajo and Hopi reservations, a portion of an underground mine, and a portion of a coal haul road on the Ute Mountain Ute Reservation are permitted under the permanent Indian Lands Program, and one mine is operating under an interim permit. Also, on the Navajo Reservation a permit application was submitted for a coal preparation plant, in accordance with the permanent Indian Lands Program, and is operating under administrative delay. In addition, the Office of Surface Mining, in cooperation with the Bureau of Indian Affairs and the Navajo Nation, is overseeing the final reclamation of three mines on the Navajo Reservation that are still under the interim regulatory program.

**TABLE 8 (continued)
REGULATORY PROGRAM STATISTICS
1997**

	Montana	Navajo Tribe**	New Mexico	North Dakota	Ohio	Oklahoma	Pennsylvania	Tennessee	Texas	Utah	Ute Tribe**	Virginia	Washington	West Virginia	West Virginia*	Wyoming
Regulatory Program Staffing (FTE's 9/30/97)	18.9	NA	13.8	9.7	NA	33	307	56	45	24	NA	81	NA	255	NA	30.2
Abandoned Mine Land Staffing (FTE's 9/30/97)	10	24	11.5	5.8	NA	6	145	0	10	9	NA	16	NA	70	NA	12.5
New Permits	0	0	0	0	56	4	122	0	0	1	0	42	0	106	0	0
New Acreage Permitted	32	180	384	0	4,022	3,937	14,392	2,894	0	720	0	28,077	0	20,419	0	3,670
Total Acreage Permitted	60,300	32,448	71,990	72,060	139,327	39,800	504,140	25,298	207,100	144,282	265	58,713	14,931	286,390	20	319,470
Inspectable Units (9/30/97)	18	8	15	46	597	97	2,292	441	22	30	2	949	2	3,199	1	38
Complete Inspections	95	28	60	193	2,597	401	9,343	1,239	95	120	8	3,894	3	9,417	4	145
Partial Inspections	86	56	123	675	3,131	697	14,537	1,331	268	186	16	3,975	14	13,156	0	276
Notices of Violations (Actions)	8	5	6	2	145	44	974	35	14	35	0	236	1	1,241	0	16
Notices of Violations (Violations)	8	9	6	2	145	69	1,135	44	14	46	0	301	1	1,241	0	16
Failure-to-Abate Cessation Orders (Actions)	2	0	0	0	11	1	48	6	0	1	0	7	0	110	0	2
Failure-to-Abate Cessation Orders (Violations)	2	0	0	0	11	1	76	7	0	1	0	9	0	110	0	2
Imminent Harm Cessation Orders (Actions)	0	0	0	0	9	0	1	1	0	1	0	4	0	21	0	0
Imminent Harm Cessation Orders (Violations)	0	0	0	0	9	0	1	1	0	1	0	4	0	21	0	0
Bond Forfeitures	0	0	0	0	4	1	27	1	0	1	0	2	0	32	0	0
Acreage of Phase III Bond Release	0	0	0	541	10,525	7,492	12,697	1,065	1,933	0	0	3,959	0	6,592	0	0

*Federal Lands Program; **Indian Lands Regulatory Program; NA - Information not available

**TABLE 9
REGULATORY GRANT FUNDING
1997 OBLIGATIONS**

State	Federal Funding		Cumulative Through 1997*
	1997	1996	
Alabama	\$1,039,433	\$1,189,270	\$20,716,782
Alaska	171,753	171,510	4,727,647
Arkansas	156,222	170,980	2,709,355
Colorado	1,571,274	1,569,053	19,009,286
Illinois	2,287,009	2,283,776	40,072,000
Indiana	2,034,578	1,669,664	23,298,160
Iowa	149,411	155,010	2,011,681
Kansas	112,666	125,119	2,344,844
Kentucky	12,835,636	12,456,815	195,952,590
Louisiana	183,813	183,553	2,661,324
Maryland	499,503	470,712	8,860,106
Michigan	0	0	135,458
Mississippi	64,284	30,181	571,294
Missouri	424,176	423,576	6,207,401
Montana	860,973	859,756	11,881,073
New Mexico	673,287	676,832	9,216,692
North Dakota	487,783	509,983	8,864,553
Ohio	1,234,186	2,124,017	49,211,326
Oklahoma	839,041	837,855	12,729,552
Pennsylvania	10,395,890	10,630,839	153,071,482
Rhode Island	0	0	158,453
Tennessee	0	0	5,340,085
Texas	1,463,371	1,180,615	14,621,699
Utah	1,404,191	1,388,982	19,428,181
Virginia	2,955,119	2,953,671	49,643,658
Washington	0	0	4,893
West Virginia	7,217,537	7,207,333	76,329,919
Wyoming	1,494,863	1,492,750	23,613,708
Crow Tribe	15,877	0	748,636
Hopi Tribe	22,936	0	908,386
Navajo Tribe	75,205	0	2,215,666
N. Cheyenne	5,983	0	5,983
Total	\$50,676,000	\$50,761,852	\$767,271,873

*Includes obligations for AVS, Kentucky Settlement, and other Title V cooperative agreements. Figures for 1997 do not include downward adjustments of prior-year awards. However, cumulative figures are net of all prior-year downward adjustments.

On the Crow Ceded Area in Montana, the Office of Surface Mining and the Montana Department of State Lands administer applicable surface mining requirements under a Memorandum of Understanding that includes both permitting and inspection functions.

Section 2514 of the Energy Policy Act of 1992 (Public Law 102-486) provides authority to provide grants to the Crow, Hopi, Navajo, and Northern Cheyenne Tribes to assist them in developing programs for regulating surface coal mining and reclamation operations on Indian lands. The development of these programs includes: creating tribal mining regulations and policies; working with the Office of Surface Mining in the inspection and enforce-



We write mining and reclamation regulations

ment of coal mining activities on Indian lands (including permitting, mine plan review, and bond release); and education in the area of mining and mineral resources. A series of separate, informal meetings began in 1995 to discuss issues and to determine how best to develop draft legislation that would allow tribal governments to assume primacy. All parties have agreed on making certain modifications to the draft legislation and have agreed to an action plan. Development grant funding for 1997 included \$480,000 from the Bureau of Indian Affairs and \$120,000 from the Office of Surface Mining budgets. This funding will continue in 1998. Table 8 includes statistics on regulatory activity on Indian lands during 1997.

Electronic Permitting

Electronic permitting technology was first introduced to the states and tribes in 1989, when the Technical Information Processing System was implemented. Since that time, use of computer technology in the permitting and inspection process has dramatically increased. The Office of Surface Mining has now received the entire text and much of the map data for Peabody Western Coal Company's Black Mesa permit in electronic form. With the use of new computers, global positioning system satellite survey equipment, and electronic cameras, the Office of Surface Mining will begin to test the expediency of fully automated reviews of permit revisions. During 1997, Office of Surface Mining staff began work on several large western mines to convert the permits into electronic form. If successful, this test may dramatically change the way the Office of Surface Mining conducts its permitting activities.

Applicant Violator System

The Applicant Violator System, a computer database maintained by the Office of Surface Mining, was developed to prevent persons and companies with uncorrected violations of the Surface Mining Law from obtaining new coal mining permits until such violations have been abated or resolved. The Applicant Violator System includes

1997 Annual Report

permit application information, ownership and control information, and violation data. When someone applies for a permit, surface mining regulators check the system and consult with the Office of Surface Mining to determine if the applicant is linked to outstanding violations that would warrant denial of the permit. The Applicant Violator System also is checked prior to awarding Abandoned Mine Land reclamation contracts. During 1997, the Office of Surface Mining responded to 4,382 requests for Applicant Violator System information for permit applications and Abandoned Mine Land reclamation contracts — roughly the same level of requests as in 1996.

In January of 1997, the U.S. Court of Appeals for the DC Circuit rejected the regulations upon which the Office of Surface Mining had based ownership and control decisions for the past nine years. Although the court found only one substantive aspect of the rules to be flawed, the decision had the effect of invalidating all the ownership and control regulations. In three months interim regulations were promulgated that comply with the court's decision and revised

the operation of the System to ensure that day-to-day decisions are consistent with the court action.

In 1997, a team of Interior Department staff began a thorough review of the Office of Surface Mining's ownership and control regulations and policies with the goal of identifying ways to make them as effective and fair as possible. In developing replacement regulations to be proposed during Fiscal Year 1998, the team began the process of reaching out to interested parties to ensure that the views of all stakeholders are considered.

In 1997, the Office of Surface Mining completed moving the Applicant Violator System maintenance and operation responsibilities from Washington, DC, to the consolidated computer support facilities within the Division of Financial Management in Denver, Colorado. This move eliminated a costly technical support contract in Washington.

Working with the Environmental Protection Agency, the Office of Surface Mining has begun to add Clean Water Act violations to





We approve experimental practices

the Applicant Violator System data base, thus beginning to fulfill the requirement in the Surface Mining Law that such violations be considered in making coal mine permitting decisions.

Applicant Violator System staff continued their effort to assist states with their implementation and operation of the system by providing training and investigative assistance. In addition, assistance was provided to field offices charged with oversight of state use and operation of the system by reviewing and analyzing reports and providing field offices with recommendations for improvement.

Pennsylvania Anthracite Program

Section 529 of the Surface Mining Law provides an exemption from federal performance standards for anthracite coal mining operations, provided the state law governing those operations was in effect on August 3, 1977. Pennsylvania is the only state with an established regulatory program qualifying for the exemption, and thus regulates anthracite mining independent of the Surface Mining Law program standards.

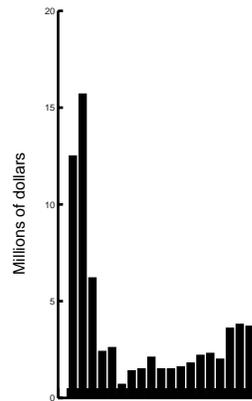
The Pennsylvania anthracite coal region is located in the northeast quarter of the state and covers approximately 3,300 square miles. More than 20 different anthracite coal beds vary in thickness from a few inches to 50 or 60 feet. The anthracite region is characterized by steeply pitching seams, some with dips steeper than 60 degrees. Such strata require specialized mining techniques and present unique challenges to ensure highwalls are eliminated and the area is restored to productive post-mining land use. The long

history of mining in the anthracite region has produced a legacy of abandoned mine land problems. However, because most active mining operations affect previously disturbed land, a large percentage of abandoned mine land is eventually restored to productive land use in connection with active mine reclamation.

In 1996³ the anthracite mining industry increased production⁴ to around 11.5 million net tons per year, approximately 14 percent of Pennsylvania's annual coal production. The reprocessing of anthracite culm banks accounts for almost three-quarters of the anthracite coal production. Some of this reprocessed coal helps to fuel eight cogeneration plants. Anthracite operators mined approximately 8.4 million tons from culm banks, 2.7 million tons from surface mines, and 0.4 million tons from underground mines.

Pennsylvania's Department of Environmental Protection continues to carry out the provisions of the anthracite regulatory program successfully. State mine inspectors have achieved approximately 89 percent⁵ of the required complete and partial inspections. On 98 percent⁶ of the complete inspections conducted by state inspectors, the mine operations were in compliance with performance standards. The District Mining office in Pottsville continues to do outstanding work in the clean-up of the headwaters of Swatara Creek.

Small Operator Assistance Program (SOAP)



SOAP Grant Obligations 1978-1997

Section 401 (b)(1) of the Surface Mining Law authorizes up to 10 percent of the fees collected for the Abandoned Mine Reclamation Fund to be used to help qualified small mine operators obtain technical data needed for permit applications. Through 1991, operators producing fewer than 100,000 tons of coal per year were eligible for assistance. Beginning with Fiscal Year 1992, the Abandoned Mine Reclamation Act of 1990 increased the production limit from 100,000 to 300,000 tons for determining whether small operators qualify for assistance.

22

3. Calendar year 1996.
 4. Pennsylvania Department of Environmental Protection, Harrisburg, 1996 Annual Report on Mining Activities.
 5. Pottsville District Mining Office, Coal Inspection Exception Report, 01/01/97 thru 09/30/97.
 6. Pennsylvania Department of Environmental Protection, Field Operations Data Base (LUMIS), Inspector-Citation Summary Report for Period 10/01/96 thru 09/30/97 -- Summary for Pottsville.

**TABLE 10
 SMALL-MINE OPERATOR ASSISTANCE
 1997 GRANT AWARDS***

State	1997	1996
Kentucky	\$1,215,475	\$1,383,690
Maryland	70,000	75,000
Ohio	225,000	240,000
Pennsylvania	1,200,000	1,400,000
Virginia	0	10,000
West Virginia	1,000,000	787,500
Total	\$3,710,475	\$3,896,190

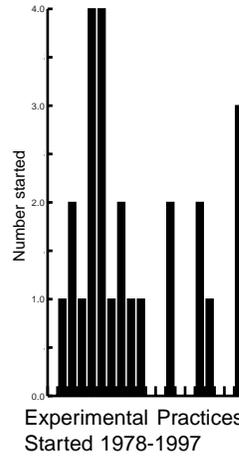
*These figures do not include downward adjustments of prior-year awards.

1997 Annual Report

The Energy Policy Act of 1992 (Public Law 102-486) added technical permitting services provided under the Small Operator Assistance Program. These include engineering analyses and design necessary for hydrologic impact determination, cross-section maps and plans, geologic drilling, archaeological and historical information, plans required for the protection of fish and wildlife habitat and other environmental values, and pre-blast surveys.

Small Operator Assistance Program regulations place program responsibility with the states that have Office of Surface Mining approved permanent surface mining programs. In states with federal programs, the Office of Surface Mining operates the Small Operator Assistance Program. In 1997, 146 small mine operators received assistance, comparable to the 145 operators who received assistance in 1996. Table 10 provides a breakdown of the Small Operator Assistance Program grant awards by state during 1997.

Experimental Practices



Section 711 of the Surface Mining Law allows alternative, or experimental, mining and reclamation practices that do not comply with Sections 515 and 516 performance standards as a way to encourage advances in mining technology or to allow innovative industrial, commercial, residential, or public postmining land uses. However, the experimental practices must meet all other standards established by the Surface Mining Law and must maintain protection of the environment and the public. Approval and monitoring of a permit containing an experimental practice requires a close working relationship between the mine operator, the state, and the Office of Surface Mining.

ship between the mine operator, the state, and the Office of Surface Mining.



During 1997, one ongoing experimental practice project was completed and one involving direct seeding of a slurry pond continued. Three new experimental practices were approved in 1997, all located in Kentucky. The first includes converting a coal refuse impoundment into a recreational fishing lake. Another will use direct seeding of a refuse impoundment and preparation plant area to create a fish and wildlife postmining land use. The third will create a 91-acre commercial/industrial site by retaining the paved roads, buildings, and utilities which lie between two highwalls and hollowfills.

Reclamation Awards

To recognize and transfer the lessons learned from completing the nation's most outstanding reclamation, the Office of Surface Mining presents awards to coal mine operators who have completed mining and reclamation operations that resulted in outstanding on-the-ground performance. Awards for 1997 were presented October 30, 1997, at the National Mining Association's annual meeting, as follows:

Director's Award

■ Each year, one coal mining operation in the country is selected to receive the Director's Award for outstanding achievement in a specific area of reclamation. This year the award was presented to the Coteau Properties Company Freedom Mine in Beulah, North Dakota, for exemplary reclamation and commitment that resulted in benefits to the local community by working in partnership with farmers to expeditiously return mined land to full agricultural production.

National Awards

■ Buffalo Coal Company, Davis, West Virginia, for exemplary reclamation that redirected Pendleton Creek from a subsidence crater to its natural course, resulting in enhanced wetland and wildlife habitat in the area.

■ Bellaire Corporation, Indian Head Mine, Beulah, North Dakota, this year's winner of the "Best of the Best" award as 1997's top example of surface mine reclamation, for complete reclamation of the mine site into cropland and native grassland for cattle grazing.

■ Triton Coal Company, Buckskin Mine, Gillette, Wyoming, for reclamation of an alluvial valley floor in the Powder River Basin, including reconstruction of the floodplain and replacing 26 inches of topsoil on the valley floor to reestablish the valley floor's environment following mining.

■ Peabody Coal Company, Gibraltar Mine, Central City, Kentucky, for using experimental practices to reclaim three coal slurry impoundments into an outstanding wetland habitat, prized by local hunters, fishermen, and nature observers.



We ensure all surface water runoff from coal mines is routed through sedimentation ponds before leaving the permit area.

■ Drummond Company, Kellerman Mine, Brookwood, Alabama, for mining and reclamation that eliminated both surface and underground abandoned mine problems, including acid mine drainage, saving the National Abandoned Mine Reclamation Fund approximately \$700,000.

■ Cumberland River Coal Company, Ridgeline Mine, Jackson, Kentucky, for its "Zero Impact Mining" plan designed to alleviate disturbance to areas outside and adjacent to the coal reserve, which ultimately protected area watersheds.

Hall of Fame Awards

To commemorate the 20th anniversary of the Surface Mining Law, a special group of honors, the Reclamation Hall of Fame Awards, were presented to seven mining operations which had won national awards in previous years. The one-time award recognizes the most outstanding past winners whose reclamation has withstood the test of time. Hall of Fame winners are:



We inspect active coal mines in non-primacy states



We monitor blasting to determine structural damage

■ Coal-Mac, Inc., and the Rifle Coal Company, Debord, Kentucky, a 1991 winner for exemplary reclamation of a mountaintop removal operation which resulted in the creation of an outstanding wildlife habitat.

■ Solar Sources, Inc., Lynnville Mine, Lynnville, Indiana, a winner in 1992 for reclamation that included replacement of county roads, a creek, and replacement of all disturbed soil to prime farmland depths.

■ R & F Coal Company, Cheslock-Hendershot Mine, St. Clairsville, Ohio, which won in 1990 for reclaiming a 400-acre site that improved farmland yields, established a wildlife habitat with ponds and vegetation, and provided athletic fields for the St. Clairsville sports complex, as well as sites for new homes.

■ W.H. Bowlin Coal Company, Whitley County, Kentucky, a 1993 winner for reclamation which changed a pre-1977 mining site from an area of coal spoil ridges to a wildlife habitat and rolling pasture for cattle grazing.

■ Bellaire Corporation, Indian Head Mine, Beulah, North Dakota, winner in 1992 for its reclamation plan for preservation of wooded draws, a natural part of North Dakota's northern plains environment. Bellaire preserved the draws by mining around them, rather than through them.

■ Kerr-McGee Corp., Jacobs Ranch Mine, Wright, Wyoming, a winner in both 1988 and 1993 for its ongoing reclamation activities which have reclaimed thousands of acres of land in the Wyoming Powder River Basin, site of the nation's largest and longest-operating surface coal mines.

■ Western Energy Company's Rosebud Mine, Colstrip, Montana, which won in 1990 for establishment of native rangeland that provides both excellent wildlife habitat and livestock grazing areas, and in 1992 for preservation of historical artifacts prior to mining.



We complete oversight inspections.

Michael Hiscar majored in Forest Resource Management in college, then joined the Peace Corps and worked in Niger West Africa building tree nurseries, stabilizing sand dunes, and planting trees for green belts. Mike began working for the Office of Surface Mining in 1979, where he was a mine inspector in the Clarksburg, West Virginia, Office. He currently works in the Columbus Office where his responsibilities include oversight inspections of active mining operations, and oversight reviews of the Ohio program. Some of his recent oversight studies included: Contemporaneous Reclamation, Temporary Inactive Permits, and Stream Buffer Zone Variances. Mike is also involved with mining on federal lands in Ohio, where he works with concerned citizens on issues dealing with mining in the Wayne National Forest.

Mike and his wife Trish have three children, and on weekends he can usually be found in the stands at some sporting event watching the kids participate in basketball, volleyball, soccer, baseball, track, or marching band.



We grow

Alzira Meierling began her career with the Office of Surface Mining as the Confidential Assistant to Walter Heine, the first Director. Today she is one of the agency's most valued staff members. Over the years Alzira has made many noteworthy contributions. She worked to formulate the Management By Objectives program, was the agency's Freedom of Information Coordinator, worked to develop and carry out the Technical Training program, developed standards for evaluating effectiveness of the Applicant Violator System, established a Career Development Resource Center, prepared congressional briefing materials, and helped develop the plan to transition the Office of Surface Mining into a self-managed team environment. Currently Alzira monitors and evaluates administrative services accounts in the Washington, D.C., Headquarters.

Alzira and her husband have two children who play soccer and other sports, and she spends weekends and other free time cheering for her children's teams.