

# 3. PROGRAM ADMINISTRATION & FINANCE

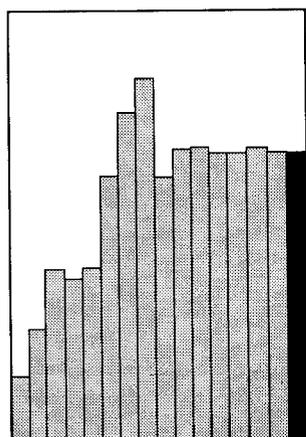
## LEGISLATION

On October 24, 1992, the President signed into law the Energy Policy Act of 1992 (Public Law 102-486). Changes to SMCRA implementation enacted in that statute include provisions that:

- Provide incentives to remine and reclaim abandoned mine lands (AML);
- Require the repair of, or compensation for, damages resulting from subsidence;
- Provide assistance to small coal operators;
- Provide Title V grants to Indian tribes; and
- Extend the collection of the abandoned mine reclamation fees through the year 2004.

On October 30, 1992, the President signed into law the Reclamation Projects Authorization and Adjustments Act of 1992 (Public Law 102-575). This law amended the National Historic Preservation Act (NHPA) definition of "undertaking" to include programs subject to state regulation and administered pursuant to a delegation or approval by a federal agency. These amendments to NHPA rendered moot the government's appeal of the *Indiana Coal Council, Inc. v. Babbitt* Nos. 91-5397, 91-5398, 91-5405, 91-5406 (D.C. Cir.) (historic properties rule challenge) decision.

## BUDGET AND APPROPRIATIONS



OSM Budget 1978-93

The Department of the Interior and Related Agencies Appropriations Act of 1993 (Public Law 102-381) appropriated \$111,716,271 from the General Fund for 1993 OSM regulatory and enforcement activities. The regulation and technology appropriations included the following provisions:

- Performance bonds forfeited under Section 509 of SMCRA can be used to reclaim lands where the mine operator did not complete performance of all requirements of SMCRA and the permit. Performance bond forfeitures received and credited to this account in

1993 totaled \$178,750. Of current-and prior-year bond forfeitures, \$533,552 was used for reclamation in 1993.

- Federal civil penalties collected under Section 518 of SMCRA can be used to reclaim lands abandoned after August 3, 1977. Civil penalties collected by OSM in 1993 totaled \$294,829. Of current- and prior-year collections, \$333,725 was used for reclamation in 1993.
- State regulatory program grants were funded at \$51,661,116, an increase of \$3,180,116 over 1992.

In addition, \$187,929,901 was appropriated from the AML fund, and up to 20 percent of the funds recovered from the delinquent debts was authorized for continuing collection of those debts. In 1993, OSM spent \$975,000 to collect approximately \$5.1 million in delinquent AML fees and delinquent AML audit bills. The following provisions were included in the AML appropriation:

- State reclamation grants were funded at \$135,793,350, an increase of \$519,350 from 1992.
- No more than 25 percent of the total funds available for emergency reclamation projects was permitted to be used in any one state.
- Federal emergency program expenditures were limited to \$15,000,000.
- Fifty percent of a state's annual AML grant can be denied if the Secretary of the Interior finds the state has failed to enforce provisions of the approved state regulatory program.

All of the appropriation's provisions were met.

Table 1 provides a 1978-1993 appropriation history.

## DEBT MANAGEMENT

OSM pursues delinquent debtors who owe civil penalties for mine site environmental violations and unpaid AML fees, including unpaid AML fees resulting from OSM compliance audits. OSM's 1993 collections and the year-end debt are shown in Table 2. Civil penalties include administrative charges and late payment penalties paid to the U.S. Treasury and not available for use by OSM. Delinquent debt information is retained in OSM's Applicant/Violator System to prevent violators from receiving new mining permits until their account are settled. Of the \$87.7 million fiscal year-end 1993 debt balance, \$53.6

**TABLE 1**  
**OSM APPROPRIATION HISTORY**  
**1978-1993\***  
(Dollars in Thousands)

	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
<b>Regulation &amp; Technology</b>																
State Regulatory Grants	\$8,600	\$18,900	\$21,680	\$35,000	\$24,432	\$32,150	\$38,100	\$36,734	\$35,387	\$45,110	\$40,359	\$41,910	\$41,910	\$47,659	\$48,481	\$51,661
Regulatory Program Operations								17,704	19,221	20,078	20,310	20,450	20,450	22,576	21,513	21,457
Tech. Services, Training & Research								12,642	13,681	13,670	13,470	13,026	13,026	13,559	13,472	15,227
Kentucky Settlement Agreement										3,685	4,425	3,772		904		
Assessments and Collections								6,938	7,929	10,502	8,981	9,100	13,078	12,730	9,220	
Program Operations & Inspections						10,493	13,776	23,729								
State & Federal Programs	3,300	4,007	14,352	22,492	15,246											
Inspection & Enforcement	7,520	13,360	16,622	15,717	12,193											
Technical Support	3,260	6,872	7,033	6,841	6,644	10,903	12,551	12,890								
Applied Research	2,500															
Mineral Institutes	5,700	5,800	10,000	9,629												
SOAP		5,000	15,000													
<b>General Administration</b>																
Executive Direction						7,332	6,268	6,994	8,103	14,062	13,831	11,999	12,970	13,067	13,504	14,151
Administrative Support									[1,359]	[1,664]	[1,677]	[1,761]	[1,589]	[1,659]	[1,873]	[2,124]
General Services									[3,425]	[6,297]	[6,856]	[5,649]	[6,487]	[5,908]	[6,123]	[6,050]
									[3,319]	[6,101]	[5,298]	[4,589]	[4,894]	[5,500]	[5,508]	[5,977]
Subtotal	30,880	53,939	84,687	89,679	58,515	60,878	70,695	80,347	80,774	100,003	102,125	101,095	101,228	110,843	109,700	111,716
<b>Abandoned Mine Reclamation Fund</b>																
State Reclamation Grants	10,000		25,000	26,200	46,936	173,528	233,100	236,840	149,441	160,600	159,660	151,660	145,780	149,214	135,274	135,794
Fund Management	4,784	8,680	9,124	9,987	6,794	5,131	6,498	6,599								
Fee Compliance									2,680	3,482	5,588	5,681	5,720	6,088	6,408	6,644
Reclamation Program Operations	15,875	21,835	39,376	29,364	41,680	23,064	26,452	39,371	28,715	24,592	13,662	19,005	22,264	25,238	27,154	25,137
AML-Technical Support	998	808	1,237	1,652	1,584	991	1,221	1,955								
RAMP	5,000	10,128	10,106	10,280	18,339	6,155	10,582	9,800	9,019	9,400	15,000	12,000	12,000	11,933	11,848	13,385
SOAP	10,000	10,000	10,000	5,000		(11,499)	(2,000)	2,949	2,949							
General Administration						4,210	4,874	4,376	4,473	5,646	5,470	4,814	5,008	4,993	5,268	5,210
Executive Direction									[794]	[825]	[880]	[866]	[873]	[919]	[1,050]	[888]
Administrative Support									[1,912]	[1,992]	[2,311]	[1,692]	[1,711]	[1,509]	[1,649]	[1,469]
General Services									[1,767]	[2,829]	[2,279]	[2,256]	[2,424]	[2,565]	[2,569]	[2,853]
Subtotal	36,657	61,451	94,843	82,483	115,333	213,079	271,228	296,941	197,277	203,720	199,380	193,160	192,772	198,958	187,803	187,930
<b>Total</b>	<b>\$67,537</b>	<b>\$115,390</b>	<b>\$179,530</b>	<b>\$172,162</b>	<b>\$173,848</b>	<b>\$273,957</b>	<b>\$341,923</b>	<b>\$377,288</b>	<b>\$278,051</b>	<b>\$303,723</b>	<b>\$301,505</b>	<b>\$294,255</b>	<b>\$294,000</b>	<b>\$309,801</b>	<b>\$297,503</b>	<b>\$299,646</b>

\*Does not include Bond Forfeiture and Civil Penalty collections

million (61 percent) is principal. The remainder represents interest, late payment penalties, and administrative charges on unpaid balances.

**TABLE 2  
DEBT MANAGEMENT**

Category	Amount Collected	Balance Owed
Civil Penalties	\$316,400	\$34,924,058
AML Fees	2,174,080	30,080,839
AML Audited Fees	2,949,679	22,685,084
Totals	\$5,440,159	\$87,689,981
Debt Not Delinquent		9,695,129
Total Delinquent		\$77,994,852

## NET WORTH REPORTS

OSM uses private contractors to determine the net worth of individuals and businesses with unpaid SMCRA obligations. Net worth reports are requested to determine the ability of businesses and individuals to pay for the cost of reclaiming old mining sites or to pay their delinquent obligations, or both. During 1993, OSM requested net worth reports on 439 companies and individuals at a cost of approximately \$120,254.

## LEGAL ACTION AGAINST DEBTORS

OSM is currently processing \$5.7 million of delinquent debt. When OSM exhausts its own avenues of debt collection, delinquent debts are referred to the Department of the Interior's Solicitor for appropriate legal action or bankruptcy proceedings. Of the total debt owed at the end of 1993, \$72.3 million has been referred to the Interior Department Solicitor. Of this amount, \$20.8 million is in bankruptcy proceedings and the remainder has been referred for collection action.

## FEE COMPLIANCE AUDIT

OSM maintains regional and area audit offices in 13 cities throughout the nation's coal-producing regions. The audit program has assumed an expanding role in the overall enforcement of SMCRA. While maintaining the basic audit program necessary to assure compliance with reclamation fee requirements, the auditors have also (1) performed special financial reviews, (2) expanded their scope of work to encompass ownership and control data for the Applicant/Violator System, and (3) assisted the Office of the Solicitor, field office directors, and state regulatory authorities in specific enforcement efforts.

In 1993, OSM conducted 397 audits and audit-related projects and identified \$7.3 million in under-reported or

non-reported AML fees. In addition to effecting structured audits of coal operators, OSM's audit staff has developed technical and programmatic policy; developed and implemented audit procedures and standards; developed and tested a Quality Assurance Review Program; developed an automated audit prioritization system; developed and implemented an Audit Appeals Program; and researched and coordinated the development of rules and regulations that affect the fee compliance program.

## FINANCIAL MANAGEMENT INVESTMENTS

Pursuant to the authority granted by Congress in 1990 (Public Law 101-233), OSM began investing AML funds in 1992. By law, OSM is restricted to investing in certain market-based\* securities issued by the U.S. Treasury, such as bills, notes, bonds, and one-day certificates.

Total investment earnings received for 1993 were \$30.6 million. An additional \$1.1 million was earned in 1993 but will not be received until 1994. The average interest earned on investments during the year was 2.92 percent. At the end of the fiscal year, OSM had more than \$1.09 billion invested in Treasury securities.

The passage of the Energy Policy Act of 1992 (Public Law 102-486) stipulated that all 1993 investment earnings received and all future investment earnings are to be made available for transfer from the AML fund to the Combined Fund (for retired miners), beginning in 1996.

## AUDITED FINANCIAL STATEMENTS

Since 1990, OSM has prepared an Annual Financial Statement after the close of each year, as required by the Chief Financial Officers Act of 1990 (Public Law 101-576). OSM's Annual Financial Statements are audited by the Inspector General to assure that the financial results are fairly stated and conform with generally accepted accounting principles for federal agencies. Results of the most recently completed audit, covering 1991, were very favorable. OSM received an unqualified or "clean" opinion from the Inspector General (OIG Report No. 93-1-333, December 1992). Preparation of OSM's financial statements for 1993 began with the close of the year on September 30, 1992. The Inspector General's audit staff is currently reviewing OSM's financial statements for both 1992 and 1993.

\*"Market-based" is an investment program that simulates the marketplace without the market impact.

## **ELECTRONIC IMPROVEMENTS IN FINANCIAL MANAGEMENT**

OSM continues to apply current technology to enhance its financial management functions. OSM has implemented automated procurement and budgeting systems that are fully integrated with the accounting system. Those systems provide all OSM offices with on-line access to accurate, up-to-the minute financial management information.

OSM has also implemented an automated travel voucher program that enables the use of statistical sampling to audit travel vouchers. OSM employees continue to receive their paychecks and travel reimbursements through the Direct Deposit/Electronic Funds Transfer program. Additional initiatives are underway to further automate the collection and disbursement of funds by OSM.

The Abandoned Mine Land Fee Collection System (AMLFCS) was revised to match the state regulatory authorities' process for issuing coal mining permits. When a state regulatory authority adds a new permit to the Applicant Violator System, the new permit is automatically added to the AMLFCS data base. That process has resulted in a more accurate inventory of active coal operators for use throughout OSM.

OSM is also collecting additional Abandoned Mine Land fee collection data as required by Section 402(c) of Public Law 102-486. The additional data now being collected includes (a) the owner of the coal, (b) the preparation plant, tippie, or loading point for the coal, and (c) the purchasers of the coal.

## **INFORMATION MANAGEMENT PLAN**

Progress on the information resource management modernization plan continued in 1993 through infrastructure improvements that support the agency-wide objectives of increased accuracy, credibility, and timeliness of mission support information, hand-in-hand with cost containment of those automated information delivery processes.

Several significant accomplishments during the fiscal year brought OSM closer to completing its strategic blueprint. These include: redesigning the Applicant Violator System to operate more cost-effectively; procuring additional microcomputers to upgrade local area network client-servers, expand several field office local area networks, and eliminate all obsolete workstations; progress in installing a wide area data network to allow modern, efficient access by agency and cooperating state offices nationwide; procuring new workstations for states using OSM's Technical Information Processing System; completing the state-level Abandoned Mine Land Inventory

System designed for field-level distribution and processing; and implementing improved network-based information safeguards to protect and secure critical operational information.

## **TECHNICAL INFORMATION PROCESSING SYSTEM (TIPS)**

The Technical Information Processing System (TIPS) is a national computer system designed by OSM in close cooperation with the states. It is operated by OSM for use by state regulatory authorities, as well as OSM, in carrying out technical regulatory responsibilities under SMCRA. TIPS consists of a centrally located super minicomputer at the TIPS National Computer Center in Denver networked with engineering/scientific workstations in state and selected federal offices for assisting technical decision-making associated with conducting reviews of permits, performing cumulative hydrologic impact assessment, quantifying potential effects of coal mining, quantifying revegetation success, assisting in the design of abandoned mine land reclamation projects, and preparing environmental assessments and environmental impact statements. Using off-the-shelf commercial software, TIPS was designed to perform a number of automated operations that, in the past, were done manually.

TIPS has been fully operational since 1989 and is used extensively by states and OSM offices. In 1993, OSM proceeded with the planning and procurement needed to replace the engineering/scientific workstations and implement a high-speed wide area network (a replacement for GeoNET) to interconnect workstations with the TIPS minicomputer. In-depth training in the use of TIPS software continued in 1993. In addition, OSM provided technical assistance using TIPS on specific projects, including:

- Analysis, geologic/hydrologic modeling, and volumetric calculation of a bond forfeiture site;
- Litigation support related to quantifying approximate original contour; and
- Assistance, through a cooperative agreement with EPA, in geologic modeling of a proposed Superfund site.

## **APPLICANT/VIOLATOR SYSTEM**

Section 510(c) of SMCRA and corresponding regulations (30 CFR 773) prohibit the issuance of permits to applicants with previous uncorrected violations and to applicants related to violators through ownership and control. The Applicant/Violator System (AVS), a computer data base, was developed to assist OSM and the state regulatory authorities assure compliance with those require-

ments. AVS identifies associations between permit applicants or their affiliates and uncorrected violations of SMCRA. OSM and the states use the information to help determine whether a permit should be issued or denied.

Since 1991, in order to avoid AVS permit "deny" recommendations, companies paid over \$4,493,585 in AML fees and federal civil penalties which would not have been paid otherwise. Some companies also signed settlement agreements to resolve uncorrected violations by performing reclamation work and providing lists of their contract operators.

In working to improve the usefulness of the system, OSM implemented a number of specific improvements to AVS, including the following:

- Produced reports for the identification of possible Improvidently Issued Permits;
- Installed a process whereby entities tied to a settlement agreement are not considered part of violations or the Violation Family Tree during the evaluation process;
- Allowed *READ ONLY* user access to OSM1/402c data; and
- Provided OSM field office access to multiple state information.

A proposed new rule on "permit information" requirements was published in the *Federal Register* on June 28, 1993. The purpose of the proposed rule is to clarify the role of AVS in the permit application process; reorganize and amend the definitions of ownership and control; amend the definition of and procedures for transfer, assignment, or sale of permit rights; establish procedures for permit revisions regarding changes in operators or other changes in ownership or control; revise requirements for information to be submitted as part of the permit application process; eliminate certain civil penalties for owners and controllers of violators; and establish penalties for knowing submission of false or incomplete ownership or control information during any of the above or several other information collection processes.

The proposed regulations would amend the definition of "transfer, assignment or sale of permit rights." They would also amend the procedures for "transfer, assignment or sale of permit rights." The proposal would recognize and amend the definitions of "owned or controlled" in 30 CFR 773.5 to distinguish between ownership and control of entities and ownership and control of surface coal mining operations. It would allow applicants for surface coal mining permits to avoid submitting duplicative information by certifying that the information relat-

ing to them that is contained on AVS is correct and current. In conjunction with that revision, the proposal provides for necessary updates of information in AVS to be maintained through the permit revision and transfer, assignment, and sale processes. Consistent with this, the requirement to update ownership and control information within 30 days of receiving a cessation order would be eliminated. Information requirements for certain categories of ownership and control would be removed from the permit information regulations. Penalties would be imposed for knowing failure to provide complete and accurate ownership or control information.

AVS is being used effectively to assure that individuals and companies associated with outstanding SMCRA violations, or with outstanding penalties or fees, are not being issued new permits. Since 1990, over 22,474 applications have been reviewed by AVS; 13,907 applications received a recommendation of "issue," 4,434 applications received a recommendation of "deny," and 1,723 applications received a recommendation of "conditional."

An OSM decision to overturn system recommendations results from court orders, recent fee payments, and settlement agreements not yet incorporated into the system to resolve outstanding violations. The current increase in activity in the settlement of outstanding violations has caused a higher rate of overturns. However, since 1992, the AVS permit application recommendation reliability rating has maintained an average of 90.35 percent. Additionally, AVS continues to experience a significant increase in use, especially by all OSM field offices, fee audit offices, Solicitor offices, the Tennessee Valley Authority (TVA), state regulatory authorities, and the U.S. Department of Labor's Mine Safety and Health Administration.

## **MONITORING POTENTIAL CONFLICTS OF INTERESTS**

Sections 201(f) and 517(g) of SMCRA prohibit any federal or state employee "performing any function or duty under this Act" from having "direct or indirect financial interest in underground or surface coal mining operations." In monitoring compliance with those provisions, OSM provides oral and written guidance and assistance to personnel of affected state and federal agencies, including OSM's own employees. Through this process, OSM has increased awareness and understanding of those provisions, and violations have steadily decreased. In 1993, 1,063 employees filed financial disclosure statements. No violations were reported.

As part of OSM oversight, State Ethics Program reviews were conducted in June 1993 and September 1993 on the Virginia, Illinois, and Ohio programs. The reviews ana-

lyzed the financial disclosure statements on file and evaluated the procedural processes in place for the programs. No major problems were identified. OSM has now completed 11 in-depth reviews in 24 of the states where primacy has been granted under SMCRA.

## **EQUAL OPPORTUNITY COMPLAINT PROCESSING COSTS**

In 1993, complaint processing costs continued to decrease as a result of internal investigations, internally prepared complaint analyses, and increased emphasis on Alternative Dispute Resolution (ADR).

It is expected, however, that in 1994 processing costs will increase as a result of implementing new EEOC regulations (29 CFR 1614).

During 1994 OSM will formally implement its ADR program, which should help to further decrease complaint processing costs.

## **OSM WORK FORCE PROFILE**

1993 ended with 22 fewer full-time permanent employees than when the year began (down from 1025 to 1003). Headquarters showed a decrease of seven (7) while the Western Support Center showed an increase of two (2). The Field Offices decreased by fifteen (15) and the Eastern Support Center by two (2). OSM's trend toward staff reduction is a result of "right-sizing" to support current work assignments within budget constraints.

## **CAREER DEVELOPMENT RESOURCES OFFICE**

The Career Development Resources Office (CDRO), established during the latter part of 1992, is fulfilling its purpose by providing self-instructional and motivational material to both Headquarters and field personnel. No-cost training was provided to OSM employees by co-sponsoring training with other OSM program offices and by using in-house trainers.

During 1993, OSM managers and supervisors were surveyed to identify their interest in human resources courses. Survey results showed that six out of twelve suggested topics generated a high level of interest from OSM employees. They included Employees' Rights and Responsibilities; Position Management; EEO Training for Employees; How to Prepare Performance Standards; and Retirement Planning. EEO training was offered to all OSM employees during 1993. Workshops on preparing performance standards and retirement planning were offered to Headquarters personnel, to the Western Support Center, and to other installations in the West. Workshops on employee rights and responsibilities and position management will be implemented in 1994.

A self-paced training program was developed and made available to OSM employees to help prepare them for job interviews. The self-paced training program focuses on interviewing skills through role playing and use of video tapes.

In addition, OSM employees are developing a training course on Presentation techniques. The development of this training course is in its final stages.

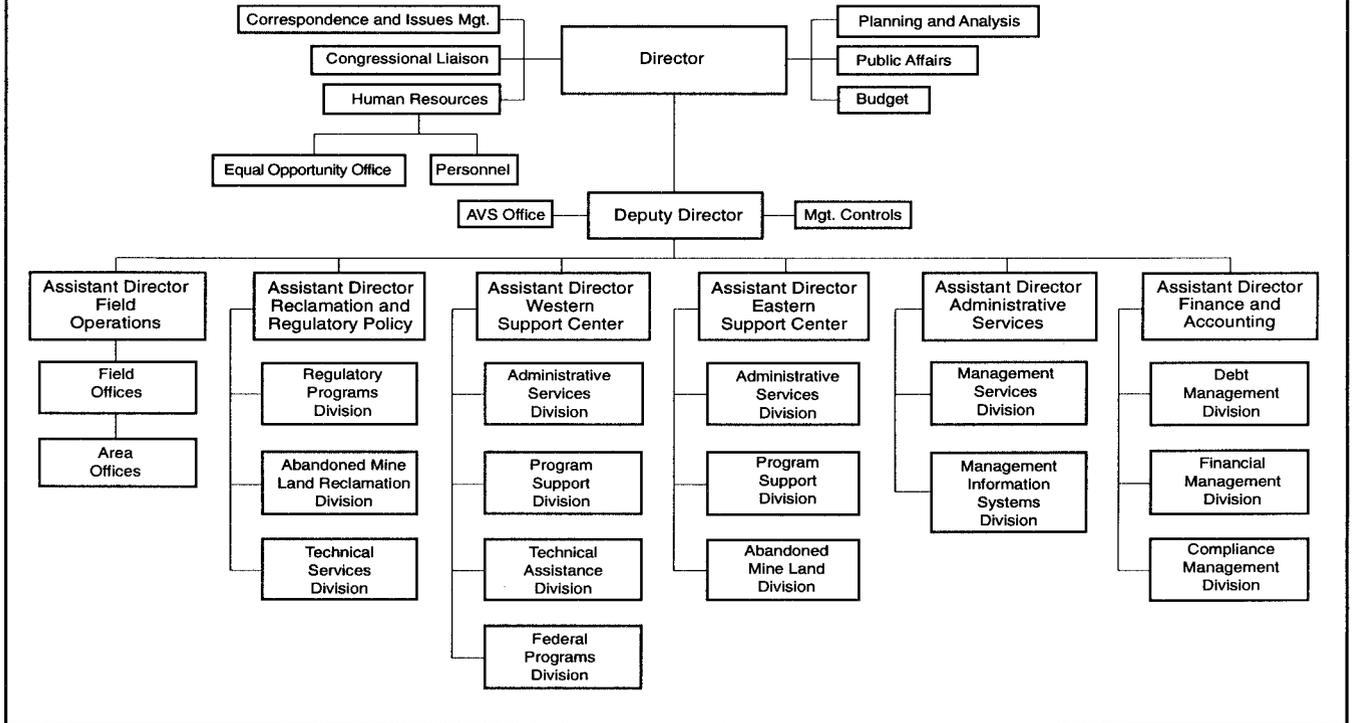
## **OFFICE OF THE INSPECTOR GENERAL AND GENERAL ACCOUNTING OFFICE AUDITS**

During 1993, the Office of the Inspector General initiated three audits and issued four audit reports, of which three were follow-up investigations that had no additional recommendations. OSM completed implementation actions on two audits and referred three audits to the Interior Department for management decisions. The General Accounting Office (GAO) did not initiate any new audits. OSM implemented corrective action on one GAO audit; and two remain active pending implementation actions. Table 3 lists those audits and their status.

**TABLE 3**  
**1993 OIG and GAO REVIEWS**

Audit or Review Title	Audit Number	Status
<b><i>OFFICE OF THE INSPECTOR GENERAL (OIG)</i></b>		
Fee Compliance Program, Office of Surface Mining Reclamation and Enforcement	90-99	Complete
Final Audit Report on the Regulatory Program	91-I-655	Complete
Follow-up of Recommendations Concerning Fee Compliance Program, Office of Surface Mining Reclamation and Enforcement	93-I-189	Complete (No Findings)
Office of Surface Mining Reclamation and Enforcement Combined Financial Statements for Fiscal Years 1990 and 1991	93-I-333	Complete (No Findings)
Follow-up of Personal Property Management, OSMRE	93-I-1157	Complete (No Findings)
Coal Reclamation, Mine Land Reclamation, AML Reclamation Program	91-I-1295	Referred for Management Decision
Non-Coal Reclamation, AML Reclamation Program	91-I-1248	Referred for Management Decision
Final Reports on Fiscal Year 1990 Financial Statements, Regulatory Program Performance and Management Letter Resulting from Audit of Fiscal Year 1990 Financial Statements	91-I-1273	Referred for Management Decision
Selected Grant Oversight Activities, OSM	93-I-1198	Active
Regulatory Program Enforcement Techniques		Audit Work in Process
OSM Technical Statements for Fiscal Years 1992 and 1993		Audit Work in Process
<b><i>GENERAL ACCOUNTING OFFICE (GAO)</i></b>		
Coal Mine Subsidence: Several States May Not Meet Federal Insurance Program Objectives	GAO/RCED 91-140	Complete
Abandoned Mine Reclamation: Interior May Have Approved State Shifts to Non-coal Projects Prematurely	GAO/RCED 91-162	Active
Surface Mining Operation of the Applicant Violator System Can Be Improved	GAO/AFMD 89-31	Active

## FIGURE 1 OSM ORGANIZATION



## FIGURE 2 OSM OFFICE LOCATIONS

