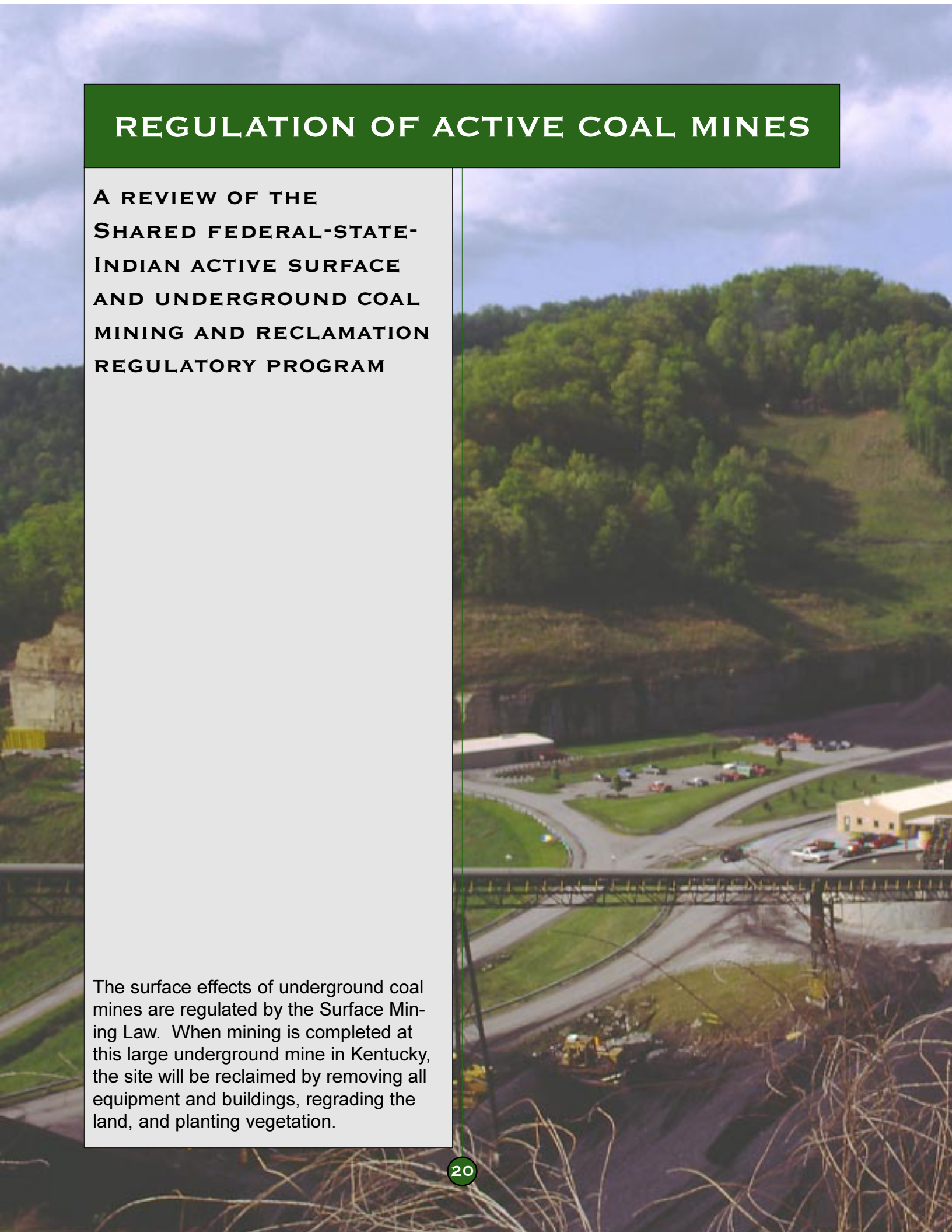
REGULATION OF ACTIVE COAL MINES

A review of the Shared federal-state-Indian active surface and underground coal mining and reclamation regulatory program

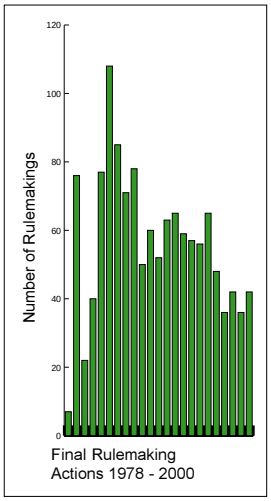


The surface effects of underground coal mines are regulated by the Surface Mining Law. When mining is completed at this large underground mine in Kentucky, the site will be reclaimed by removing all equipment and buildings, regrading the land, and planting vegetation.

Under the Surface Mining Law (www.osmre.gov/smcra.htm), the Office of Surface Mining is responsible for publishing the rules and regulations (www.osmre.gov/regindex.htm) necessary to carry out the Law. The permanent regulatory program and related rules provide the fundamental mechanism for ensuring that the goals of the Surface Mining Law 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 rulemaking activities.

Rulemaking and State Program Amendments

The 2000 rulemaking 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 three permanent program final rules in the *Federal Register:* the Valid Existing Rights Rule (RIN 1029-AB42), an Interpretative Rule Related to Subsidence Due to Underground Coal Mining (RIN 1029-AB82), and the Indiana Cooperative Agreement Rule (IN-142-FOR). 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. In 2000, the Office of Surface Mining published 27 proposed and 39 final state program amendments in the *Federal Register*. A complete list and summary of all Office of Surface Mining *Federal Register* notices can be seen at www.osmre.gov/ocfeder.htm.

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

TABLE 7: FINAL RULES PUBLISHED DURING 2000

Valid Existing Rights	30 CFR 761 et al.	12/17/99
This rule redefines the circumstances under which a person has valid existing rights to conduct surface coal mining operations on certain lands protected by Section 522(e) of the Surface Mining Law.		
Interpretative Rule Related to Subsidence Due to Underground Coal Mining	30 CFR 761	12/17/99
This rule interprets Sections 522(e) and 701(28) of the Surface Mining Law and the implementing rules to provide that subsidence due to underground coal mining is not a surface coal mining operation.		
Indiana Cooperative Agreement Rule	30 CFR 914	12/17/99
This rule allows the state of Indiana to regulate surface coal mining and reclamation operations on federal lands in Indiana.		

state programs. Most state programs were approved in the early 1980s, and the Office of Surface Mining's oversight of the programs focused on the implementation of the many procedural and process requirements such as permitting, inspection, enforcement, and penalties, each with numerous mandated requirements. These are prescribed to achieve the environmental protection performance standards and the overall purposes of the Surface Mining Law.

In accordance with the National Performance Review, recommendations regarding the regulatory and abandoned mine land reclamation programs, the Office of Surface Mining, in consultation with the states, devised a new results-oriented oversight strategy that emphasized cooperative problem-solving, tailoring evaluations to state-specific conditions, and the development of performance agreements between each state and its Office of Surface Mining Field Office. The primary focus of this strategy is on measuring whether state programs are successfully achieving the purposes of the Surface Mining Law with respect to public participation, environmental protection, and reclamation of mined lands. This focus is consistent with the Government Performance and Results Act, which requires that federal agencies develop ways to objectively measure how a program is accomplishing its mission through

In 2000, United States coal production was over one billion tons. More than 60 percent was used by electric utilities to generate power. Last year, at this Missouri power plant, approximately 2.5 million tons of coal (more than four times the total tonnage mined in Missouri during 2000) were used to generate over 5 billion kilowatt hours of electricity. This is enough electricity to supply about a million consumers for one year.

TABLE 8: 2000 SIGNIFICANT COURT DECISIONS

RULE CHALLENGES
Kentucky Resources Council, Inc. ("KRC") v. Babbitt, No. 99-00892 (D.D.C.)

On September 22, 2000, the District Court upheld OSM's "AML Enhancement Rules" which implement 30 U.S.C. § 1278(2). This section exempts the extraction of coal which is an incidental (i.e., physically necessary) part of a government-financed highway or other construction from the Title V regulatory provisions of the Surface mining Law. The challenged rules amended the prior OSM definition of "government-financed construction" to allow less than 50 percent government funding when the construction is an approved Abandoned Mine Land ("AML") project under SMCRA. *See* 64 Fed. Reg. 7470-7483 (1999). KRC had launched a two-pronged attack against the rules. First, KRC challenged the general principle that such AML reclamation projects could properly qualify as "government-financed construction" within the meaning of the § 1278(2) exemption. Second, KRC challenged the provision in the rule which allows AML projects to have less than 50 percent government funding arguing that this violates the "government-financed" element of the exemption.

The district court rejected both of these arguments. Applying the *Chevron* test to the challenged regulations, the court found them to be a reasonable and permissible interpretation of SMCRA. It noted that Congressional intent was not clear as to either of the terms "construction" or "government-financed" and that OSM's understanding of these terms was a permissible construction of the statute. The court first noted that earth-moving activities associated with AML reclamation projects do meet alternative definitions of "construction" contained in several popular dictionaries and that, since 1980, OSM's guidelines have held that AML reclamation projects qualify for the § 1278(2) exemption for "government-financed construction." Proceeding to KRC's second argument, that "government-financed construction" required greater than 50 percent government funding of the construction project, the court after again consulting popular dictionaries, observed that the term "financed" contemplates some, but not necessarily majority, project funding. In reaching its decision, the court took note of the fact that, according to OSM, the AML Enhancement rules would allow for greater reclamation of abandoned mine lands than that which would otherwise be possible and that they contained ample procedural protections against potential abuse.

THE AML FUND
Coal Operators and Associates, Inc., et al. v. Babbitt, No. 00-0198 (E.D. Ky.)

On September 1, the United States District Court for the Eastern District of Kentucky, the Hon. Joseph M. Hood, granted the Government's motion to dismiss this case. Plaintiffs, who filed their complaint on May 16, seek to compel the Secretary to disburse 50 percent of the funds held in the Abandoned Mine Reclamation Fund to the States. They contend that the AML Fund is a self executing trust fund that does not require appropriation by the Congress prior to disbursement by the Secretary. Judge Hood ruled that, under SMCRA, before money from the AML Fund may be spent, it must first be appropriated by Congress to the Secretary. In reaching this decision, Judge Hood noted that, on their face, SMCRA Sections 402(g) and 404(h), 30 U.S.C. §§1232(g) and 1234 (h), would seem to require the Secretary to allocate 50 percent of reclamation fees back to the States without waiting for Congressional appropriation of money from the Fund. Slip op. at 6. However, according to the Judge, such a literal interpretation would fly in the face of Section 401(d), 30 U.S.C. § 1231(d), which provides that "[m]oneys from the fund shall be available for the purposes of this subchapter, only when appropriated therefor, and such appropriations shall be made without fiscal year limitations." Judge Hood observed that "[t]he court must look beyond the language of the statute . . . when . . . a literal interpretation would lead to internal inconsistencies, an absurd result, or an interpretation inconsistent with the intent of Congress. Slip op. at 6. The Judge further observed that the Secretary had clarified this apparent ambiguity in his regulation at 30 C.F.R. § 872.11(b) and that that regulation should be accorded deference. Slip op. at 7. Finally, Judge Hood pointed out that Congress has been well aware of the Secretary's interpretation of these provisions and has appropriated money from the Fund each year since SMCRA was enacted in 1977. This, the court found, constituted "clear evidence that Congress intended that Congress must appropriate money from the Fund to the Secretary prior to the Secretary disbursing such money . . .". Slip op, at 8-9.

delivery of products or services. The strategy also allows the Office of Surface Mining to focus its limited resources on those program aspects that present the best opportunity for environmental improvement and the best means of preventing adverse impacts on society and the environment.

Specifically, to further reporting of end results and on-the-ground success, the oversight now evaluates and reports state-specific and national findings for off-site impacts and reclamation success. The purpose of measuring off-site impacts is to protect the public, property and the environment outside of areas authorized for mining and reclamation activities. This measurement is intended to identify and report the number and degree of off-site impacts; determine causes of the impacts; and identify where improvements may be made to lessen the number and degree of impacts. Success will be determined based on the percentage of inspectable units that achieve the goal of having no off-site impacts and on the number of acres that meet the bond release requirements for the various phases of reclamation. (An inspectable unit is a coal mining or exploration operation where an inspection obligation exists under the Surface Mining Law. One unit may consist of an individual permit; a consolidation of several permits issued to the same permittee, but, for all practical purposes constitutes the same mining operation; or in the case of large mines, a single permit my be divided into smaller, logical units that are more amenable to inspection.) During 2000, 94.1 percent of the inspectable units were free of off-site impacts.

Since 1996, the Office of Surface Mining has completed four reviews of the implementation of the oversight policy. Although there are a few exceptions, the four reviews showed that the cooperative approach provides a better atmosphere for resolving problems with states. Also, the oversight strategy has resulted in improvements to state program implementation and in resolution of some longstanding issues. (See www.osmre.gov/report00.htm for copies of Annual State Oversight Reports.)

Table 9 provides the Office of Surface Mining's oversight inspection and enforcement activities during 2000 (monthly reports are available at www.osmre.gov/oversight.htm).

TABLE 9: FEDERAL OVERSIGHT OF STATE PROGRAMS

State	Site Visits	Violations Cited by the Office of Surface Mining[1]		
		Notice of violations	Falure-To-Abate Cessation Orders	Imminent Harm Cessation Orders
Alabama	109	0	2	2
Alaska	3	0	0	0
Arkansas	9	0	0	0
Colorado	17	1	0	0
Illinois	94	0	0	0
Indiana	106	0	0	0
Iowa	28	0	0	0
Kansas	20	0	0	0
Kentucky	470	3	0	0
Louisiana	2	0	0	0
Maryland	24	0	0	0
Mississippi	3	0	0	0
Missouri	38	0	0	0
Montana	14	0	0	0
New Mexico	0	0	0	0
North Dakota	11	0	0	0
Ohio	196	0	0	0
Oklahoma	19	0	0	0
Pennsylvania	472	0	0	0
Texas	17	0	0	0
Utah	6	0	0	0
Virginia	210	0	0	0
West Virginia	217	0	2	0
Wyoming	14	1	0	0
Total	2,099	5	4	2

Note: 3 NOV violations and 2 FTACO violations are related to Abandoned Mine Reclamation Fees.
1. Excludes any NOV's or CO's that have been vacated.

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;

After more than 50 years of coal mining at this western Kentucky site, the land has been reclaimed (above). Water quality problems associated with years of pre-Surface Mining Law mining have been cleaned up. Today, with good accessibility to the reclaimed mine site, this is an attractive location for hunters, fisherman, and outdoor enthusiasts.

For bird species that require specific nesting structures, bird houses are constructed to attract and retain a breeding population on the reclaimed area (right). This bird house was constructed by a mine operator in Colorado on a reclaimed mine that has been returned to a grazing and wildlife land use.

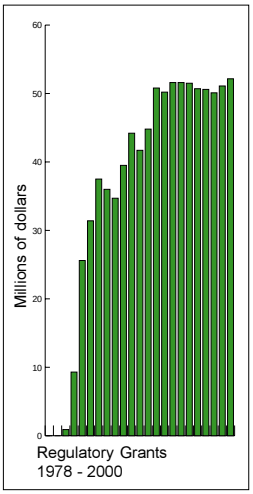
■ the state does not submit its own permanent regulatory program; or

■ 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 coal mining and reclamation operations, some states with coal reserves have elected not to submit or maintain regulatory programs. Those states are called federal program states, and their coal mining and reclamation operations are regulated by the Office of Surface Mining. 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 2000. Table 10 includes the regulatory actions in those two states during 2000.

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 2000, the Office of Surface Mining awarded $611,769 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 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 11 shows grant amounts provided to states during 2000 to administer and enforce regulatory programs.

TABLE 10: REGULATORY PROGRAM STATISTICS

State	Regulatory Staffing	AML Staffing	New Permits	New Acreage Permitted	Total Acreate Permitted	Disturbed Acreage	Inspectable Units	Complete Inspections	Partial Inspections	Notice of Violations	Failure-To-Abate Cessation Orders	Imminent Harm Cessation Orders	Bond Forfeitures	Acreage of Phase I Bond Release	Acreage of Phase II bond Release	Acreage of Phase III Bond Release
Alabama	26.00	17.75	9	2,716	88,412	NA[1]	258	3,174	352	160	55	8	5	1,941	2,720	3,220
Alaska	3.80	5.00	0	0	8,343	1,297	10	21	45	2	0	0	0	0	0	0
Arkansas	5.10	6.65	1	90	1,455	1,400	16	66	118	2	0	0	1	0	89	5
Colorado	26.00	14.00	0	0	179,500	19,563	56	217	408	10	0	0	0	258	912	1,063
Crow Tribe	1.15	5.00	0	0	4,740	21,376[2]	1	4	8	0	0	0	0	126	991	0
Georgia	NA	NA	0	0	0	141	6	6	1	0	0	0	0	0	0	0
Hopi Tribe	2.50	3.00	0	0	6,137	21,376[2]	1	3	0	0	0	0	0	0	0	0
Illinois	52.00	36.00	7	6,148	180,937	78,435	104	1,147	3,218	40	0	0	0	5,098	4,058	4,976
Indiana	52.00	23.00	11	5,685	281,900	NA[1]	203	1,008	2,115	64	0	0	4	9,913	6,490	6,544
Iowa	4.65	5.05	0	0	7,000	8,359	24	112	224	20	7	0	3	0	0	0
Kansas	3.60	11.40	1	230	5,160	4,694	14	55	106	0	0	0	0	1,310	801	840
Kentucky	308.00	74.00	73	34,953	1,675,700	266,247	2,247	10,118	15,818	1,036	NA	NA	19	10,174	4,330	17,561
Louisiana	4.60	.65	0	0	45,100	17,302	2	8	16	6	0	0	NA	0	0	0
Maryland	13.50	4.70	2	100	5,200	6,368	62	316	523	18	1	0	0	77	71	138
Mississippi	2.07	0.00	0	0	1,908	800	1	8	4	0	0	0	0	0	0	0
Missouri	14.70	12.20	1	205	13,600	12,259	58	120	223	21	0	0	0	1,702	804	1,093
Montana	16.45	8.68	0	0	56,700	27,757	16	79	91	8	0	0	0	386	386	0
Navajo Tribe	5.00	32.00	0	0	81,187	21,376[2]	8	60	70	8	0	0	0	0	0	0
New Mexico	10.00	8.00	0	0	97,800	20,507	15	60	120	3	0	0	0	0	144	0
North Dakota	8.90	5.68	1	2,048	74,480	47,054	37	158	574	1	0	0	0	372	372	639
Ohio	27.20	32.40	41	3,946	115,800	61,004	463	1,702	2,315	191	21	7	6	2,743	3,118	7,564
Oklahoma	29.00	6.00	1	676	34,280	30,268	90	363	566	48	0	0	0	705	1,172	1,385
Pennsylvania	265.00	131.00	100	2,196	433,600	NA[1]	2,269	8,172	12,178	795	82	0	35	5,402	5,006	6,802
Tennessee	51.00	0.00	1	797	24,100	15,124	350	999	1,030	39	0	0	3	1,519	647	1,326
Texas	40.80	9.00	1	2,700	255,000	143,839	21	128	210	4	0	0	0	9,340	6,169	456
Utah	24.00	9.50	0	0	148,419	2,627	28	115	200	5	0	2	0	0	0	28
Ute Tribe	0.00	0.00	0	0	175	21,376[2]	1	8	7	1	0	0	0	0	0	0
Virginia	84.00	16.00	41	6,733	68,200	44,600	689	3,237	3,841	255	18	3	10	212	281	249
Washington	NA	NA	0	0	14,872	5,014	2	8	17	1	0	0	0	0	0	0
West Virginia	286.00	67.00	61	6,729	283,560	NA[1]	2,560	9,211	11,503	1,061	188	22	64	4,526	4,589	9,145
Wyoming	29.00	13.10	0	0	337,445	87,655	39	157	371	8	0	0	1	143	2,692	33
TOTAL	1,396.02	556.76	352	75,952	4,530,710	NA[1]	9,651	40,840	56,272	3,807	372	42	143	55,953	45,845	63,071

1. Disturbed acreage is not available for these states.
2. All Indian Lands Program disturbed acreage is combined.

During 2000, the Office of Surface Mining awarded 96 percent of the regulatory grants to the states within 60 days of receiving the grant application.

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. Of the 234 billion tons of identified coal reserves in the western United States, 60 percent is federally owned. 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.

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 2000, the Secretary had entered into such cooperative agreements with Alabama, Colorado, Illinois, Indiana, Kentucky, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Virginia, West Virginia, and Wyoming (see www.osmre.gov/coop.htm). 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 2000, the Office of Surface Mining did not issue any new permits on federal lands.

During its 30-year life, over 1,800 acres were mined and reclaimed at this Colorado site. Native shrubs have been a high priority for the reclamation, and almost 150,000 were planted in the last 10 years. The high survival rate can be attributed to using local seed and very effective planting and management practices.

Before remining and reclamation, this hay and pasture land contained over 8,000 feet of hazardous abandoned mine highwalls and outslopes. This Virginia mine operation has demonstrated that previously mined lands can be remined, the environment improved, and productive land created.

For states with leased federal coal, the Office of Surface Mining prepares the Mining Plan Decision Documents required by the Mineral Leasing Act, and documentation for other non-delegable authorities, for approval by the Secretary of the Interior. During 2000, nine mining plan actions were prepared and approved for coal mines on federal land (Colorado 2, Montana 1, Utah 2, and Wyoming 4).

Pursuant to Section 710 of the Surface Mining Law, the Office of Surface Mining regulates coal mining and reclamation on Indian lands. There are three mines on the Navajo Reservation, one mine on the Hopi Reservation, a portion of an underground mine and a haul road on the Ute Mountain Ute Reservation, and one mine on the Crow Reservation permitted under the permanent Indian Lands Program.

One mine on the Navajo and Hopi Reservation is operating under the initial program. 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.

Section 2514 of the Energy Policy Act of 1992 (Public Law 102-486) gives 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 enforcement 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.

Development grant funding for 2000 was $611,769 from the Office of Surface Mining budget. This development grant funding will continue in 2001. Table 10 includes statistics on regulatory activities on Indian lands during 2000.

On February 19, 1999, the Office of Surface Mining proposed a rule in the *Federal Register* to amend the regulatory definition of "Indian lands." The proposed rule clarifies that the definition includes individual Indian trust allotments located within an approved tribal land consolidation area. The Office of Surface Mining agreed to propose the rule change under the terms of a 1995 settlement agreement between the Department of the Interior, and the Navajo Nation and Hopi Tribe. The Office of Surface Mining is also proposing changes to the Federal and Indian Lands Programs in conjunction

TABLE 11: REGULATORY GRANT OBLIGATIONS

State/Tribe	Total 2000 Federal Funding	Total 1999 Federal Funding	Cumulative Through 2000 Federal Funding[1]
Alabama	913,745	896,167	23,285,117
Alaska	177,495	173,461	5,244,001
Arkansas	142,713	160,364	3,148,128
Colorado	1,640,906	1,609,340	23,892,923
Illinois	2,326,864	2,282,102	46,391,898
Indiana	1,968,483	1,930,615	27,228,439
Iowa	120,502	118,184	2,377,475
Kansas	107,164	105,102	2,605,937
Kentucky	12,771,209	12,515,093	233,311,552
Louisiana	192,433	189,821	3,230,250
Maryland	477,333	468,150	10,213,420
Michigan	0	0	135,458
Mississippi	109,628	115,960	917,278
Missouri	426,138	417,940	7,487,494
Montana	906,905	890,483	14,570,158
New Mexico	610,627	593,976	10,829,247
North Dakota	466,725	473,539	10,238,435
Ohio	1,438,580	1,410,906	53,330,682
Oklahoma	899,245	919,676	15,431,802
Pennsylvania	10,603,971	10,399,980	184,871,270
Rhode Island	0	0	158,453
Tennessee	0	0	5,340,085
Texas	1,441,853	1,414,116	18,852,253
Utah	1,533,595	1,504,093	23,965,488
Virginia	3,143,371	3,082,901	58,788,011
Washington	0	0	4,893
West Virginia	7,517,645	7,373,026	99,155,169
Wyoming	1,607,101	1,511,005	28,204,857
Crow Tribe	82,291	82,291	936,066
Hopi Tribe	130,230	180,024	1,245,918
Navajo Tribe	373,263	311,700	2,963,924
N. Cheyenne Tribe	25,985	25,985	64,532
Total	52,156,000	51,156,000	918,420,613

1. Includes obligations for AVS, TIPS, Kentucky Settlement, and other Title V cooperative agreements. Figures for 2000 do not include downward adjustments of prior-year awards. However, cumulative figures are net of all prior-year downward adjustments.

Since this Alabama coal mine has been reclaimed, the land has been producing hay, seed, and timber crops. Forestry is an extremely important industry to the economy of this part of Alabama, and beginning in the spring of 1993, the company began planting loblolly pine seedlings (above). Now there are over 600 acres of developing young forest.

Professional foresters have estimated the growth potential of these pines is greater than that of the unmined surrounding area (right).

with the proposed change in the definition of Indian lands. The primary effect of the proposal would be to transfer surface mining regulatory jurisdiction from the state to the Office of Surface Mining for individual Navajo trust allotments located within the Navajo land consolidation area in New Mexico. The Office of Surface Mining held a public hearing on the proposed rule and the comment period closed June 21, 1999. The Office of Surface Mining has reviewed the public comments received on the proposed rule and expects to issue a final rule in 2001.

Electronic Permitting

The Office of Surface Mining's electronic permitting outreach started in Wyoming in 1993, became a national initiative 1996, and will continue as a priority for the next two years. Electronic permitting is a long-term initiative that will result in significant monetary and time savings, and provide more complete and up-to-date records for all those involved in the permitting process. The Office of Surface Mining is currently assisting the states in developing and implementing electronic permitting. When implemented, electronic permitting provides permit reviewers with computer-based tools to access documents, maps and data, and to perform necessary environmental analyses. Additional benefits include the ability to share computer-based data with managers, field personnel, other agencies, and the public.

The seven western states are in various stages of implementing electronic permitting programs. During 2000, a North Dakota partnership with its coal industry produced the Nation's first fully paperless coal mine permit. The permit is a CD-ROM on file at the Public Service Commission and at the County Assessor's Office - the public access site; and contains all the information normally contained in approximately 20 four-inch binders, including 130 computer-drawn maps. New Mexico received its first fully electronic permit application for an underground coal mine and the staff used the established electronic desktop review and modeling capabilities to issue the permit. For the fourth year, some of the Wyoming mining companies are submitting annual reports and major permit revisions electronically on CD-ROM's to the regulatory agency and to courthouses of record in the mining communities. Montana now has computer permit review capabilities and has developed a permit information database. Alaska reviewed and approved its first fully electronic permit

application and Colorado has developed an extensive permitting/tracking database that produces reports and correspondence automatically. The Colorado Integrated Reclamation Cost Estimating System will be completed in 2001, allowing permit reviewers to check and calculate reclamation bonds with the help of an automated system.

Pennsylvania Anthracite Program

Section 529 of the Surface Mining Law provides an exemption from federal performance standards for anthracite coal 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 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 of 60 feet. The anthracite region is characterized by steeply pitching seams, some of which dip greater 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.

This Indiana mine site is owned and operated by two different companies. Together they have completed some of the finest reclamation in the country. Only 12 inches of soil replacement was required; however, they consistently replaced depths of 4-5 feet. This extra effort has created some of the best reforestation and wildlife habitat on reclaimed coal mine lands. The survival rate for tree seedlings is over 90 percent. Direct seeding of acorns shows great success. And, wildlife is rapidly being reestablished.

In 1999,[1] the anthracite mining industry coal production decreased from 7.5 million tons to 5.6 million tons, down by 25 percent. Anthracite operators mined approximately 3.4 million tons from culm and bank material, 1.9 million tons from surface mines, and 0.3 millions tons from underground mines. The reprocessing of anthracite culm and bank material account for 60 percent of the anthracite coal production and helps to fuel eight local cogeneration plants. The overall number of permitted anthracite mining facilities requiring inspections decreased from 376 to 366. Pennsylvania's Department of Environmental Protection conducted 4,436 inspections and issued 235 violations in the Anthracite Region.[2]

Pennsylvania has initiated numerous environmental restoration projects in the Anthracite Region that deal with land restoration and water quality improvement of land and waters affected by past mining practices.

The Pennsylvania Department of Environmental Protection's, Pottsville District Office, in cooperation with other bureaus, agencies, groups, companies and individuals, continues to promote and oversee water quality improvement projects. One important project is the Swatara Creek. Early water quality projects within this watershed date back to the 1970's; however, with the interest of environmental partners in the mid and late 1990's, numerous water quality improvement projects have been initiated. These projects include the installation of such enhancements as diversion wells, anoxic drains, limestone

1. Calendar Year 1999.
2. Commonwealth of Pennsylvania, Department of Environmental Protection 1999 Annual Report on Mining Activities.

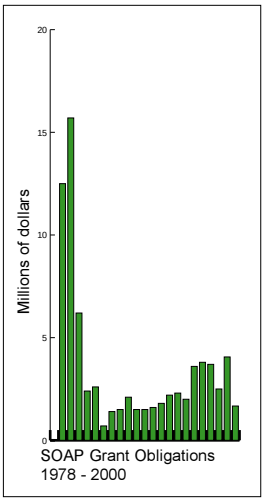
Located in eastern Kentucky, this pleasant scene is a reclaimed slurry impoundment that is being turned into a county park. Coal refuse was disposed of behind a large embankment or dam. Under an experimental practice, the company created a recreational lake in lieu of covering the slurry impoundment with the required four feet of non-toxic earth material. The entire face of the dam was covered with more than two feet of soil and grass planted. The lake is approximately 21 acres and has 6,200 feet of shoreline. Stocked with more than 10,000 fish, it is a serene, peaceful setting complete with paved roads, parking, and picnic areas. When final bond is released, the land will be transferred to the county as a permanent public recreation area.

lining of a stream channel, stream relocation and channel reconstructions, aerobic passive wetland treatment system, as well as reclamation of abandoned silt dams, stripping pits and mine openings within the headwater areas of the watershed.

Pennsylvania's Bureau of Abandon Mine Reclamation, Wilkes-Barre District Office oversees the restoration of lands and improving the quality of water affected by past mining. This environmental restoration effort is mainly achieved with projects that involve backfilling of abandoned stripping pits, mine openings, constructing aerobic passive wetland treatment systems, installing diversion wells, and reconstructing stream channels. The office incorporates various types of wildlife enhancements in addition to the construction and installation of bird and bat boxes during reclamation.

Small Operator Assistance Program (SOAP)

Section 401 (c)(11) of the Surface Mining Law authorizes up to $10 million annually 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. Beginning with 1992, the Abandoned Mine Reclamation Act of 1990 increased the qualifying production limit from 100,000 to 300,000 tons.



SOAP Grant Obligations
1978 - 2000

The Energy Policy Act of 1992 (Public Law 102-486) added additional technical permitting services to the list of items eligible for funding under the Small Operator Assistance Program. The new services 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. During 2000, guidance was issued for these new services. The program has always funded the hydrologic and geologic data collection and analyses required as part of the probable hydrologic consequences determination and statement of overburden analysis under Section 507(c) of the Surface Mining Law.

TABLE 12: SMALL OPERATOR ASSISTANCE PROGRAM

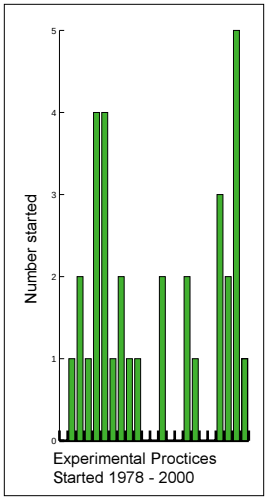
State	Grant Amount[1] 2000	Grant Amount[1] 1999	Operators	Projects Started
Alabama	$70,000	$105,000	3	3
Arkansas	0	25,000	1	1
Kentucky	541,343	1,566,163	37	36
Maryland	35,000	35,000	2	2
Ohio	97,717	196,6899	9	9
Pennsylvania	781,092	1,597,720	34	55
West Virginia	152,670	541,905	22	2
Total	$1,677,822	$4,067,477	108	108

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

Small Operator Assistance Program regulations (30 CFR 795) 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 2000, 108 small mine operators received assistance, compared to the 121 operators who received assistance in 1999. Table 12 provides a summary of the Small Operator Assistance Program by state during 2000.

Experimental Practices

Section 711 of the Surface Mining Law allows variances from Sections 515 and 516 of the performance standards as alternative, or experimental, mining and reclamation practices to encourage advances in mining technology or to allow innovative industrial, commercial, residential, or public postmining land uses. However, the experimental practices must be potentially more, or at least as, environmentally protective as the environmental protection performance standards established by the Surface Mining Law. 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.



During 2000, ten experimental practices were ongoing and one new experimental practice was approved. The new experimental practice will result in the creation of 164 acres of land suitable for industrial development, including utilities and roads. One experimental practice was completed resulting in a lake and recreational area that was turned over to a county government.

Since the inception of the program, 33 experimental practices have been approved. In addition to the 11 currently underway, 14 were determined to be successful, three unsuccessful, one was terminated due to a regulation change, and four have been completed, but final reports not yet received.

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 result in outstanding on-the-ground performance. For a description of the active mining award program and 2001 rules, see www.osmre.gov/activerules01.htm. Awards for 2000 were presented October 10, 2000, at the National Mining Association's annual meeting, as follows:

At this Montana mine site, the operation went around this natural rock outcrop. With reclamation complete, it is once again part of the natural landscape. The reclaimed land in the foreground has been graded to match the original contour and native grasses, forbs, shrubs, and trees planted. Mining at this site was a temporary use of the land. Now with the coal resource removed, it has been returned to its long-term livestock grazing land use.

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 for exemplary reforestation of reclaimed land. The 2000 Director's Award was presented to the Peabody Coal Company, western Kentucky mine operations. Peabody's tree

planting efforts at coal mine sites in Western Kentucky began voluntarily in 1948, long before reclamation was required, and continues today. Its pioneering planting techniques on surface mined-lands are now used throughout the country.

Company foresters and soil scientists recognized the long-term environmental and economic benefits of forest lands. Reforestation goals were established that resulted in large continuous tracks of forest and wildlife areas. Today, these reclaimed lands provide multiple benefits, including recreation, soil conservation, timber production, and wildlife conservation.

Wildlife habitat is a natural part of the western landscape. This rabbit has returned to the reclaimed mine land and is once again an integral part of this reestablished Montana grazing land.

National Awards:

- Seneca Coal Company, Seneca II Mine, Hayden, Colorado, for its outstanding reclamation which reclaimed over 1,800 acres at the site during the mine's 30-year life. The company has concentrated on reestablishing native vegetation, including grasses, forbs, and shrubs. About 200 cattle have grazed on the reclaimed rangeland each summer. The wildlife habitat is also enhanced. Deer and elk graze on the native grassland. Marmots and other rodents live in constructed rock-piles, and sharp-tailed grouse mating grounds have been established.
- Stone Mining Company, Grants Branch Lake, McVeigh, Kentucky, for reclaiming a large coal slurry impoundment into a county park which includes a 21-acre lake with 6,200 feet of shoreline. Stocked with more than 10,000 fish, it is a serene, peaceful setting complete with paved roads, parking, and picnic areas. When final bond is released, the land will be transferred to the county as a permanent public recreation area.
- TXU, Big Brown, Monticello, Thermo, Martin Lake, and Oak Hill Mines, in eastern Texas, for its extensive, ongoing reforestation efforts on about 72 percent of reclaimed mine land. Since the early 1970's, over 15 million trees have been planted. Seedling survival rates are high and the established stands are sustaining growth as good as or better than pre-mine forests. The project also enhances watershed protection, air quality, recreation, and aesthetics.
- Amerikohl Mining, Inc., Leon Mine, Laurelville, Pennsylvania, for mining and reclaiming a partially mined site that was discharging acidic water containing large amounts of metals. Today, the site has been reclaimed into a pasture and forest area, which

Before remining and reclamation, this Pennsylvania mine site contained abandoned spoil banks, dangerous highwalls, water-filled pits, an abandoned underground mine, and a large illegal domestic dump. Today, it is difficult to see any traces of these hazards or the recent coal mining

Tree planting efforts at this western Kentucky mine operation began voluntarily in 1948, before there were reclamation requirements, and have continued to the present day. Company foresters and soil scientists recognized the long-term environmental and economic benefits of forest lands and began planting trees on the reclaimed mine land. After years of growth the forests reestablished on reclaimed lands are difficult to distinguish from native forests on nearby unmined land (above).

the owner can develop into home sites after the bonds are released. Amerikohl took a bad situation and turned it into exemplary reclamation.

■ Black Beauty Coal Company and Vigo Coal Company, Columbia Mine, Oakland City, Indiana, for reclamation that created some of the best reforestation and wildlife habitat to be found on reclaimed coal mine lands. The companies consistently replaced soil to depths of 4-5 feet, although only 12 inches were required. In addition, mining and reclamation occurred within 100 feet of an adjacent wetland, without any adverse impact.

■ Rosebud Mining Company, McCollough Mine, Karns City, Pennsylvania, for remining and reclaiming the 44-acre mine site containing abandoned spoil banks, dangerous highwalls, water-filled pits, an abandoned underground mine, and a large illegal domestic dump. Today, it is difficult to see any traces of these hazards and it is impossible to identify the line between unmined land and reclaimed mine land. The entire 44 acres appear as productive as the adjacent unmined area.

■ Drummond Company, Inc., Arkadelphia 5761 Mine, Arkadelphia, Alabama, for exemplary reclamation at this mine site which now produces hay, seed, and timber crops. Forestry is an extremely important industry in the economy of this part of Alabama, and Drummond has now planted over 600 acres of developing young forest. Professional foresters have estimated the growth potential of the pine plantations is greater than that of the unmined surrounding area.

■ Peabody Coal Company, Ken Surface Mine, Ohio County, Kentucky, for reclaiming a site which had been mined for over 50 years, to award winning standards. Substantial amounts of native and western grasses were used, over 200,000 trees and shrubs were planted, and 12 permanent impoundments were reclaimed. Water quality problems associated with years of mining have been cleaned up, and the area is used for hunting, fishing, and outdoor recreation.

■ Big Sky Coal Company, Big Sky Mine, Rosebud County, Montana, for exemplary reclamation which has returned the former mine site to a livestock grazing area. Vegetation monitoring shows the levels of cover and production to be equal to or better than native vegetation adjacent to the site. During the spring, approximately 200 cow-calf pairs use the reclaimed grazing land.

■ Virginia Energy Company, Twin Star Mine #2, Hurley, Virginia, for reclaiming over 8,000 feet of hazardous abandoned mine highwalls and outslopes into productive hay and pasture land. As the amount of coal to be mined in Virginia decreases, mining operations like Virginia Energy have demonstrated that previously mined lands can be remined, the environment improved, and productive land created.

Best-of-the-Best Award

Since 1996, when the Office of Surface Mining began presenting annual awards for the best reclamation, it was evident that in most cases there were one or two individuals responsible for achieving the success. It was sometimes the mine manager, the reclamation specialist, or in one case a reclamation specialist and a state inspector working together. But in all cases, these people were the linchpin that held the project together and the ones who made the extra effort to ensure achievement of the outstanding reclamation. The Office of Surface Mining recognizes these special individuals to give them credit for their work and to highlight their efforts as a model for others in the mining and reclamation field.

The 2000 award was presented to two outstanding individuals. Working together, they have successfully tried many new ideas and achieved unique on-the-ground success. Their joint success can be attributed to personal foresight, initiative, and creative implementation...attributes that make these two individuals a model in both the coal industry and government regulatory environment.

Accomplishing outstanding reclamation is always a balance between production schedules, costs, and desire for the best possible reclamation. The ability to make it all work while achieving award-winning reclamation was exemplified by the 2000 winners, Bryce West, Manager of Reclamation at the Black Beauty Coal Company, and Don Rhodes, Reclamation Manager at the Vigo Coal Company for their reclamation at the Columbia Mine in Oakland City, Indiana.

Photos of these and other award winning reclamation can be seen at www.osmre.gov/ocphoto.htm.

Reforestation goals were established that resulted in large continuous tracks of forest and wildlife areas (right). Today, these reclaimed lands provide multiple benefits, including recreation, soil conservation, timber production, and wildlife conservation.