

STATE REGULATORY PROGRAMS

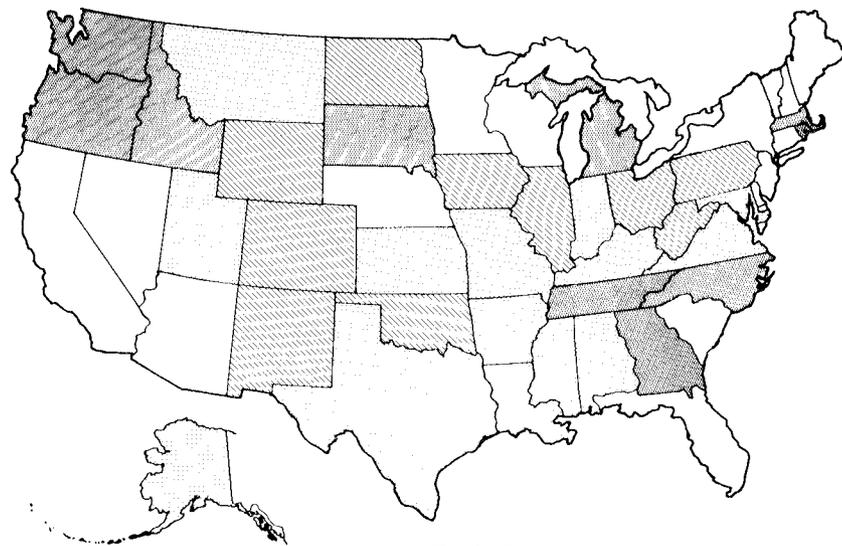
The Surface Mining Control and Reclamation Act specifies that because of the diversity in terrain, climate, and other physical conditions in areas subject to coal mining operations, the primary government responsibility for regulating surface coal mining and reclamation operations should rest with the states.

To achieve primary regulatory authority, often referred to as "primacy," a state must submit a program which demonstrates the state's capability to carry out the provisions of the Act. Specifically, states are required to—

- establish laws which regulate surface coal mining and reclamation operations;
- provide sanctions for violations of state laws, regulations, or permit conditions;
- provide for the effective implementation, maintenance, and enforcement of a permit system;
- establish a process for the designation of areas as unsuitable for surface coal mining;
- establish a process for coordinating the review and issuance of surface coal mining permits with any other Federal or state permit process applicable to the proposed operations;
- enact rules and regulations consistent with the Act and regulations issued by the Secretary of the Interior; and
- provide a regulatory authority with sufficient administrative and technical personnel and sufficient funding to operate a program.

The Secretary of the Interior, through OSMRE, reviews the state program to determine whether it is no less stringent than the Act and no less effective than the regulatory program established by the Secretary. Each state program is also reviewed by the public, industry, and other Federal agencies. Notices providing a description of the program, stating where the program is available for public review,

STATE PROGRAM STATUS



- FULLY APPROVED
- CONDITIONALLY APPROVED
- FEDERAL PROGRAMS
- NON-COAL AND NON-PARTICIPATING STATES

and inviting public comments, are published in local newspapers and in the **Federal Register**, and public hearings are then held.

The Secretary, after soliciting and publicly disclosing the views of the Environmental Protection Agency, the Secretary of Agriculture, and heads of other Federal agencies, either fully approves, conditionally approves, or disapproves the state's program.

Once a state's program has been fully approved or conditionally approved by the Secretary, the state is granted primacy and becomes the regulatory authority over coal mining on non-Federal and non-Indian lands within its borders. The Federal Government retains a monitoring and secondary enforcement role.

Also, once a state has achieved primacy, the Secretary may approve a program, commonly called an Abandoned Mine Land Reclamation (AMLR) program, calling for the reclamation of lands disturbed by previous mining activities and not adequately reclaimed. Approval of the state reclamation plan entitles the state to receive funds allocated to it from the Abandoned Mine Reclamation Fund.

In addition, any state with an approved program may elect to enter into a cooperative agreement with the Secretary to provide for state regulation of surface coal mining and reclamation operations on Federal lands within the state.

State primacy, a fundamental objective of the Act, is nearing full implementation. During fiscal year 1985, 12 conditions or minor deficiencies in state programs were removed, bringing the number of states with fully approved programs to 14.

In addition, OSMRE completed 58 final rulemaking actions related to state programs, of which 33 were approval of state program amendments. Other actions included extension of due dates to facilitate state legislative or regulatory action, removal of conditions needed for approval, and disapproval of proposed state amendments.

Since 1980, 25 coal-producing states have achieved "primacy," with either fully or conditionally approved programs. The states are Alabama, Alaska, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

On April 30, 1984, OSMRE instituted direct Federal enforcement of the inspection and enforcement portions of the Oklahoma and Tennessee programs. Tennessee subsequently rescinded the statutory provisions for its regulatory program and OSMRE promulgated a full Federal program in that state beginning October 1, 1984.

In Oklahoma, OSMRE worked closely with the state to resolve concerns and to reach agreement on a schedule for the resolution of remaining concerns. By the end of 1985, OSMRE had made plans to return full program authority to Oklahoma based on a phased schedule.

During fiscal year 1985, OSMRE initiated a review of each state program to determine necessary changes resulting from the Federal regulatory reform effort of 1983. Eight of the 23 approved state programs have been reviewed and those states formally notified of the required changes. The reviews of eight additional state programs have been completed and the reports forwarded in draft form to those states for review. One state program—that of Mississippi—will not be reviewed because no mining is anticipated in the state in the foreseeable future.

Program Development Grants to States and Indian Tribes

Under Section 201 of the Act, OSMRE assists state regulatory agencies in developing or revising surface mine reclamation laws, regulations, or procedures. During fiscal year 1985, three Indian Tribes (the Crow, Hopi, and Navajo) and one state (Tennessee) were awarded \$949,993 in program development grants. These grants are used to assist in the development of permanent programs by the states and Indian Tribes, and cover such activities as drafting laws and regulations, formulating organizational structures, and developing a data base and system to act on unsuitability petitions. OSMRE did not provide any initial regulatory grants in fiscal year 1985. Those grants were used in the past to administer and enforce the interim program prior to state primacy.

**PROGRAM GRANTS TO STATES/TRIBES
(FUNDED AMOUNT)
AS OF 9/30/85**

STATE	INITIAL REGULATORY GRANTS		PROGRAM DEVELOPMENT GRANTS	
	FY 1984	FY 1985	FY 1984	FY 1985
ALABAMA				
ALASKA				
ARIZONA				
ARKANSAS				
COLORADO				
CROW TRIBE			\$137,510	\$166,730
GEORGIA				
HOPI TRIBE			5,228	204,604
ILLINOIS				
INDIANA				
IOWA				
KANSAS				
KENTUCKY				
LOUISIANA				
MARYLAND				
MICHIGAN				
MISSISSIPPI				
MISSOURI				
MONTANA				
NAVAJO			269,911	437,859
NEW MEXICO				
NORTH DAKOTA				
OHIO				
OKLAHOMA				
PENNSYLVANIA				
RHODE ISLAND				
TENNESSEE			131,850	140,800
TEXAS				
UTAH				
VIRGINIA				
WASHINGTON				
WEST VIRGINIA				
WYOMING				
TOTAL	\$ 0	\$ 0	\$ 544,499	\$ 949,993

Regulatory Grants to States with Permanent Programs

Section 705 of the Act authorizes OSMRE to provide grants to states with approved regulatory programs in amounts not exceeding 50 percent of the cost of the program.

In addition, when a state elects to administer an approved program on Federal lands through a cooperative agreement, it becomes eligible to receive financial assistance for up to 100 percent of the amount the Federal government would have expended in regulating coal mining on such Federal lands.

During fiscal year 1985, OSMRE awarded \$36,024,006 in regulatory grants to 21 coal-producing states with approved regulatory programs.

REGULATORY GRANTS TO STATES UNDER THE PERMANENT PROGRAM (FUNDED AMOUNT OF AWARD) AS OF 9/30/85

STATE	FY 1984	FY 1985
ALABAMA*	\$ 2,342,224	\$ 1,132,297
ALASKA	304,459	
ARIZONA		
ARKANSAS	186,334	
COLORADO*	783,796	908,029
ILLINOIS	2,170,000	3,086,488
INDIANA	993,542	1,968,137
IOWA	102,503	19,537
KANSAS	143,296	124,773
KENTUCKY	8,097,145	6,906,174
LOUISIANA	130,944	205,810
MARYLAND	366,738	388,941
MISSISSIPPI		
MISSOURI	473,406	91,614
MONTANA*	524,671	535,754
NEW MEXICO*	590,119	851,461
NORTH DAKOTA*	106,757	427,779
OHIO*	2,787,146	3,198,217
OKLAHOMA	421,215	506,172
PENNSYLVANIA	9,043,651	8,155,408
RHODE ISLAND		
TENNESSEE	1,441,200	
TEXAS	586,114	413,179
UTAH	829,440	1,046,431
VIRGINIA	2,234,551	2,007,924
WASHINGTON		
WEST VIRGINIA*	1,915,336	2,717,543
WYOMING*	1,020,231	1,332,338
TOTAL	\$37,594,818	\$36,024,006

* States with cooperative agreements for regulating coal mine reclamation on Federal lands.

Section 529 of the surface mining act provides for special environmental protection standards for anthracite coal mining operations. To qualify for this provision, states must have had laws for anthracite mines in effect on August 3, 1977. Pennsylvania was the only state with established anthracite mining rules on that date. Therefore, anthracite mining operations in Pennsylvania must comply with the environmental protection standards contained in the Pennsylvania statutes instead of some of the standards required by the OSMRE permanent program regulations.

The surface mining act also requires OSMRE to report biennially to Congress on the effectiveness of such state anthracite regulatory programs in protecting the environment.

Since gaining primacy in 1982, Pennsylvania has removed two conditions of program approval specifically pertaining to anthracite coal mining. Only one condition pertaining to anthracite prime farmland remains outstanding and is in the process of being resolved through Federal rulemaking. Since gaining primacy, Pennsylvania has improved program performance in the areas of inspection frequency, completeness of inspections, documenting inspections, the handling of citizen complaints, the release of bonds, and the citation of violations.

Pennsylvania is continuing to address two persistent problems specific to the implementation and full operational level of its anthracite program. First, Pennsylvania has made significant progress in applying its approved permanent program enforcement and permitting regulations to a class of small anthracite underground operators which have historically been unregulated and unpermitted. Pennsylvania identified and inventoried the problem operations, reviewed the operational status of each operation, and has been systematically applying enforcement provisions, including closure orders, to bring these operations into full compliance with permitting obligations under the surface mining act. Recently the state filed pleadings in Commonwealth Court to force compliance with closure orders on several of these operations.

Second, Pennsylvania is channeling program effort toward permitting and inspecting anthracite preparation plants to bring such operations under the approved program framework. These operations now receive a high priority as a result of a substantial programmatic and field reorganization in 1985 which consolidated all surface coal mining and reclamation operations, including preparation plants, under one inspection, enforcement, and permitting agency.

FEDERAL REGULATORY PROGRAMS

Federal Programs for States

OSMRE is required to regulate surface coal mining and reclamation activities on non-Federal and non-Indian lands in a state if:

- the state's proposal for a permanent program is not approved by the Secretary of the Interior;
- the state does not submit its own permanent regulatory program; or
- the state fails to implement, enforce, or maintain its approved state program.

Although OSMRE encourages and supports state primacy in the regulation of surface coal mining and reclamation operations, certain states with coal reserves elected not to submit regulatory programs. These states therefore became Federal Program States, with mine reclamation regulated by the Office of Surface Mining Reclamation and Enforcement. Full Federal programs are now in effect for Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. Of these, only Tennessee and Washington have active coal mining.

Federal Lands Program

Section 523(a) of the Surface Mining Control and Reclamation Act requires the Secretary of the Interior to issue and implement a Federal program applicable to all surface coal mining and reclamation operations taking place on Federal lands. On February 16, 1983, OSMRE promulgated the current Federal Lands Program.

The Federal Lands Program is critical because the Federal Government owns significant coal reserves, primarily in the West, that must be developed under the Federal Coal Management Program of the Bureau of Land Management, U.S. Department of the Interior. Of the 234 billion tons of identified coal reserves in the western region, 60 percent is Federally owned.

Administration of most surface mining requirements for the Federal Lands Program may be delegated by OSMRE to states with approved state regulatory programs through cooperative agreements. However, certain responsibilities cannot be delegated and must be retained by the Secretary.

Once OSMRE and a state have reached a cooperative agreement, the state regulatory authority assumes responsibility for permitting, inspection, and enforcement of surface coal mining activities on Federal lands in the state. OSMRE, however, maintains an oversight function to ensure that the regulatory authority fully exercises its delegated responsibility under the cooperative agreement. In states not having a cooperative agreement, the required permitting, inspection, and enforcement activities are carried out by OSMRE.

In fiscal year 1985, a cooperative agreement was entered into with Alabama, bringing the number of states with such agreements to eight. These are Alabama, Colorado, Montana, New Mexico, North Dakota, Ohio, West Virginia, and Wyoming. In addition, work is continuing on cooperative agreements with Virginia and Utah.

Indian Lands Program

OSMRE has issued rules implementing a Federal program for Indian lands, as required by Section 710(d) of the Act. The rules make most of the permanent program requirements applicable to Indian lands.

In addition, under existing agreements with the Crow, Hopi, and Navajo Tribes, OSMRE continues to provide technical and financial assistance for developing their mining and reclamation programs.

Designation of Lands as Unsuitable For Mining

The surface mining law provides that citizens have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations if they believe the land is fragile, historic, or cannot be reclaimed successfully. During fiscal year 1985, OSMRE received a petition to determine the unsuitability of lands for surface coal mining and reclamation operations in the Rock Creek Watershed of Tennessee. Evaluation of the petition has been initiated.

OSMRE also received a petition to determine the unsuitability of lands for mining in the Flat Fork area of Tennessee. Processing of that petition has been suspended pending administrative review by the Interior Board of Land Appeals.

Also in fiscal year 1985, two active petitions were carried over from fiscal year 1984. One of these is the Black Diamond petition, which was filed with OSMRE on April 6, 1984, by Citizens Concerned about Strip Mining. It involves an 800-acre site in King County, Washington, containing the John Henry No. 1 mine permit area, which has been proposed for mining by the Pacific Coast Coal Company. OSMRE has rejected that part of the petition coinciding with the area identified in the permit application and is proceeding with the petition as it relates to the remainder of the area.

Action on the Red Rim petition, filed by the National Wildlife Federation and the Wyoming Wildlife Federation, also carried through fiscal year 1985. The petition involves approximately 19,500 acres of combined private, state, and Federal land located southwest of Rawlins, Wyoming. On May 23, 1985, Wyoming decided not to designate any of the private lands within the petition area as unsuitable for mining. As a result, Wyoming then withdrew from preparation of the final Petition Evaluation Document and Environmental Impact Statement, and OSMRE assumed full responsibility for preparing those documents. (In May 1986, OSMRE issued a decision limiting any mining to the northern half of the area, until it is shown that the land can be reclaimed to provide winter habitat for antelope populations.)

Valid Existing Rights

The surface mining law prohibits surface coal mining in certain areas, including national parks, wilderness areas, wildlife refuges, recreation areas, and wild and scenic river areas, subject to "valid existing rights."

During fiscal year 1985, one "determination of valid existing rights (VER)" was concluded. Also during the year two requests for "determination of VER" were received. Subsequent to the VER approval and prior to the new requests, the U.S. District Court for the District of Columbia ruled that the promulgation of the definition of VER in 30 CFR 761.5(a) did not comply with the Administrative Procedure Act and remanded the rule to the Secretary of the Interior. OSMRE has been working to comply with the court order.

Mining Plan Review

During fiscal year 1985, OSMRE continued its review of mining plans and permit applications for coal mining on Federal lands, Federal Program Lands, and Indian lands. Mining plan reviews are conducted to determine whether the mine operators are complying with the requirements of the Mineral Leasing Act of 1920, as amended, and the operation and reclamation plan requirements of the Surface Mining Control and Reclamation Act.

The operator must address the effects of mining before a mining plan or permit will be approved on Federal land. (Where the authority to approve permits on Federal lands has been delegated to a state under a cooperative agreement, the state issues a permit on the Federal lands.)

During fiscal year 1985, sixteen mining permits and one mining plan were approved on lands subject to a Federal Program. OSMRE also issued 33 permits and approved 17 mining plans for coal mining on Federal lands. Three mining plans and two permits were approved on Indian lands.

FEDERAL MINING PLAN/PERMIT APPLICATION STATUS

State or Indian Tribe	EIS's Published	Mining Plans Approved	Permits issued by OSMRE
FEDERAL PROGRAM STATES			
Tennessee	1	0	16
Washington	1	1	0
Total	2	1	16
FEDERAL LANDS PROGRAM			
Eastern States:			
Illinois	0	0	0
Kentucky	0	0	14
Ohio	0	0	0
Virginia	0	0	0
West Virginia	0	0	0
Subtotal	0	0	14
Western States:			
Colorado	0	3	3
Montana	1	2	2
New Mexico	1	1	1
North Dakota	0	1	1
Oklahoma	0	1	1
Utah	0	4	4
Wyoming	0	5	7
Subtotal	2	17	19
Total	2	17	33
INDIAN LANDS PROGRAM			
Arizona	0	1	1
Montana	1	1	1
Wyoming	0	1	0
Total	1	3	2
GRAND TOTAL	5	21	51

Inspection and Enforcement

In primacy states—those with primary responsibility for enforcing a surface mining regulatory program—OSMRE makes periodic inspections of mine sites to monitor the state's effectiveness in enforcing the program and to identify areas in which the state may need assistance.

During fiscal year 1985, OSMRE conducted 5,088 oversight inspections with an average of 69 full-time inspectors. The inspections resulted in the issuance of 740 Ten-Day Notices, 132 Notices of Violation, and 110 Cessation Orders.

Also, during fiscal year 1985, OSMRE conducted enforcement activities in Tennessee and Oklahoma. In Tennessee, OSMRE conducted 3,878 complete inspections and 7,019 partial inspections, using an average of 35 full-time inspectors with term appointments, located at the Norris and Chattanooga Area Offices. The inspections resulted in the issuance of 874 Notices of Violation and 433 Cessation Orders.

In Oklahoma, OSMRE conducted 821 complete inspections and 2,331 partial inspections with an average of six full-time inspectors with term appointments, located at the Muskogee Area Office. These inspections resulted in the issuance of 317 Notices of Violation and 142 Cessation Orders.

In addition to the inspection and enforcement activities stated above, OSMRE conducted inspections and instituted enforcement actions in the Federal Program states of Georgia and Washington; on Federal lands in states without cooperative agreements; and on Indian lands.

OVERSIGHT INSPECTION ACTIVITIES FY 1985

State	Sampling Inspections	Other Inspections	Ten-Day Notices Issued	Notices of Violation	Cessation Orders
Alabama	206	214	98	16	18
Alaska	1	6	1	0	0
Arkansas	45	23	12	8	5
Colorado	46	3	13	0	0
Illinois	93	37	52	0	1
Indiana	239	95	78	5	1
Iowa	30	9	18	0	0
Kansas	50	11	6	0	0
Kentucky	459	631	149	22	29
Louisiana	5	0	1	0	0
Maryland	88	13	6	1	0
Missouri	50	46	23	2	0
Montana	15	16	2	0	0
New Mexico	7	17	3	2	0
North Dakota	85	12	6	0	0
Ohio	371	97	104	5	3
Pennsylvania	313	643	44	34	25
Texas	20	17	9	4	0
Utah	23	2	6	1	0
Virginia	231	255	31	31	27
West Virginia	248	273	76	1	1
Wyoming	41	2	2	0	0
Total	2666	2422	740	132	110

FEDERAL PROGRAMS INSPECTION ACTIVITIES FY 1985

State	Complete Inspections	Partial Inspections	Notices of Violation	Cessation Orders
Georgia	36	21	4	2
Oklahoma	821	2331	317	142
Tennessee	3878	7019	874	433
Washington	29	4	4	2
Total	4764	9375	1199	579

FEDERAL LANDS INSPECTION ACTIVITIES FY 1985

State	Complete Inspections	Partial Inspections	Notices of Violation	Cessation Orders
Illinois	44	20	1	1
Kentucky	132	268	12	1
Oklahoma	31	42	2	1
Utah	8	0	0	0
Virginia	10	27	1	1
Total	225	357	16	4

INDIAN LANDS INSPECTION ACTIVITIES FY 1985

State	Complete Inspections	Partial Inspections	Notices of Violation	Cessation Orders
Arizona	7	6	8	0
Montana	6	12	0	0
New Mexico	16	17	4	0
South Dakota	2	0	1	0
Wyoming	5	6	0	0
Total	36	41	13	0

Alternative Enforcement

As a result of an agreement reached between the Department of the Interior and counsel for the plaintiffs in *Save Our Cumberland Mountains, Inc., et al. v. Hodel, et al.*, Civil Action No. 81-2134 (D.D.C.) (Parker, J.), and *Council of the Southern Mountains, Inc., et al. v. Hodel, et al.*, Civil Action No. 79-1521 (D.D.C.) (Gasch, J.), Judge Parker issued a revised Court Order on February 1, 1985. The revised Order addresses enforcement and collection issues surrounding failure-to-abate cessation orders issued by OSMRE, particularly those issued between May 3, 1978 and February 1, 1985. Following are the key requirements of the revised Parker Order:

- (1) Establishment of a computerized permit applicant/violator/debtor matching system to prevent violators from receiving new permits;
- (2) Development and implementation of procedures to suspend or revoke improperly issued permits;

- (3) Obtaining financial "net worth" information about violators for the purpose of prioritizing and closing enforcement cases;
- (4) Enhanced collection of civil penalties, including those against corporate officials in an effort to achieve compliance and obtain reclamation; and
- (5) More efficient use of injunction actions, criminal penalties, and contempt of court citations to compel compliance.

As a result of the revised Parker Order, OSMRE initiated or enhanced several major program activities including: (1) development of permit blocking systems to implement section 510(c) of the Act, (2) implementation and coordination of additional alternative enforcement actions, (3) disposition of alternative enforcement actions already referred to the Office of the Solicitor, and (4) the promulgation of new regulations to enhance alternative enforcement.

At the Federal and state levels, OSMRE is developing its applicant/violator permit blocking systems in three phases. Under phase one, all information collected on Federal cessation orders, delinquent Abandoned Mine Land (AML) reclamation fees, and Federal civil penalties will be automated by October 1987. Phase two will see the addition of state-issued civil penalties to the data base, and under phase three, all Federal and state air and water quality violations relative to surface mining operations will be added. The long-term goal of OSMRE is the development of a computerized system that will identify and match surface coal mining permit applicants with violators through common ownership or control to determine whether permit applicants, or those who own or control such applicants, are in violation of the Act. Development of the computerized system will provide state regulatory authorities with information that can be used to withhold or deny permits to violators who do not take corrective action to abate violations or pay penalties or AML fees.

OSMRE has already implemented an interim permit blocking system for use where mining is proposed on Federal lands and where OSMRE is the regulatory authority. Permit applications are reviewed to determine if a permit applicant, or any entity connected to an applicant through common ownership or control, is currently in violation of the Act. OSMRE uses Federal and state enforcement records, AML fee data, and air and water violation information from the Environmental Protection Agency in clearing permits.

During fiscal year 1985, OSMRE reviewed 102 surface coal mining permit applications. Of these, 47 applicants were found to be in full compliance with the Act and 55 applicants were found to have (or were linked to entities having) outstanding violations or unpaid civil penalties or AML fees. Through these efforts, permit blocking has become an effective tool to bring about settlements leading to necessary reclamation and improved collection of monies owed the Federal government. While this interim manual system can handle the limited workload associated with Federally issued permits and some state inquiries, an automated applicant/violator/debtor system is needed to handle the workload associated with the large number of permits issued by states.

As an additional measure, OSMRE has also developed procedures to suspend or revoke improperly issued permits. OSMRE implements these procedures in instances where it is determined that surface coal mining permits have been issued to an entity that had, at the time of permit issuance, unabated Federal violations or unpaid Federal civil penalties or AML fees, or was linked to such an entity through common ownership or control. In fiscal year 1985, 69 cases were investigated where permits were suspected to have been improvidently issued. As a result, 40 Federal enforcement actions were taken in eight states. The investigations resulted in settlement agreements between violators and OSMRE for the payment of \$229,200 in civil penalties and \$222,758 in AML fees.

OSMRE continued its major commitment to take enforcement actions against violators responsible for failure-to-abate cessation orders. Of the 303 failure-to-abate cessation orders reviewed by OSMRE during the year, 299 recommendations were made for injunctive relief and 17 were recommended for criminal sanctions. As a result of judicial action taken in these cases, numerous injunctions were obtained, 10 contempt of court citations were issued, and four violators were sentenced to jail. Moreover, OSMRE circulated lists of violators to the states to enable them to more effectively block violators from receiving permits.

OSMRE also took measures to act on the cases reviewed under the earlier Parker and Gasch court orders. The revised Parker Order provides for the Secretary to make better use of Departmental resources to assist in this effort. In some cases, entities and responsible parties are insolvent, and additional litigation or collection actions would be fruitless. Therefore, in order to set priorities and focus valuable resources where they can be put to best use, OSMRE and the Office of the Solicitor began identifying cases which should be pursued for judicial action and cases which should be closed. OSMRE will determine the net worth of each entity, and that of its president or chief executive officer, found to have an unabated cessation order. These net worth determinations will be used to evaluate whether an entity or individual possesses sufficient assets to compel compliance with the Act. If the net worth determination establishes that an entity is insolvent, then the case will be closed and prosecution not pursued. During fiscal year 1985, OSMRE obtained 766 net worth determinations, and referred them to the Office of the Solicitor for use in deciding which enforcement cases to litigate.

OSMRE also initiated development of two rules relating to alternative enforcement during fiscal year 1985. The first is an "Ownership and Control" rule which would amend the Federal rules governing the permit approval process by defining the terms "ownership" and "control," referenced in the Act, and by expanding the scope of findings required prior to permit approval. These amendments are needed to eliminate or greatly reduce the possibility of persons obtaining or holding surface coal mining permits in violation of the permit approval provisions of section 510(c) of the Act. The "Ownership and Control" rule was published as a proposed rule in the **Federal Register** on April 5, 1985.

Another rulemaking effort, prescribed by the revised court order, would establish criteria for the assessment of individual civil penalties. OSMRE intends to amend both its Interim and Permanent Program Inspection and Enforcement Procedures to include regulations governing the assessment of individual civil penalties against directors, officers, and agents of corporate permittees who are found to be in violation of section 518(f) of the Act.