

# OSMRE Annual Report for Fiscal Year 1987 Operations



US Department of the Interior  
Office of Surface Mining Reclamation and Enforcement

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Annual Report  
for  
Fiscal Year 1987  
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*Cover photo: Valley fill with chimney drain. Note pre-Act highwall in the background.*

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*Planting with a hydroseeder.*

# Introduction

The Office of Surface Mining Reclamation and Enforcement (OSMRE) was established in 1977 with the passage of the Surface Mining Control and Reclamation Act, Public Law 95-87 (referred to in this report as SMCRA or the Act). In that law, Congress sought to establish a nationwide program to protect people and the environment from the adverse effects of surface coal mining operations. At the same time, it sought to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

The Act requires OSMRE to establish uniform nationwide standards for the reclamation of lands following coal mining. The States may develop their own regulatory programs, to be consistent with Public Law 95-87 and the Federal regulations, while taking into account the unique conditions within their borders.

Following approval by OSMRE, the State program becomes the basis for "primacy," in which the State assumes primary responsibility for enforcing reclamation requirements and environmental protection standards. In the primacy States, OSMRE's function is one of support and oversight, monitoring the effectiveness of the States in enforcing the law, and providing program grants and technical assistance when needed. OSMRE also retains responsibility for enforcing the Act on Indian lands, in States that choose not to develop a regulatory program, and on Federal lands. Any State with an approved program, however, may elect to enter into a cooperative agreement with the Secretary of the Interior (the Secretary) to regulate surface coal mining operations on Federal lands within the State.

Under the provisions of SMCRA, OSMRE is charged with collecting a fee for every ton of coal produced. The fees are deposited into the Abandoned Mine Land (AML) fund for use in reclaiming lands and water adversely affected by mining that occurred before passage of the Act.

This report details the activities of OSMRE in carrying out its responsibilities during the period October 1, 1986 through September 30, 1987.

Data included in this report is for the fiscal year period with the exception of the data presented in Tables 2, 5, and 6. These tables provide statistics on State and Federal regulatory program activities for the period July 1, 1986 through June 30, 1987. OSMRE annual evaluations of State regulatory and AML programs are conducted on a July-June cycle; consequently, data on State program activities is compiled for the July-June period rather than the fiscal year. Federal program statistics are maintained for the same period to coincide with the reporting period for State programs,

In some instances actions or events which occurred after the close of the fiscal year period are noted in the report for the reader's benefit. Such information is set off by parentheses.



*Dragline removing overburden at area type mining operation.*

# OSMRE's Ten-Year Anniversary

OSMRE celebrated its 10th anniversary during the summer of 1987. Chairman Morris K. Udall of the Interior and Insular Affairs Committee, US House of Representatives, held a special committee hearing on August 3, the anniversary date. OSMRE's Director and representatives of States, coal companies, and public interest groups testified on the implementation of the Act.

Country music singing star and songwriter Loretta Lynn, known as "the coal miner's daughter," joined OSMRE's celebration with an afternoon visit to the Washington headquarters office and an evening appearance at a reception for Members of Congress, Interior Department officials, and representatives of public interest groups and coal companies. The evening reception and an afternoon luncheon were sponsored by Women in Mining. Ms. Lynn also recorded a public service radio announcement for OSMRE.

In the West, OSMRE's Director addressed the National Society of Mining Engineers in Tucson, Arizona, on the Agency's first 10 years of accomplishments. Various OSMRE field offices held their own observances. The Birmingham, Alabama, Field Office held an open house for State and coal company officials and the public. In Columbus, Ohio, the Governor of Ohio issued a special proclamation in honor of the 10th anniversary. Western Field Operations in Denver, Colorado, held a reception on the August 3 birthday.

Two special reports were issued marking the 10th anniversary. Surface Coal Mining Reclamation: 10 Years of Progress, 1977-1987 addresses the accomplishments of the regulatory program during the first decade under SMCRA.

The other report, The Abandoned Mine Land Program, 1977-1987, describes State and OSMRE accomplishments of the Abandoned Mine Land (AML) reclamation program during the same 10-year period. This report was produced by the Association of Abandoned Mine Lands Programs, an organization of State representatives that administer the AML reclamation program under SMCRA.



*Blasting to fracture overburden at area type mining operation.*

# Legislative Initiatives

## Repeal of the Two-Acre Exemption

On May 7, 1987, President Reagan signed into law a bill, H. R. 1963, repealing Section 528(2) of SMCRA. Section 528(2) provided that the provisions of SMCRA did not apply to "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less." While this section of SMCRA, commonly known as the "two-acre exemption," was originally designed to protect the small coal operator, it turned out to be the most misused provision of the Act, despite efforts by OSMRE and the States to control abuses. Unethical operators used this exemption to avoid permitting, regulatory, and land reclamation requirements and the payment of abandoned mine land reclamation fees required by SMCRA.

While these abuses were limited primarily to the Nation's Appalachian coal region and a very small segment of the mining industry's operators, they nevertheless posed serious economic problems for legitimate operators who were forced to compete in the market place with illegally mined coal. These abuses manifested themselves in two basic ways. In some instances, operators would mine a number of sites along a coal seam and claim each site as a separate mine under the two-acre exemption by skipping 50 to 100 feet between individual mine sites. In other cases, shell corporations consisting of separate mining companies were created and operated using common equipment, employees, offices, and stockholders. Besides the economic consequences, these abuses resulted in the failure to reclaim much of the mined land and overshadowed the good work being done by the coal industry, State regulatory authorities, and OSMRE.

H. R. 1963 requires that all coal mine operators comply with SMCRA's permitting, regulatory, environmental protection, and land reclamation requirements regardless of the size of their operation. The new law, Public Law 100-34, took effect on June 6, 1987, for new two-acre operations and November 8, 1987, for existing operations.

While the repeal of the two-acre exemption was long overdue and badly needed, its elimination may lead to an increase in the number of coal mines operating without a permit, "wild-cattling", which poses the same general problems as noted above. OSMRE is currently looking at several alternatives for addressing this endemic problem including the authorization of criminal penalties for those who mine coal without a permit as well as those who haul or sell it. (On June 10, 1987, the Department of the Interior sent to Congress a draft bill that would amend SMCRA to make the mining of coal without a permit a criminal offense.)

## Authorization for States to Set Aside AML Funds

Public Law 100-34, which was enacted on May 7, 1987, amended Section 402(g) of SMCRA to authorize individual States to establish a special trust fund to be utilized for AML reclamation purposes. Section 402(g) provides for the Secretary to return 50 percent of all reclamation fees collected from each State's coal mining industry under Section 402(a) to those States with approved reclamation and regulatory programs. Under this amendment, individual States can set aside up to 10 percent of the State-share portion of their annual AML reclamation funding grant for use after August 3, 1992, the scheduled expiration date for the collection of AML reclamation fees under Section 402(a). All money deposited into the special trust fund, along with any interest earned, are State funds available for use in reclaiming AML areas without regard to the three year limitation originally contained in Section 402(g).

Establishment of this trust fund does not, in any way, alter a State's allocation of mine land reclamation funds under Section 402(g) nor does it change the purposes for which these funds can be used. It simply gives individual States the flexibility of setting aside a small portion of their annual grant allocation, if they choose to do so, for AML reclamation funding after August 3, 1992. Establishment of the trust fund enables States to set aside funds to resolve difficult reclamation problems that, for technical or other reasons, cannot be solved now.



*Mine site planted in native grasses.*

## Authorization for Indian Tribes to Administer AML Programs

On July 11, 1987, the President signed a supplemental appropriations bill, P.L. 100-71, authorizing the Navajo, Hopi, and Crow Indian Tribes to administer AML programs without prior approval of surface mining regulatory programs as required by Section 405 of SMCRA. This legislation allows the Tribes access to their 50 percent share of AML fees collected from Tribal lands, upon the Secretary's approval of reclamation plans and grant applications submitted by the Tribes. (The Navajo and Hopi AML plans were approved on May 16 and June 28, 1988, respectively).

Section 710 of SMCRA provides that Indian Tribes are required to await congressional enactment of specific legislation before they can obtain "primacy" for regulation of surface mining operations on Tribal lands. Such legislation has not yet been enacted. Prior to enactment of Public Law 100-71, reclamation of AML sites on Tribal lands was accomplished with funds from the Secretary's discretionary share of the AML fund. The actual reclamation work has been done through cooperative agreements with Tribal agencies. Through fiscal year 1987, OSMRE had obligated approximately \$4.7 million to fund high priority and emergency reclamation projects on Tribal lands. Public Law 100-71 makes available to the Navajo, Hopi, and Crow Tribes approximately \$42 million being held in reserve in Tribal accounts.



*Reclaimed contour surface mine to approximate original contour.*



*Energy dissipating diversion ditches are used to minimize erosion by breaking up long, smoothly graded slopes.*