

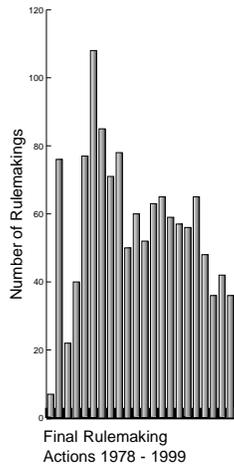


During the life of this Washington coal mine over 14 thousand acres of land will be disturbed and restored. Following mining and reclamation of the land, forests are being replanted using native species of trees. A special benefit of the reclamation is the development of diverse wildlife habitats that range from upland forests to wetlands.

REGULATION OF ACTIVE COAL MINES

(Environmental Protection)

Shared federal-state-indian active surface and underground coal mining and reclamation regulatory program



Under the Surface Mining Law, the Office of Surface Mining is responsible for publishing the rules and regulations necessary to carry out the Law. The permanent regulatory program and related rules provide the fundamental mechanism for ensuring that the 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 1999 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 proposed permanent program rules in the *Federal Register*: the Ownership and Control Rule (RIN 1029-AB94), the Indiana Cooperative Agreement Rule (IN-142-FOR), and the Indian and Federal Lands Rule (RIN 1029-AB83). In addition, two final permanent program rules were published: the Kentucky Cooperative Agreement Rule (KY-214-FOR) and the Enhancing AML Reclamation Rule (RIN 1029-AB89). 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 1999, the Office of Surface Mining published 46 proposed and 34 final state program amendments in the *Federal Register*.

State Programs

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

TABLE 5: FINAL RULES PUBLISHED DURING 1999

Federal Lands Cooperative Agreement for the Commonwealth of Kentucky (KY-214-FOR)
63 FR 53252 30 CFR 917 10/2/98

This rule authorized Kentucky to regulate surface coal mining and reclamation operations on federal lands in Kentucky under the permanent regulatory program.

Enhancing AML Reclamation (RIN 1029-AB89)
64 FR 7470 30 CFR 707 and 874 2/12/99

This rule amends the regulations governing the financing of Abandoned Mine Land (AML) reclamation projects that involve the incidental extraction of coal. The rule establishes an innovative way for AML agencies, working with contractors, to maximize available funds to increase AML reclamation.

TAKINGS**Rith Energy, Inc. v. United States**, No. 92-480-L (Fed. Cl.)

In a June 25, 1999, decision, the United States Court of Federal Claims granted summary judgment in favor of the Government, holding that no compensable taking had occurred when OSM suspended the company's mining permit because the company did not have a toxic materials handling plan adequate to prevent acid mine drainage (AMD). *Rith Energy, Inc. v. United States*, 44 Fed. Cl. 108. In reaching its decision, the court noted that the production of AMD by Rith had been determined to be highly likely if Rith continued mining and that the AMD would have constituted a nuisance under Tennessee's Water Quality Control Act of 1977, Tenn. Code Ann. §§ 69-3-102 - 69-3-131. Consequently, according to the court, OSM's denial of the permit "represented an exercise of regulatory authority indistinguishable in purpose and result from that to which plaintiff was always subject under Tennessee nuisance law." 44 Fed. Cl. at 115. Citing *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), the court then concluded that no compensable taking had occurred. *Id.* On September 10, plaintiff noted its appeal.

RULE CHALLENGES**National Mining Ass'n (NMA) v. Babbitt**, 98-5320 (D.C. Cir.) [Subsidence]

On April 27, 1999, the United States Court of Appeals for the District of Columbia Circuit struck down two OSM regulations on coal mine subsidence and upheld two others. *NMA v. Babbitt*, 172 F.3d 906. The four regulations on appeal were among those issued on March 31, 1995, at 60 Fed. Reg. 16722-51, pursuant to SMCRA and section 2504 of the Energy Policy Act of 1992 (the EPAct) which added a new section 720 to SMCRA. Section 720 requires underground mine operators to repair or to compensate for material damage to residential structures and noncommercial buildings, and to replace residential water supplies adversely affected by underground mining. The Court of Appeals struck down the rebuttable presumption that, when subsidence damage occurs within the so-called "angle of draw," damage has been caused by the related underground mine (30 C.F.R. § 817.121(c)(4)). The Court also vacated the agency's regulation requiring coal operators to conduct presubsidence structural condition surveys (30 C.F.R. § 784.20(a)(3)), as that regulation was interconnected with the angle of draw regulation. The Court upheld the requirement that operators must ensure damage minimization when they engage in planned subsidence (30 C.F.R. § 784.20(b) and 817.121(a)). Finally, the Court upheld the regulation requiring operators to repair or compensate for subsidence-related damage to structures and water supplies. (30 C.F.R. § 817.121(c)(2)).

OWNERSHIP AND CONTROL**National Mining Ass'n v. Department of Interior**, No. 98-5248 (D.C. Cir.) [Interim Final Ownership & Control Rules]

On May 28, 1999, the United States Court of Appeals for the District of Columbia Circuit reversed and remanded portions of the district court's grant of summary judgment in favor of the government. In its challenge to OSM's interim final ownership and control and related rules ("IFR"), the National Mining Association ("NMA") argued, *inter alia*, that the IFR are inconsistent with § 510(c) of SMCRA, violate common law principles of limited corporate liability, and violate state primacy. The district court upheld the IFR on all grounds. The D.C. Circuit upheld: (1) the provisions of the rule which allow permit blocking based on limitless downstream violations; (2) two rebuttable presumptions of ownership or control; (3) the ability to block permits based on violations more than five years old; (4) the ability to collect permit information beyond the specific information requirements enumerated in SMCRA; and (5) the ability to rescind improvidently issued permits. However, the court also held that: (1) OSM cannot block permits based on violations of operations no longer controlled by the applicant; (2) certain of OSM's presumptions of control are invalid; (3) the IFR impermissibly allow retroactive permit blocking; and (4) the provisions allowing OSM to issue Notice Of Violations and Cessation Orders with regard to improvidently-issued state permits violate state primacy to the extent that the IFR do not require OSM to follow the procedural steps specified in SMCRA. On July 12, 1999, NMA petitioned for panel rehearing and rehearing en banc on the sole issue of whether the improvidently-issued permits provisions of the IFR violate state primacy even if OSM follows the procedural steps identified by the court. NMA's petitions for panel rehearing and rehearing en banc were denied on August 23, 1999. The court's mandate was issued on September 2, 1999.

common goals and principles that form the basis for the relationship.

Oversight of State Programs

Section 517(a) of the Surface Mining law requires the Office of Surface Mining to make inspections as necessary to evaluate the administration of approved state programs. 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 recommen-

dations 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 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 offsite 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 mines that achieve the goal of having no offsite impacts and on the number of acres that meet the bond release requirements for the various phases of reclamation.

Since 1996 the Office of Surface Mining has completed two internal reviews of the implementation of the oversight policy and an overall review of program issues with the field staff. Although there are a few exceptions, the three reviews showed that generally the Office of Surface Mining staff has positively received the oversight strategy and acknowledges 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 long-standing issues.

Table 7 provides the Office of Surface Mining's oversight inspection and enforcement activities during 1999.

▼ In 1999 U.S. coal production was over one billion tons. More than 75 percent was used by electric utilities to generate power. At this Montana power plant, coal is mined on adjacent lands and transported by conveyor from the mine to the plant.



State	Site Visits	Violations Cited by the Office of Surface Mining		
		Notice of Violations	Failure-To-Abate Cessation Orders	Imminent Harm Cessation Orders
Alabama	130	1	1	0
Alaska	3	0	0	0
Arkansas	13	0	1	0
Colorado	19	0	0	0
Illinois	133	0	0	0
Indiana	145	0	0	0
Iowa	33	0	0	0
Kansas	17	0	0	0
Kentucky	724	4	2	1
Louisiana	2	0	0	0
Maryland	29	0	0	0
Mississippi	4	0	0	0
Missouri	50	0	0	0
Montana	15	0	0	0
New Mexico	9	0	0	0
North Dakota	16	0	0	0
Ohio	167	0	0	0
Oklahoma	40	0	0	0
Pennsylvania	493	6	7	0
Texas	16	0	0	0
Utah	9	0	0	0
Virginia	233	0	0	0
West Virginia	232	21	9	0
Wyoming	10	2	0	0
Total	2,542	34	20	1

Note: 29 Notice of Violations and 16 Failure-To-Abate Cessation Order violations are related to Abandoned Mine land Reclamation Fees. Statistics in this table exclude any violations 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:

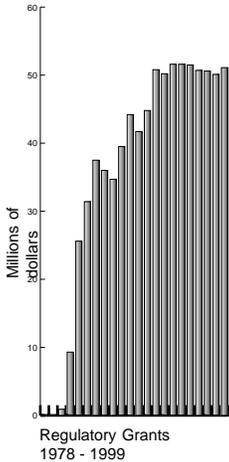
- the state's proposal for a permanent program has not been approved by the Secretary of the Interior;
- the state does not submit its own permanent regulatory program; or
- the state does not implement, enforce, or maintain its approved state program.

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 1999. Table 8 includes the regulatory actions in those two states during 1999.

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 1999, the Office of Surface Mining awarded \$600,000 for program development grants to the Crow, Northern Cheyenne, Hopi, and Navajo Tribes.

Section 705 of the Surface Mining Law authorizes the Office of Surface Mining to provide grants to states with approved regulatory programs in amounts not exceeding 50 percent of annual state program costs, matching state regulatory costs dollar for dollar. In addition, when a state elects to administer an approved program on federal land through a cooperative agreement with the Office of Surface Mining, the state becomes eligible for financial assistance of up to 100 percent of the amount the federal government would have spent to regulate coal mining on those lands. Table 9 shows grant amounts provided to states during 1999 to administer and enforce regulatory programs.

Regulation of Surface Mining on Federal and Indian Lands

Section 523(a) of the Surface Mining Law requires the Secretary of the Interior to establish and implement a federal regulatory program that applies to all surface

coal mining operations that take place on federal land. The Office of Surface Mining enacted the current federal lands program on February 16, 1983.

The federal lands program is important because the federal government owns significant coal reserves, primarily in the West. 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 1999, the Secretary had entered into such cooperative agreements with Alabama, Colorado, Illinois,

Kentucky, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Virginia, West Virginia, and Wyoming. 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 1999, the Office of Surface Mining did not issue any new permits on federal lands.

For states with leased federal coal, the Office of Surface Mining

► Before mining, wildlife surveys found this mine site to be an excellent habitat for sharptailed grouse...an important Montana game bird, which has a unique "communal" courtship dance. Disturbance of the dancing grounds was a major concern. Company employees tried new techniques involving luring birds with decoys and sounds, and special rangeland management to reestablish the habitat. Dancing grounds on the reclaimed land were so successful these methods are now being used by other wildlife managers to reestablish grouse on non-coal mined lands.



TABLE 8: 1999 REGULATORY PROGRAM STATISTICS

State	Regulatory Staffing	AML Staffing	New Permits	New Acreage Permitted	Total Acreage 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	19.80	11	2,958	89,735	59,081	272	3,213	452	162	34	2	1	3,115	3,945	4,385
Alaska	3.25	5.25	0	0	1,218	1,218	10	32	69	1	0	0	0	0	0	0
Arizona	NA	NA	0	0	0	NA	0	0	0	0	0	0	0	NA	NA	0
Arkansas	5.60	6.25	0	0	805	NA	16	71	123	8	2	0	0	0	0	23
Colorado	26.00	14.00	0	0	166,600	22,595	58	250	382	12	0	0	0	453	775	910
Crow Tribe	NA	5.00	0	0	4,799	2,356	1	4	9	0	0	0	0	0	0	0
Georgia	NA	NA	0	0	0	141	6	6	1	0	0	0	0	0	0	0
Hopi Tribe	NA	4.35	0	0	6,137	0	1	4	7	NA	0	0	0	0	0	0
Illinois	49.95	36.00	2	1,901	146,359	74,225	108	1,172	3,011	33	0	0	0	2,699	2,528	2,236
Indiana	58.00	26.00	8	4,681	281,000	NA	302	1,095	2,420	79	1	0	0	4,403	6,110	7,706
Iowa	4.65	5.45	0	0	8,600	NA	28	112	224	15	0	0	1	0	0	0
Kansas	3.60	11.40	1	22	5,770	3,289	13	65	109	1	0	0	3	340	273	273
Kentucky	400.00	83.00	94	20,314	1,981,320	1,260,282	2,481	9,699	15,177	951	NA	NA	30	10,501	7,719	19,177
Louisiana	4.20	1.25	0	0	45,100	NA	2	8	25	2	0	0	0	0	0	0
Maryland	13.50	2.10	4	315	6,400	6,571	64	257	496	8	0	0	0	152	310	309
Mississippi	3.19	NA	0	0	1,908	625	1	4	9	2	0	0	0	0	0	0
Missouri	13.40	12.20	0	0	13,900	NA	29	*134	*130	*29	*11	*0	1	43	87	87
Montana	17.50	6.50	0	0	59,670	23,115	27	89	197	6	0	0	0	0	0	0
Navajo Tribe	NA	24.00	0	0	78,834	16,222	7	49	63	NA	0	0	0	0	0	0
New Mexico	9.00	8.00	0	0	80,000	20,180	15	60	180	6	0	0	0	1,832	457	0
North Dakota	8.85	5.65	0	0	71,700	43,032	39	164	565	2	0	0	0	834	1,021	2,619
Ohio	35.10	30.90	51	6,048	128,100	29,025	572	1,882	2,404	216	20	3	8	4,398	6,653	5,170
Oklahoma	28.10	10.00	2	1,289	35,000	NA	92	376	568	25	1	0	0	2,368	878	3,199
Pennsylvania	243.00	129.00	45	5,862	477,800	NA	2,377	8,410	13,509	841	58	1	7	7,021	7,015	8,617
Tennessee	54.00	0.00	5	973	26,700	15,176	364	1,026	1,075	16	14	0	7	3,024	1,394	2,580
Texas	44.75	9.80	0	0	248,300	NA	20	97	221	6	0	0	0	6,313	6,431	2,542
Utah	24.00	9.00	1	29	80,400	2,697	29	113	205	14	0	1	0	0	0	0
Ute Tribe	NA	NA	0	0	107	107	2	10	14	NA	0	0	0	0	0	0
Virginia	83.00	18.00	31	4,291	62,120	42,369	678	3,770	3,476	293	6	11	6	452	1,364	1,895
Washington	NA	NA	0	0	14,872	7,104	2	7	16	2	0	0	0	0	0	0
West Virginia	227.00	68.50	47	7,037	279,680	NA	2,676	9,901	13,579	1,030	224	13	23	2,361	4,999	10,915
Wyoming	31.00	13.05	1	0	319,470	81,561	40	159	303	16	0	0	0	197	375	106
Total	1,416.64	564.45	303	55,720	4,722,404	1,710,971	10,332	42,239	59,019	3,776	371	31	87	50,506	52,334	72,749

NA - Information not available

* Unverified data

Note: Kentucky and West Virginia federal lands data is not listed separately in 1999. These states now have cooperative agreements and have assumed regulatory authority of federal lands in their states. The one remaining inactive federal lands permit in West Virginia that had 4 complete and 1 partial inspection.

prepares the Mining Plan Decision Documents required by the Mineral Leasing Act, as amended, and documentation for other non-delegable authorities, for approval by the Secretary of the Interior. During 1999, four mining plan actions were prepared and approved for coal mines on federal land.

Pursuant to Section 710 of the Surface Mining Law, the Office of

Surface Mining regulates coal mining and reclamation on Indian lands. 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

TABLE 9: REGULATORY GRANT FUNDING, 1999 OBLIGATIONS

State/Tribe	Federal Funding		Cumulative Through 1999 ¹
	1999	1998	
Alabama	\$896,167	\$769,358	\$22,371,372
Alaska	173,461	173,580	5,066,506
Arkansas	160,364	162,454	3,005,415
Colorado	1,609,340	1,633,954	22,252,017
Illinois	2,282,102	2,003,768	44,065,034
Indiana	1,930,615	31,181	25,259,956
Iowa	118,184	147,671	2,256,973
Kansas	105,102	111,899	2,498,773
Kentucky	12,515,093	13,249,061	220,540,343
Louisiana	189,821	191,146	3,037,817
Maryland	468,150	438,519	9,736,087
Michigan	0	0	135,458
Mississippi	115,960	132,072	807,650
Missouri	417,940	436,015	7,061,356
Montana	890,483	895,318	13,663,253
New Mexico	593,976	637,699	10,218,620
North Dakota	473,539	500,207	9,771,710
Ohio	1,410,906	1,400,240	51,892,102
Oklahoma	919,676	900,512	14,532,557
Pennsylvania	10,399,980	10,810,597	174,267,299
Rhode Island	0	0	158,453
Tennessee	0	0	5,340,085
Texas	1,414,116	1,446,563	17,410,400
Utah	1,504,093	1,499,619	22,431,893
Virginia	3,082,901	3,055,125	55,644,640
Washington	0	0	4,893
West Virginia	7,373,026	7,934,579	91,637,524
Wyoming	1,511,005	1,494,863	26,597,756
Crow Tribe	82,291	22,848	853,775
Hopi Tribe	180,024	27,278	1,115,688
Navajo Tribe	311,700	63,295	2,590,661
N. Cheyenne Tribe	25,985	6,579	38,547
Total	\$51,156,000	\$50,176,000	\$866,264,613

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

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. All parties have agreed on making certain modifications to the draft legislation and have agreed to an action plan. Development grant funding for 1999 was \$600,000 from the Office of Surface Mining budget. This funding will continue in 2000. Table 8 includes statistics on regulatory activities on Indian lands during 1999.

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 with the proposed change in the definition of Indian lands. The primary effect of the proposal would be to transfer Surface Mining Law 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 on June 8th in Albuquerque. The comment period on the proposed rule closed June 21 and the Office of Surface Mining is currently reviewing the public comments received before proceeding with any further rulemaking action.

Electronic Permitting

Office of Surface Mining's electronic permitting outreach started in Wyoming in 1993, became a national initiative in 1996, and will continue as a priority for the next three 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 primacy states in developing and implementing electronic permitting. When implemented



▲ The reclamation at this Indiana mine has led to a unique fish and wildlife habitat to be managed by the Indiana Department of Natural Resources when the reclamation bond is released. The reclaimed land contains more than 40 lakes and ponds ranging in size from one to over 200 acres. A wide range of vegetation that was planted already provides good waterfowl nesting areas, and adds to the rich diversity of the reclaimed environment.

electronic permitting provides permit reviewers with computer-based tools to access electronic documents, maps and data, and to perform necessary environmental analyses. Additional benefits include sharing electronic data with field personnel, other agencies, and the public.

During 1999, North Dakota partnered with their coal industry to share drawings. They also created a digitized library of all the exploration core-holes in their lignite resource areas. New Mexico established desktop review and modeling capabilities for all permitting staff. Utah developed a water quality data base accessible on the World Wide Web. In Wyoming mining companies are

submitting annual reports and major permit revisions electronically on CD-ROMs to the regulatory agency and to court-houses of record in the mining communities. Montana has developed an extensive geographic information system data base. Alaska recently received its first totally electronic permit application. All seven western states are in various stages of implementing electronic permitting.

A workshop was held for eleven midwest coal states during 1999. The workshop allowed the states and the Office of Surface Mining to exchange ideas and the opportunity to build on each other's successes.

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, 1997. Pennsylvania is the only state qualifying for the exemption, and thus regulates anthracite mining independent of the Surface Mining Law program standards.

The Pennsylvania anthracite coal region is located in the northeast quarter of the state and covers approximately 3,300 square miles. The long history of mining in the anthracite region has produced a legacy of abandoned mine land problems. However, because most active mining operations affect previously disturbed land, a large percentage of abandoned mine land is eventually restored to productive land use in connection with active mine reclamation.

In 1998,² the anthracite mining industry coal production³ decreased from 8.9 million tons to 7.5 million tons. The reprocessing of anthracite culm and bank material account for 63 percent of the anthracite coal production. Some of this culm and bank material helps fuel eight cogeneration plants. Anthracite operators mined approximately 4.7 million tons from culm and bank material, 2.4 million tons from surface mines and 0.4 millions tons from underground mines.

Pennsylvania Department of Environmental Protection continues to successfully carry out the provisions of the anthracite regulatory program and initiates activities to clean up polluted waters caused by past mining. The District Mining Office in

2. Calendar Year 1998.

3. Pennsylvania Department of Environmental Protection, Harrisburg, 1998 Annual Report on Mining Activities.

Pottsville continues to do outstanding work in the headwaters of the Swatara Creek. To date this cooperative effort has resulted in the installation of numerous weirs, three limestone diversion wells and the construction of a passive wetland treatment system within the headwater area. Additionally, the District Office and the Mahanoy Creek Watershed Association, operating in Schuylkill and Northumberland counties, are currently involved in the construction of a five-acre passive treatment system for the Mahanoy Creek.

Small Operator Assistance Program (SOAP)

Section 401 (c)(11) of the Surface Mining Law authorizes up to \$10 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. Through 1991, operators producing fewer than 100,000 tons of coal per year were eligible for assistance.

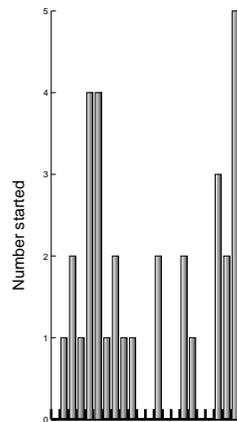
Beginning with 1992, the Abandoned Mine Reclamation Act of 1990 increased the production limit from 100,000 to 300,000 tons.

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. 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.

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 1999, 121 small mine operators received assistance, compared to the 140 operators who received assistance in 1998. Table 10 provides a breakdown of the Small Operator Assistance Program grant awards by state during 1999.

Experimental Practices



Experimental Practices Started 1978 - 1999

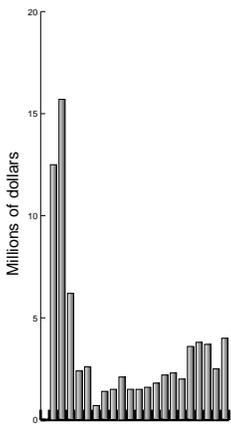
Section 711 of the Surface Mining Law allows variances to Sections 515 and 516 of the performance

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 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 regulatory authority, and the Office of Surface Mining.

During 1999, six experimental practices were ongoing and five new experimental practices were approved. These experimental practices are addressing unique and varied reclamation practices.

The five experimental practices approved in 1999 allow for:

- In situ soil protection — preservation of the soil resource without stockpiling at an underground mine.
- Land use change to commercial development — two experimental practices.
- Remining and reclamation of an area that, without an experimental practice, would have been bypassed by the coal operator.
- Reclamation of an unstable highwall that would not have been



SOAP Grant Obligations 1978 - 1999

TABLE 10: SMALL OPERATOR ASSISTANCE PROGRAM*

State	Grant Amount		Number of Operators
	1999	1998	
Alabama	\$105,000	\$0	2
Arkansas	25,000	0	1
Kentucky	1,566,163	1,000,000	33
Maryland	35,000	65,855	2
Ohio	196,689	70,000	12
Pennsylvania	1,597,720	771,145	40
West Virginia	541,905	650,000	31
Total	\$4,057,477	\$2,557,000	121

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

possible in the absence of an experimental practice.

Since the inception of the program, 32 experimental practices have been approved. In addition to the 11 currently underway, 13 were determined to be successful, three were unsuccessful, one was terminated due to a regulation change, and four have been completed but a final close-out report has not yet been submitted.

Reclamation Awards

To recognize and transfer the lessons learned from completing the nation's most outstanding reclamation, the Office of Surface Mining presents awards to coal mine operators who have completed mining and reclamation operations that resulted in

outstanding on-the-ground performance. Awards for 1999 were presented October 11, 1999, at the National Mining Association's annual meeting, as follows:

Director's Award

Each year, one coal mining operation in the country is selected to receive the Director's Award for outstanding achievement in a specific area of reclamation. This year the award was presented for exemplary prime farmland reclamation. The 1999 award was presented to the TXU (formally the Texas Utilities Mining Company) Big Brown and Monticello Winfield Mines located in East Texas. TXU not only reclaimed existing prime farmland soils, it also improved soils during

reclamation that resulted in an additional 9,000 acres of highly productive prime farmland. TXU developed a soil handling technique that has wide-spread future application. Most native East Texas soils are sandy and have clay layers that prevent root development and water movement. During mining and reclamation, the layers are broken up and mixed. The reclaimed soils then have consistent texture that encourages deep root development and improved water holding capacity. The crop yields on the reclaimed soils have consistently outperformed the unmined native soils.

National Awards

■ Western Energy Company, Rosebud Mine, Colstrip, Montana. Western Energy, a mining subsidiary of Montana Power, operates a large surface mine that provides coal to an adjacent power plant. While the reclamation is outstanding, this year Western Energy was recognized for their far-reaching accomplishment in wildlife conservation. These efforts have resulted in reestablishing a habitat for the sharp-tailed grouse, an important Montana game bird. Western Energy has helped ensure the viability of the Montana grouse population for many years to come.

■ Paramount Coal Corporation, Cane Branch Mine, Clintwood, Virginia, for reclaiming a 600-acre site, which included 13,000 feet of abandoned highwalls from previous mining, changing the area from a barren wasteland into an aesthetically pleasing landscape with productive hay and pasture land. Paramount Coal Company has shown that previously mined and abandoned land can be reclaimed, the environment restored, and productivity increased.

■ Cyprus Amax Company, Ayrshire Mine, Evansville,

▼ Remining at this Virginia site resulted in removing 1,250,000 tons of coal and eliminating 13,000 feet of abandoned mine highwalls. This is another example that previously mined and abandoned land can be remined, the environment reestablished, and productivity restored.



Indiana, where reclamation has led to a unique fish and wildlife habitat which will benefit the community for years to come. When the reclamation bond is released in 2003, this land will be used for public recreation activities such as hunting, fishing, hiking, biking, and bird watching. Its close proximity to major highways and the city of Evansville make it a unique resource for the whole region.

■ Panther Creek Partners, Nesquehoning, Pennsylvania, for reclaiming 150 acres of coal waste as part of a coal recovery operation on anthracite coal refuse. The company's special effort to control water runoff from the refuse resulted in immediate improvements to nearby streams. In addition, topsoil that was constructed using ash and other waste materials has provided an excellent seed bed, and vegetation is growing on the site for the first time in over 70 years. The improvements are so dramatic that a housing development has begun adjacent to the site.

▼ Typical of early Pennsylvania anthracite coal mining, this site was mined around 1918 and was abandoned leaving more than 150 acres of coal waste next to the Borough of Nesquehoning. In addition to aesthetic problems, water running off the refuse was polluting nearby creeks.



■ Jamieson Construction Company, Permit No. 863-0280, Langnay, Kentucky, for its reclamation efforts which helped to preserve Rockcastle River, one of the last "wild" rivers remaining in Kentucky. Special care was taken to keep sediment from leaving the mine site and draining into the river. Diversion ditches were constructed to control the flow of water through ponds. Today the ponds are used for livestock and wildlife. Completed two years ago, it's now difficult to distinguish from the surrounding countryside.

■ RAG Coal West, Inc. (formerly Amax Coal West, Inc.), Bell Ayr Mine, Gillette, Wyoming, for reclamation which preserved the historical integrity of the mine site. In 1865, an expedition that was establishing a wagon road to the western gold fields had several skirmishes with the Sioux and Northern Cheyenne Tribes. At the proposed mine site, the expedition had dug rifle pits or shallow bunkers, that were eligible for the National Register of Historical Places.

■ Basin Resources, Inc., Golden Eagle Mine, Weston, Colorado, for reclaiming a 30,000-acre mine site, which was an important wildlife habitat for bear, deer, mountain lion, turkey, and the second largest elk herd in the state. Once reclamation was complete, the company transferred the land to the Colorado Division of Wildlife. The site is now used for public recreation and a greatly expanded wildlife area.

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 it 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.

This year's winner of the Best-of-the-Best Award has been responsible for reclamation that has won five awards. In each case the success can be attributed to personal foresight, initiative, and creative implementation -- attributes that make this person 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 1999 winner, Bruce Waage, Senior Reclamation Specialist at the Western Energy Company's Rosebud Mine.

His personal efforts have resulted in preservation of petroglyphs, native wildlife, historical structures, and significant landscape features. In addition, his repetitive achievements have extended beyond coal mining and reclamation, and today others in the fields of wildlife management and historical preservation use his methods that were developed while reclaiming mine land. Bruce is a shining star among all those in the coal mining industry, and he is one of the reasons people say the "Surface Mining Law is working."

► Using a waste recovery operation on anthracite coal refuse, this site was mined and reclaimed. Vegetation is growing on the land for the first time in over 70 years.

Goal 2. Better Protection: Improve the Office of Surface Mining's regulatory program for protecting the environment, people, and property during current mining operations and subsequent reclamation through cooperative results-oriented oversight and evaluation of state programs, and in carrying out the Office of Surface Mining's regulatory responsibilities in order to safeguard people and the environment.

Performance Measure	1998 Actual	1999 Plan	1999 Actual*
Percent of active mine sites that are free of offsite impacts	93 percent	94 percent	94 percent

Protecting the environment, people, and property is measured by the number of times incidents occur outside the boundaries (off-site impacts) of the permitted areas being mined. The Office of Surface Mining and the states collect data on the number and severity of the impacts which are used to identify problems or program weaknesses which must be addressed during the upcoming year. Program efficiencies are accomplished by focusing financial, technical and other program resources on improvements that affect on-the-ground results.

* For some states with a large number of active mines, the number and percentages of sites free of off-site impacts are estimates based on representative samples.

