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## STATE REGULATORY PROGRAMS

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The Act specifies that because of the diversity in terrain, climate, and other physical conditions in areas subject to mining operations, the primary government responsibility for surface mining and reclamation operations should rest with the States.

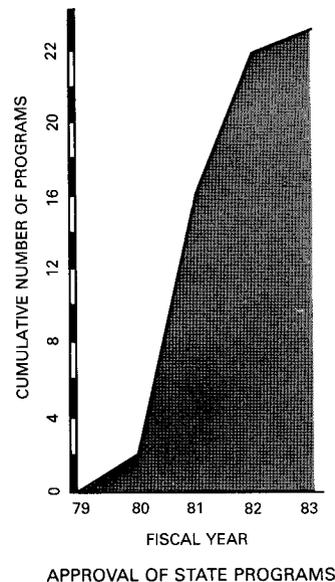
To achieve primary regulatory authority, often referred to as primacy, a State must submit a program which demonstrates the State's capability to carry out the provisions of the Act. Specifically, States are required to—

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

The Secretary, through OSM, reviews the State program to determine the consistency of the State's program with the Act and with the regulatory program established by the Secretary. Each State program is also reviewed by the public, industry, and other Federal agencies. Notices providing a description of the program, stating where the program is available for public review and inviting public comments, are published in local newspapers and in the *Federal Register*, and public hearings are held.

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

Once the Secretary approves a State's program, the State is granted primacy and becomes the regulatory authority over coal mining on non-Federal and non-Indian lands within its borders. The Federal Government then assumes a monitoring role. Also, once a State has achieved primacy, the Secretary may approve a program for the reclamation of lands disturbed by previous mining activities and not adequately reclaimed. Approval of the State reclamation plan entitles the State to receive funds allocated to it from the Abandoned Mine Reclamation Fund.





Since 1980, 25 major coal-producing States have received primacy. The States are Alabama, Alaska, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

Through consultation and cooperation with the States, the Secretary has approved eight programs that were initially disapproved in 1980, plus Alaska. These eight States—Alabama, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Tennessee, and Virginia—contain 88 percent of the total of surface coal mining inspectable units in the country and are among the States with the most sensitive environmental and climatic problems. Because of the topography and other physical conditions, coal operations in these eight States have the greatest cost of compliance under the Act.

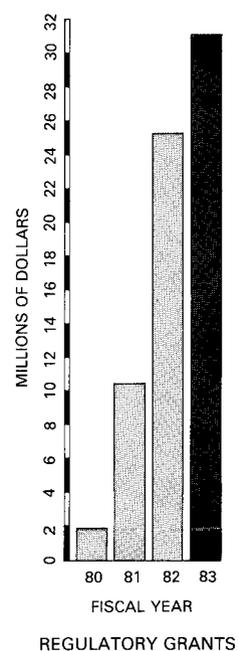
In addition, 178 conditions or minor deficiencies in the State program approvals were removed to bring the total to 12 States with approved programs.

Program Grants  
To States and  
Indian Tribes

State or Indian tribe	Initial regulatory grants		Program development grants	
	FY 1982	FY 1983	FY 1982	FY 1983
Alabama.....	\$324,340	0	0	0
Alaska.....	0	0	\$642,656	0
Illinois.....	744,064	\$60,329	0	0
Indiana.....	515,174	0	0	0
Kentucky.....	1,609,702	0	0	0
Michigan.....	0	0	0	\$165,467
Ohio.....	1,278,795	0	0	0
Pennsylvania.....	1,583,603	0	0	0
Rhode Island.....	0	0	6,751	0
Tennessee.....	401,700	5,000	0	0
Washington.....	0	0	63,896	0
Crow Tribe.....	0	0	61,711	117,914
Hopi Tribe.....	0	0	100,111	129,942
Total.....	6,457,378	65,329	875,125	413,323

State	FY 1982	FY 1983
Alabama .....	\$1,117,960	0
Alaska .....	0	\$345,921
Arkansas .....	193,449	155,215
Colorado .....	607,229	675,083
Illinois .....	2,960,177	1,571,226
Indiana .....	374,074	1,106,243
Iowa .....	44,543	49,384
Kansas .....	128,842	0
Kentucky .....	3,419,508	5,462,895
Louisiana .....	159,265	174,801
Maryland .....	335,248	311,363
Mississippi .....	21,216	0
Missouri .....	279,581	247,505
Montana .....	402,840	927,839
New Mexico .....	454,949	354,696
North Dakota .....	434,715	549,442
Ohio .....	1,800,000	2,557,957
Oklahoma .....	339,818	315,801
Pennsylvania .....	3,942,507	8,127,864
Tennessee .....	582,500	1,837,700
Texas .....	441,164	455,196
Utah .....	1,331,437	1,047,946
Virginia .....	2,279,100	2,016,875
West Virginia .....	2,055,039	2,391,345
Wyoming .....	1,915,432	789,051
<b>Total .....</b>	<b>25,620,593</b>	<b>31,471,348</b>

Regulatory Grants  
To States Under  
Permanent  
Program



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## FEDERAL PROGRAMS

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### Federal Programs For States

OSM is required to regulate surface coal mining and reclamation activities on non-Federal and non-Indian lands in a State if—

- the State's proposal for a permanent program receives final disapproval from the Secretary of the Interior;
- the State does not submit its own permanent regulatory program; or
- the State fails to implement, enforce, or maintain its approved State program.

OSM encourages and supports State primacy in the regulation of surface coal mining and reclamation operations within their borders. Two States with active mining, Georgia and Washington, did not submit regulatory programs. Full Federal programs were prepared for those States and for Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, and South Dakota, which have coal reserves but no active mining.

### Federal Lands Program

Section 523(a) of the Act requires the Secretary to issue and implement a Federal lands program applicable to all surface coal mining and reclamation operations taking place on Federal lands. On March 13, 1979, OSM issued regulations implementing the permanent phase of the program. On February 16, 1983, OSM promulgated regulations to amend the permanent Federal lands program. This was done to more clearly define Federal and State government roles in regulating surface coal mining and reclamation operations on Federal lands. The amended regulations enable States to assume more responsibility for regulating mining on Federal lands.

The Federal lands program is critical because the Federal Government owns significant coal reserves in both the East and West. Of the 200 billion tons of identified coal reserves in the western region, 80 percent is federally owned and must be developed under the Federal coal management program.

Administration of most surface mining requirements for the Federal lands program under the Act may be delegated by OSM to States through cooperative agreements. However, certain responsibilities cannot be delegated and must be retained by the Secretary.

Proposed cooperative agreements with Ohio, Virginia, and West Virginia were published in the *Federal Register*, and final cooperative agreements for these States were prepared for publication. Cooperative agreements with Alabama and Alaska were also being processed. With the approval this year of a cooperative agreement with North Dakota, five cooperative agreements are in effect.

Inspection and enforcement activities on Federal lands are conducted under two separate procedures. In States having Federal/State cooperative agreements, inspection of surface coal mining activities on Federal lands is the responsibility of the designated State regulatory authority. OSM, however, maintains an oversight function to ensure that the regulatory authority fully exercises its delegated responsibility under the cooperative agreement. In States not having a cooperative agreement, the required inspection and enforcement activities are carried out by OSM.

Tribal-Federal agreements exist between OSM and the Navajo, Hopi, and Crow Tribes. The agreements provide assistance to the tribes during development and implementation of mining, reclamation, and training programs; review of mining and reclamation plans for apparent completeness; and preparation of technical and environmental assessments of proposed mining operations on Indian lands. A new agreement with the Crow Tribe was signed on August 18, 1983, and new agreements with the Navajo and Hopi Tribes were signed on September 29, 1983.<sup>1</sup>

In FY 1983, OSM received two petitions to determine the unsuitability of land for surface coal mining and reclamation operations. The first, the Red Rim petition was filed by the National Wildlife Federation/Wyoming Wildlife Federation for combined State and Federal lands (approximately 19,500 acres) located southwest of Rawlins, Wyoming, and is being processed by the State and OSM. The second petition was filed by the Board of County Commissioners, Adams County, Colorado, and the Front Range Airport Authority for 160 acres of Federal lands located about 16 miles east of Denver, Colorado, and is being processed by OSM.

## Designation Of Lands As Unsuitable For Mining

During FY 1983, OSM continued its review of mining plans/permit applications for coal mining on Federal lands. These reviews determine if the mine operators are complying with requirements of the Mineral Leasing Act of 1920, as amended, the environmental performance standards of the Surface Mining Control and Reclamation Act, and the requirements of the National Environmental Policy Act (NEPA). The operator must address the effects of mining before a mining plan/permit application may be approved on Federal lands.

## Mining Plan Review

OSM received a large number of mining plans/permit applications in FY 1982 and 1983 due to the requirement for an operator to submit a new application 2 months after the approval date of the State program. This action created a backlog of permit applications. At the beginning of FY 1983, OSM had 110 mining plan/permit applications for Federal lands on hand. During the year, 33 more were received, 7 were withdrawn, and 26 were approved. OSM will virtually eliminate this backlog in FY 1984.

One of the features of the Federal lands program is the requirement that at a minimum an application for a mining permit must meet the requirements of the applicable approved State program. States with approved permanent program cooperative agreements are undertaking a significant amount of responsibility for the technical and environmental review of mining operations. Mining plans and permit applications under the permanent program are being jointly reviewed by OSM and those States having cooperative agreements.

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<sup>1</sup> On October 24, 1983, OSM issued proposed rules implementing a Federal program for Indian lands required by Section 710(d) of the Act. The proposed rules make most of the permanent program requirements applicable to Indian lands.

Mining Plan/Permit  
Application Status

State or Indian tribe	Applications—										
	Carried over from FY 1982	Received during FY 1983	Waiting for response to deficiencies	Withdrawn	Technical analysis complete	Environmental analysis complete	Environmental analysis complete	EIS complete	Permits complete	Permits denied	Permits issued
<b>FEDERAL PROGRAM</b>											
Georgia.....	1	5	0	0	2	1	1	0	3	1	2
Washington.....	0	3	0	3	0	0	0	0	0	0	3
Total.....	1	8	0	3	2	1	1	0	3	1	5
<b>FEDERAL LANDS PROGRAM</b>											
<b>Western States:<sup>1</sup></b>											
Colorado.....	14	3	0	2	1	8	10	0	0	10	7
Montana.....	9	0	0	2	2	2	2	1	0	2	7
New Mexico.....	3	2	0	4	2	0	0	0	0	0	5
North Dakota.....	6	1	0	4	1	1	2	0	0	2	5
Oklahoma.....	6	1	0	5	0	0	2	0	0	2	5
Utah.....	20	2	0	13	3	1	2	0	0	2	20
Wyoming.....	<sup>2</sup> 26	7	0	17	14	6	5	1	0	5	28
Subtotal.....	84	16	0	47	23	18	23	2	0	23	77
<b>Eastern States:</b>											
Illinois.....	0	4	0	0	1	3	3	0	0	0	4
Kentucky.....	19	6	6	0	3	13	13	0	0	1	18
Ohio.....	0	5	0	0	0	3	3	0	0	2	3
Virginia.....	1	2	1	0	1	0	0	0	0	0	2
West Virginia.....	6	0	0	0	6	6	6	0	0	0	6
Subtotal.....	26	17	7	0	11	25	25	0	0	3	33
Total.....	110	33	7	47	34	43	48	2	0	26	110
<b>INDIAN LANDS PROGRAM</b>											
Navajo and Hopi Tribes (Arizona).....	0	1	0	0	0	0	0	0	0	0	1
Crow Tribe (Montana).....	1	0	0	1	0	0	0	0	0	0	1
Navajo Tribe (New Mexico).....	3	0	0	2	0	0	0	0	0	0	3
Total.....	4	1	0	3	0	0	0	0	0	0	5
Grand total.....	115	42	7	53	36	44	49	2	3	27	120

<sup>1</sup> Cooperative agreement States control the processing time for steps 1 through 5.

<sup>2</sup> Includes mining plan modifications of previously approved plans.

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## INSPECTION AND ENFORCEMENT

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OSM had a total of 69 reclamation inspectors during FY 1983 and conducted 4,912 oversight inspections. They also conducted 866 inspections as a result of unabated cessation orders which were issued during 1979 and 1980. During FY 1983, OSM received 342 citizen complaints and issued 734 10-day notices, 77 notices of violation, and 27 cessation orders.

On December 29, 1982, Judge Barrington Parker issued an order directing OSM to assess and collect certain outstanding civil penalties, review nonterminated cessation orders, and determine which appropriate alternative enforcement actions to pursue. During 1983, OSM verified nonabatement for 1,700 cessation orders representing approximately 600 companies on 900 different sites.

In June 1983, a task force was created and a massive effort launched to review the 1,700 cases and take appropriate alternative enforcement actions. OSM identified companies and individuals who had outstanding violations and referred this list to the State regulatory authorities. OSM requested the States to deny permanent program permits to those violators until they had corrected the violations (or certified that steps were being taken to do so) and paid any civil penalties or AML fees owed. During 1983, 1,181 failure-to-abate cessation orders were reviewed to determine whether those violators were still mining or if any of them held permits authorizing them to mine. Thirty-four failure-to-abate cessation orders were identified as possibly having been issued to operators that were actively mining with a valid permit. Further examination revealed that seven were actively mining. OSM took steps to seek injunctions ordering those violators to cease mining.

By the end of 1983 a total of 61 cases had been reviewed and referred to the Office of the Solicitor for the following alternative actions: 24 individual civil penalties, 5 recommendations for criminal evaluation, and 42 referrals for injunctions.

Penalties totaling \$274,580.00 were collected for the failure-to-abate cessation orders issued prior to October 1980.

Based upon a March 30, 1980, order of U.S. District Court Judge Oliver Gasch in *Southern Mountains, Inc. et al. v. Andrus*, OSM was to establish procedures to determine whether sanctions under Section 518(f) of the Act should be pursued. In addition, OSM was to institute procedures to assure that such provisions would be carried out in the future.

The Gasch Task Force was formed during the fall of 1983, to make written determinations whether to pursue civil and criminal penalties against corporate officials who willfully and knowingly authorized, ordered, or carried out serious violations of the Act for all nonterminated cessation orders issued since March 31, 1980.

Criteria for reviewing these cases were established by the task force. By the end of 1983, the task force had completed the screening of the records indicating which violations were serious and had collected all historical data relating to those cases. Also, the database had been designed, and the historical information on relevant violations had been entered in the system.

Oversight  
Inspection  
Activities

State	Number of inspections	Failure-to-abate inspections	Citizen complaints	10-day notices issued	Notices of violation	Cessation orders
Alabama.....	307	35	21	58	3	3
Alaska.....	3	0	0	2	0	0
Arizona.....	2	0	0	0	0	0
Arkansas.....	45	0	0	8	2	1
Colorado.....	47	0	9	14	3	1
Georgia.....	13	2	1	0	0	0
Illinois.....	172	6	4	30	0	1
Indiana.....	286	89	0	26	2	1
Iowa.....	35	0	3	7	0	0
Kansas.....	99	0	4	17	3	0
Kentucky.....	745	566	141	97	9	2
Louisiana.....	4	0	0	0	0	0
Maryland.....	105	0	0	23	0	0
Missouri.....	71	2	2	6	0	0
Montana.....	26	0	0	3	0	0
New Mexico.....	20	0	0	2	1	0
North Dakota.....	14	0	0	0	0	0
Ohio.....	346	16	41	54	4	1
Oklahoma.....	173	0	28	40	2	0
Pennsylvania.....	903	55	12	44	2	0
Tennessee.....	491	47	15	138	19	4
Texas.....	26	0	0	0	1	0
Utah.....	46	0	3	1	0	0
Virginia.....	601	30	28	90	21	12
Washington.....	17	0	4	0	3	0
West Virginia.....	288	18	7	63	2	1
Wyoming.....	27	0	1	11	0	0
Total.....	4,912	866	324	734	77	27