

A review of the shared federal/state/Indian Environmental Protection Program for active surface and underground coal mining and reclamation operations throughout the nation.

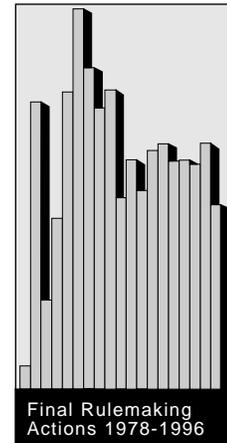
Under the Surface Mining Control and Reclamation Act, the Office of Surface Mining is responsible for publishing the rules and regulations necessary to carry out the Law. The permanent regulatory program and related rules provide the fundamental mechanism for ensuring that SMCRA's goals are achieved. 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 1996 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: State-Federal Cooperative Agreements (RIN 1029-AB84), State Program Amendments I (RIN 1029-AB86), and State Program Amendments II (RIN 1029-AB87). In addition, one final permanent program rule was published in 1996. Subject to Office of Surface

Surface Mining is required to notify the states of the changes needed to make sure that 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



current funding realities and resource constraints, the Office of Surface Mining has formed a team to further reevaluate its amendment process with a focus on streamlining initiatives, processing efficiency, and responsiveness. In 1996, the Office of Surface Mining published 59 proposed and 48 final state program amendments in the Federal Register.

**TABLE 3
FINAL RULE PUBLISHED DURING 1996**

Lands Eligible For Remining (RIN 1029-AB74).

60 FR 58480 30 CFR Parts 701, 773, 785, 816, and 817 11/27/95

This rule provides incentives for the remining and reclamation of previously mined and inadequately reclaimed lands eligible for expenditures under Title IV of SMCRA.

Mining approval, states have the right to amend their programs at any time for appropriate reasons. Whenever SMCRA or its implementing regulations are revised, the Office of

Mining has been decentralized, and format and content guidelines for state program submissions have been issued to the states. Also, in response to the

**TABLE 4
1996 SIGNIFICANT COURT and IBLA DECISIONS**

OWNERSHIP AND CONTROL

Pittston Coal Co. v. Babbitt, No. 92-1606 (4th Cir.)

On April 15, 1996, the U.S. Supreme Court denied Pittston's request for certiorari. The 4th Circuit Court of Appeals had affirmed the decision by the Western District of Virginia that SMCRA's requirement that challenges to OSM's national regulations be brought in the D.C. District Court applied also to indirect challenges to the rules. Thus, Pittston's challenge to OSM's application of the ownership and control rules on due process grounds was found to be beyond the jurisdiction of the courts in the Fourth Circuit. In June, the Fourth Circuit transferred the case to the D.C. District Court. In July, 1996 the parties reached a settlement agreement which has been filed with the district court for approval.

TAKINGS

Eastern Minerals International, Inc., et al. v. United States, No. 94-1098-L (Fed. Cl.),

On Wednesday, October 2, 1996, Judge Robert Hodges held that there had been a regulatory taking by OSM of the leasehold interest of plaintiff Eastern Minerals and of the royalty interest of plaintiffs Wilson and Ann Wyatt, but dismissed the claims of the other plaintiffs. In reaching this decision, Judge Hodges found that OSM had unreasonably delayed its processing of Eastern Minerals' permit application, and that the Government had no intention of ever granting the plaintiffs a permit. In reaching his decision, Judge Hodges ruled that plaintiffs, in order to prevail, did not have to show that they had a compensable expectancy to be free of the regulatory requirements that resulted in the alleged taking. He also held that the noise and hydrology consequences which had concerned OSM did not constitute nuisances under Tennessee state law. Finally, Judge Hodges held that the taking occurred on the date Eastern's lease interest lapsed even though no Government action occurred on that date.

STATE PROGRAM AUTHORITY

Cat Run Coal Co. v. Babbitt, No. 95-1063 (S.D.W.V)

On August 8, 1996, the court granted the plaintiff's motion for summary judgment in this action challenging OSM's approval of a West Virginia regulation that allows the state regulatory authority to impose reclamation costs and responsibilities not only on "operators" and "permittees" but also on "other responsible parties." The court held that OSM's approval of this regulation violated the notice and comment requirement of the APA because it failed to alert landowners and lessors who might later be liable under the regulation that they were interested parties. The court also held that the West Virginia regulation is inconsistent with SMCRA in that it allows the West Virginia regulatory authority to transfer the costs of reclamation from operators and permittees to landowners who are expressly protected under SMCRA.

RULE CHALLENGES

National Mining Association v. Department of Interior, No. 94-2740-AER (D.D.C.)

On July 10, 1996, the U.S. District Court for the District of Columbia upheld the Office of Surface Mining's 1994 Applicant/Violator System Procedures Rules, and related regulations promulgated by the Interior Department's Office of Hearings and Appeals (OHA) against wide-ranging challenges brought by a mining industry group. Judge Robinson held that the regulations are within the Secretary's statutory authority, do not violate State primacy, properly allocate the burdens of proof, do not violate Due Process, and are not retroactive. The mining association has appealed.

National Coal Ass'n v. Lujan, National Wildlife Fed'n v. Lujan, Nos. 94-5351, 94-5353 (D.C. Cir.),

On April 1, 1996, the U.S. Court of Appeals for the D.C. Circuit denied industry's request for rehearing en banc of the three-judge panel's December 12, 1995, decision which sustained the Secretary's NOV regulation challenged by industry groups. Although the court of appeals reached its decision on procedural, rather than substantive, grounds, its ruling leaves intact a system of federal oversight that includes the full range of federal enforcement against a mine operator when there is a violation of an environmental standard at the mining operation and when a State fails to enforce its State program.

AML

Addington Mining, Inc. v. U. S. Department of the Interior, No. 94-464-C (Fed. Cl.)

On June 28, 1996, Judge Margolis rejected Addington's claim for a refund of \$267,056.73 in abandoned mine reclamation fees and penalties. Addington claimed that AML payer letters are not binding, and contended that the company had satisfied the regulatory requirement of "demonstrat[ing] through competent evidence that there is a reasonable basis for determining the existence and amount of excess moisture." The court found that, based on the information in the administrative record, it was reasonable for OSM to conclude that Addington had failed to demonstrate a reasonable basis for its excess moisture deduction. Judge Margolis also upheld OSM's assessment of a penalty against Addington on fees that had been underpaid.

ADMINISTRATIVE DECISIONS: INTERIOR BOARD OF LAND APPEALS OWNERSHIP AND CONTROL

James Spur, Inc. v. OSM, No. D 95-184

On April 15, 1996, the Director of the Department's Office of Hearings and Appeals affirmed the decision of the Interior Board of Land Appeals (133 I.B.L.A. 123), that an applicant's showing of legitimate purposes for its ability to control another entity would rebut a presumption of ownership or control where there was no evidence of the exercise of control. Thus, James Spur and related persons were determined not to be linked to unabated violations by contract miner B & J Excavating Company.

Surface Mining works with states and other interested parties to seek consensus on oversight techniques. To maintain objectivity, the Office of Surface Mining also plans and conducts inspections, independent reviews, and technical analyses. Table 5 summarizes the Office of Surface Mining's oversight inspection and enforcement activities during 1996.

Prior to 1996, the Office of Surface Mining focused its oversight activities on the states' procedural compliance with state program processes and procedures. Under revised oversight guidance implemented in January 1996, the Office of Surface Mining's evaluation activities now primarily focus on end results and the on-the-ground success of states in meeting SMCRA's environmental protection and public participation goals, especially those dealing with prompt and effective reclamation of land mined for coal. Based in part on input the Office of Surface Mining actively sought from its customers, the Office of Surface Mining and the states developed state-specific evaluation plans tailored to the unique conditions of each state program and governed by performance agreements. Through these performance agreements, the Office of Surface Mining and the states jointly are identifying common goals and are

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 approved state program provisions (in states that have primacy). Currently, there are 24 primacy states that administer and enforce

Office of Surface Mining-approved programs for regulating surface coal mining and reclamation under SMCRA. An effective relationship between the Office of Surface Mining and the states is fundamental to the successful implementation of SMCRA. This shared federal-state commitment to carry out

the requirements of SMCRA is based on common goals and principles that form the basis for the relationship.

Oversight of State Programs

In implementing its oversight duties under SMCRA to evaluate the administration of approved state programs, the Office of

**TABLE 5
FEDERAL OVERSIGHT OF STATE PROGRAMS
1996**

State	Violations Cited in Office of Surface Mining Enforcement							
	Number of Inspections		Notice of Violations		Failure-To-Abate		Imminent Harm	
	Complete	Total	Actions	Violations	Actions	Cessation Orders	Actions	Cessation Orders
Alabama	126	155	0	0	0	0	0	0
Alaska	0	2	0	0	0	0	0	0
Arkansas	11	15	0	0	0	0	0	0
Colorado	4	11	0	0	0	0	0	0
Illinois	0	127	1	1	1	1	0	0
Indiana	0	100	0	0	0	0	0	0
Iowa	4	5	0	0	0	0	0	0
Kansas	8	8	0	0	0	0	0	0
Kentucky	193	721	12	13	6	7	0	0
Louisiana	2	2	0	0	0	0	0	0
Maryland	21	37	1	1	0	0	0	0
Mississippi	3	7	0	0	0	0	0	0
Missouri	10	20	0	0	0	0	0	0
Montana	2	20	0	0	0	0	0	0
New Mexico	0	12	0	0	0	0	0	0
North Dakota	7	7	0	0	0	0	0	0
Ohio	2	83	0	0	0	0	0	0
Oklahoma	69	123	1	1	0	0	0	0
Pennsylvania	69	126	19	19	11	11	0	0
Texas	10	13	0	0	0	0	0	0
Utah	0	2	0	0	0	0	0	0
Virginia	44	244	0	0	1	4	0	0
West Virginia	53	348	14	14	5	5	0	0
Wyoming	3	4	0	0	0	0	0	0
Total	641	2,192	48*	49	24	28	0	0

* Of the 48 Notice of Violation and 24 Cessation Orders issued by the Office of Surface Mining, 46 NOV's and 22 CO's were related to Abandoned Mine Land fees.

making progress in implementing the new oversight guidance by targeting substantive issues for review and measuring critical end results.

If oversight activities indicate that a desired end result is not being achieved, the Office of Surface Mining will conduct an independent review to determine the root cause of the problem. Of course, if a safety or design issue arises, the Office of Surface Mining will work with the state to assure that the problem is corrected expeditiously.

Federal Programs

Section 504(a) of SMCRA 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 regulation 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 surface coal mining and reclamation operations, certain states with coal reserves have elected not to submit or maintain regulatory programs. Those states are called federal program states, and their surface coal mining and reclamation operations are regulated by

**TABLE 6
REGULATORY PROGRAM STATISTICS
1996 (January 1, 1996-September 30, 1996)**

	Alabama	Alaska	Arizona	Arkansas	Colorado	Oregon	Georgia	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Maryland	Missouri	
Regulatory Program Staffing (FTE's 9/30/96)	33	3.1	NA	6	26	1	NA	NA	58.5	58.2	4.7	3.6	455	2.7	4	13.8	15.6
Abandoned Mine Land Program Staffing (FTE's 9/30/96)	18.8	5	NA	6	13	6.5	NA	2.5	34	23	5.3	12.6	47	0	1	8	12.4
New Permits	6	1	1	1	0	0	0	1	6	14	0	1	102	3	0	2	3
New Acreage Permitted	1,630	54	417	46	0	156	0	70	2,072	7,059	0	135	52,771	141	0	163	398
New Hectars Permitted	65.9.6	21.8	168.7	18.6	0	63.1	0	28.3	83.8.5	2856.6	0	54.6	21,355.7	57.0	0	65.9	161.0
Total Acreage Permitted	94,288	6,483	417	16,500	160,948	5,440	303	62,830	99,515	266,300	8,600	10,816	2,209,540	26,719	45,200	6,703	46,400
Total Square Kilometers Permitted	381.5	26.2	1.6	66.7	651.3	22.0	1.2	254.2	402.7	1077.6	34.8	43.7	8941.7	108.1	182.9	27.1	187.7
Inspectable Units (9/30/96)	298	9	1	21	60	1	8	7	75	258	32	20	3,115	55	2	72	72
Complete Inspections	2691	21	0	82	178	3	10	23	362	1,130	89	70	13,499	163	6	328	167
Partial Inspections	409	33	0	147	376	7	22	15	756	2,610	178	137	17,076	269	12	435	279
Notices of Violations (Actions)	176	1	0	5	16	0	0	15	38	61	45	1	740	13	4	3	54
Notices of Violations (Violations)	245	2	0	12	16	0	0	23	38	70	45	1	1,417	18	5	3	54
Failure-to-Abate Cessation Orders (Actions)	66	0	0	1	1	0	0	0	2	2	28	0	92	0	0	0	11
Failure-to-Abate Cessation Orders (Violations)	80	0	0	3	1	0	0	0	2	4	28	0	NA	0	0	0	11
Imminent Harm Cessation Orders (Actions)	3	0	0	0	0	0	0	0	0	0	0	0	12	3	0	0	0
Imminent Harm Cessation Orders (Violations)	5	0	0	0	0	0	0	0	0	0	0	0	12	3	0	0	0
Bond Forfeitures	11	0	0	0	2	0	0	0	0	1	0	0	35	0	0	0	0
Acreage of Phase III Bond Release	1,356	0	0	3	16	0	0	0	2,132	3,517	0	24	16,991	111	0	120	3,430
Hectars of Phase III Bond Release	548.7	0	0	1.2	6.4	0	0	0	862.7	1423.2	0	9.7	6876.0	44.9	0	48.5	1,388.0

*Federal Lands Program, **Indian Lands Regulatory Program, NA - Information not available

the Office of Surface Mining. Full federal programs are in effect in 12 states: Arizona, California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington.

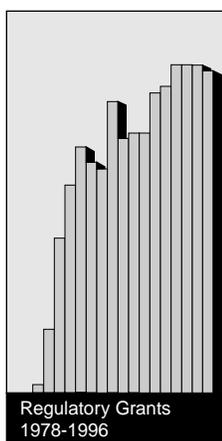
Of the federal program states, only Tennessee and Washington had active coal mining in 1996. Table 6 summarizes the Office of Surface Mining's regulatory actions in those two states during 1996.

Grants to States

Section 201 of SMCRA authorizes the Office of Surface Mining to help state regulatory authorities develop or revise surface mining regulatory programs. Although no program development grants were awarded in

1996, the Office of Surface Mining did work with Indian tribes on program development objectives.

Section 705 of SMCRA 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. In addition, when a state elects to administer an



Office of Surface Mining inspector George Olvey checks soil acidity and records the location with a global positioning system receiver.

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 7 shows grant

amounts provided to states during 1996 to administer and enforce regulatory programs.

Regulation of Surface Mining on Federal and Indian Lands

Section 523(a) of SMCRA requires the Secretary of the Interior to establish and

TABLE 6 (continued)
REGULATORY PROGRAM STATISTICS
1996 (January 1, 1996-September 30, 1996)

	Montana	Nevado Tribe**	New Mexico	North Dakota	Ohio	Oklahoma	Pennsylvania	Tennessee	Texas	Utah	Ute Tribe**	Virginia	Washington	West Virginia	West Virginia*	Wyoming
Regulatory Program Staffing (FTE's 9/30/96)	20.9	NA	13.8	9.7	61	33	297	56	21	24	NA	82.6	NA	261	NA	30.2
Abandoned Mine Land Program Staffing (FTE's 9/30/96)	10	24	11.5	5.8	19	6	137	0	11	9	NA	17	NA	69	NA	12.5
New Permits	0	0	1	0	34	3	68	9	1	1	0	26	0	69	0	0
New Acreage Permitted	19	0	17,702	12,671	3,254	3,283	1,371	1,355	13,929	100	0	3,982	0	10,511	0	110
New Hectars Permitted	7.6	0	7,163.7	5,127.8	1316.8	1328.5	554.8	548.3	5636.8	40.4	0	1611.4	0	4253.6	0	44.5
Total Acreage Permitted	60,745	32,268	49,970	72,600	145,830	50,300	502,445	23,469	176,900	119,060	265	60,555	14,931	283,244	20	321,500
Total Square Kilometers Permitted	245.8	130.5	202.2	293.8	590.1	203.5	2033.3	94.9	715.8	480.8	1.0	245.0	60.4	1146.2	.08	1,301.0
Inspectable Units (9/30/96)	17	8	15	46	699	119	2,512	477	24	31	2	732	2	3,242	1	38
Complete Inspections	65	21	50	134	1,665	338	7,677	954	100	87	6	2,909	14	10,249	3	117
Partial Inspections	84	44	80	451	2,178	523	12,312	1,055	207	167	11	2,943	16	12,571	3	228
Notices of Violations (Actions)	12	4	3	0	101	44	720	52	19	14	0	158	0	1,462	0	10
Notices of Violations (Violations)	12	6	3	0	101	70	878	70	24	18	0	196	0	1,462	0	10
Failure-to-Abate Cessation Orders (Actions)	0	0	0	0	5	8	45	8	0	0	0	6	0	187	0	0
Failure-to-Abate Cessation Orders (Violations)	0	0	0	0	5	8	57	9	0	0	0	6	0	187	0	0
Imminent Harm Cessation Orders (Actions)	0	0	0	0	3	2	0	0	0	1	0	2	0	18	0	0
Imminent Harm Cessation Orders (Violations)	0	0	0	0	3	2	0	0	0	1	0	2	0	18	0	0
Bond Forfeitures	0	0	0	0	5	1	32	2	0	0	0	0	0	35	0	0
Acreage of Phase III Bond Release	0	0	0	135	4,437	1,150	9,256	423	1,002	0	0	988	16	3,664	0	0
Hectars of Phase III Bond Release	0	0	0	54.6	1795.6	465.3	3745.7	171.1	405.4	0	0	399.8	6.4	1482.7	0	0

*Federal Lands Program, **Indian Lands Regulatory Program, NA - Information not available

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. 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. Of the

234 billion tons of identified coal reserves in the western U.S., 60 percent is federally owned.

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 1996, the Secretary had entered into such cooperative agreements with Alabama, Colorado, Illinois, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Virginia,



Reclamation of a road is part of the mine operator's responsibility to leave the site in the same condition as before mining.

**TABLE 7
REGULATORY GRANT FUNDING
1996 OBLIGATIONS**

State	Federal Funding		Cumulative
	1996	1995	Through 1996*
Alabama	\$1,189,270	\$1,204,372	\$19,722,678
Alaska	171,510	175,785	4,559,694
Arkansas	170,980	173,151	2,578,153
Colorado	1,569,053	1,502,111	17,469,147
Illinois	2,283,776	2,340,818	37,933,982
Indiana	1,669,664	1,708,648	21,443,127
Iowa	155,010	156,978	1,886,527
Kansas	125,119	126,708	2,240,193
Kentucky	12,456,815	12,412,454	183,119,163
Louisiana	183,553	210,985	2,519,313
Maryland	470,712	446,308	8,360,603
Michigan	0	0	135,458
Mississippi	30,181	0	514,558
Missouri	423,576	428,956	5,783,225
Montana	859,756	870,673	11,073,357
New Mexico	676,832	685,471	8,602,977
North Dakota	509,983	516,459	8,386,245
Ohio	2,124,017	2,508,662	48,607,601
Oklahoma	837,855	848,494	11,890,511
Pennsylvania	10,630,839	10,559,476	142,675,592
Rhode Island	0	0	158,453
Tennessee	0	0	5,340,085
Texas	1,180,615	1,195,607	13,158,328
Utah	1,388,982	1,305,350	18,023,990
Virginia	2,953,671	3,172,726	46,745,899
Washington	0	0	4,893
West Virginia	7,207,333	7,469,870	69,112,382
Wyoming	1,492,750	1,511,704	22,242,889
Crow Tribe	0	0	732,759
Hopi Tribe	0	0	885,450
Navajo Tribe	0	0	2,140,461
Total	\$50,761,852	\$51,531,766	\$718,047,693

*Includes obligations for AVS, Kentucky Settlement, and other Title V cooperative agreements. Cumulative figures are net of all prior-year downward adjustments.

West Virginia, and Wyoming.

Under SMCRA, 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 SMCRA are carried out by the Office of Surface Mining. During 1996, two new permits were issued by the Office of Surface Mining on federal land in Kentucky.

For states with leased federal coal, the Office of Surface Mining 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. During 1996, 11 mining plan actions were prepared and approved for coal mines on federal land.

Pursuant to Section 710 of SMCRA, the Office of Surface Mining regulates coal mining and reclamation on Indian lands. In the Southwest, three mines on the Navajo and Hopi reservations, a portion of an underground mine, and a portion of a coal haul road on the Ute Mountain Ute Reservation are permitted under the permanent Indian Lands Program, and one mine is operating under an interim permit. 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.

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



Bulldozer tracks across the slope provide niches that trap runoff for use by grass seedlings.

On the Crow Ceded Area in Montana, the Office of Surface Mining and the Montana Department of State Lands administer applicable surface mining requirements under a Memorandum of Understanding that includes both permitting and inspection functions.

Section 2514 of the Energy Policy Act of 1992 (Public Law 102-486) stipulates that grants shall be made to the Crow, Hopi, Navajo, and Northern Cheyenne Tribes to assist them in developing programs for regulating surface coal mining and

(including permitting, mine plan review, and bond release); and education in the area of mining and mineral resources. During 1996 the Office of Surface Mining continued working with the four tribes to develop proposed federal legislation for them to assume primacy. Development grant funding was contained in the Bureau of Indian Affairs 1996 budget and will continue in the 1997 Office of Surface Mining budget. Table 6 includes statistics on regulatory activity on Indian lands during 1996.

Applicant Violator System

Section 510(c) of SMCRA and corresponding regulations (30 CFR 773) prohibit the issuance of surface coal mining permits to applicants responsible for outstanding (i.e., unabated or unresolved) violations. The Applicant Violator System (AVS), a computer database, was developed to help state and federal regulators ensure compliance with that requirement. During 1996, the Applicant Violator System provided recommendations on 4,633 permit applications and Abandoned Mine Land reclamation contracts. The overall system reliability rate was over 92 percent on those applications and contracts, compared with 78 percent in 1995. The reliability rate represents the percent of system recommendations which the Applicant Violator System

office does not overturn during its quality check of the system. This increase of 14 percent over the previous year reflects the successful completion of the move of the system from the U.S. Geological Survey's main-frame computer to an Office of Surface Mining's mini-computer.

In 1996, the Office of Surface Mining reached out to the coal industry to provide information on how the Applicant Violator System works, and to encourage public access. Eight seminars were conducted in Kentucky, West Virginia, Pennsylvania, Ohio, Virginia, and Utah attended by 129 industry representatives and resulting in 56 additional requests for public access to the system. Results of the out-reach included a reduction of over 50 percent in individual



Under the Surface Mining Law excess spoil can be placed in valley fills, under carefully controlled conditions.



This reclaimed mine land has been returned to its pre-mining grazing land use.

requests for information, and a dramatic reduction in last minute permit blocks just prior to permit issuance. Most of the coal industry and supporting consultants and attorneys now get Applicant Violator System information through public access to the system. Coal companies are encouraged to monitor their own status in the system so that if a change in their permit issue status occurs they can start working to resolve the problem immediately, thereby avoiding last minute permit blocks. Permit blocks just prior to permit issuance have dropped from several each week to no more than one per month during 1996.

Pennsylvania Anthracite Program

Section 529 of SMCRA provides an exemption from federal performance standards for anthracite coal mining 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 SMCRA program 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 or 60 feet. The

anthracite region is characterized by steeply pitching seams, some with dips steeper 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.

In 1995² the anthracite mining industry increased production³ to around 8.7 million net tons per year, approximately 13 percent of Pennsylvania's annual coal production. Two-thirds of anthracite coal production is from the reprocessing of anthracite culm banks. Culm reprocessing fuels eight cogeneration plants. Anthracite operators mined approximately 5.8 million tons from culm banks, 2.5 million tons from surface mines, and 0.4 million tons from underground mines.

Pennsylvania's Department of Environmental Protection continues to successfully carry out the provisions of the anthracite regulatory program. State mine inspectors have achieved over 95 percent⁴ of the required complete inspections. On 98 percent⁵ of the complete inspections conducted by state inspectors, the mine operations were in compliance with performance standards. The District Mining office in Pottsville received special recognition for its efforts to clean-up the headwaters of Swatara Creek.

2. Calendar year
 3. Pennsylvania Department of Environmental Protection, Harrisburg, 1995, "Annual Report On Mining Activities"
 4. Pottsville District Mining Office, Operation Reports
 5. Pennsylvania Department of Environmental Protection, Field Operations Data Base (LUMIS), "Inspector-Citation Summary Report for Period 01/01/96 thru 09/30/96-Summary for Pottsville"

Technical Assistance

The Office of Surface Mining provides technical assistance to the coal states, tribes, and industry to improve the effectiveness of the regulatory process. Although it deals mainly with regulatory functions, technical assistance also supports the Abandoned Mine Land program. Technology transfer has generated an atmosphere for resolving problems through technical assistance, rather than oversight.

training courses offered by the Office of Surface Mining on such topics as reclamation bond calculation, erosion and sediment control, and operation of the Technical Information Processing System (TIPS). Office of Surface Mining personnel traveled to Indonesia to provide on-site assistance in the areas of inspection practices, permit processing, and program management. Under the Indonesia agreement, which is funded by the World Bank, all work by the Office

by the Office of Surface Mining in partnership with primacy states. TIPS is maintained by the Office of Surface Mining for use by state regulators and the Office of Surface Mining staff, to carry out the technical regulatory and abandoned mine land responsibilities of SMCRA. The system consists of a centrally-located computer networked through the Office of Surface Mining wide-area network, with engineering/scientific work stations in state, tribe, and selected federal offices. TIPS aids the technical decision-making associated with conducting reviews of permits, performing cumulative hydrologic impact assessments, quantifying potential effects of coal mining, measuring revegetation success, assisting in the design of abandoned mine lands projects, and preparing environmental assessments and environmental impact statements.

TIPS activities in 1996 included installation of a system for the Hopi Tribe. Training of state, tribal, and Office of Surface Mining personnel in the practical application of TIPS is performed on a continuing basis. In 1996 training was provided for surface-water modeling, three-dimensional spatial geologic and toxic-material modeling, geographic information system use, slope stability, subsidence modeling, statistical analysis, and global positioning system uses. Technical training on TIPS software applications reached over 200 state and Office of Surface Mining scientists in 25 courses during 1996. In addition, as part of the Office of Surface Mining's Indonesia project, a TIPS workstation was installed and training provided to Indonesian government staff in support of their effort to develop a mining regulatory program.



Although not a common practice, this reclaimed mine land has been developed into very desirable building lots.

The Office of Surface Mining continues working under a three-year technical assistance agreement with the Bureau of Environment and Technology of the Indonesian Ministry of Mines and Energy. Professional staff members from the Ministry attended

of Surface Mining is done on a 100 percent reimbursable basis.

Technical Information Processing System (TIPS)

The Technical Information Processing System is a computer system designed



Kentucky mine inspector Chet Edwards examines this high yielding corn crop growing on reclaimed mine land.

Training

During 1996, nationwide training continued for federal, state, tribal, and private surface coal mining regulatory and reclamation personnel. The technical training program is a cooperative effort of state, tribal, and Office of Surface Mining offices. All program offerings are jointly developed and taught by teams of state and Office of Surface Mining staff. In 1996, a total of 53 instructors contributed to the program with 47 percent of

of Surface Mining 30 percent, and private 6 percent. The 1996 program represented a 58 percent decrease in offerings and services from 1995. Due to budget cuts, only the most critical needs identified by customers were met. The 13 courses offered in 1996 included: Acid-Forming Materials: Fundamentals; Acid-Forming Materials: Planning & Prevention; Abandoned Mine Land Project Design; Basic Inspection Workbook; Blasting; Expert Witness;

needs better. Indonesian students attended courses in both the U.S. and Indonesia.

Since funding was restored for 1997, the program will resume offering a full schedule of 21 courses in approximately 50 course sessions in 1997.

Small Operator Assistance Program (SOAP)

Section 401 (b)(1) of SMCRA authorizes up to 10 percent of the fees collected for the Abandoned Mine Reclamation Fund to be

**TABLE 8
SMALL-MINE OPERATOR
ASSISTANCE
1996 GRANT AWARDS***

State	1996	1995
Kentucky	\$1,383,690	\$1,009,805
Maryland	75,000	103,715
Ohio	240,000	272,000
Oklahoma	0	4,000
Pennsylvania	1,400,000	1,800,000
Virginia	10,000	10,000
West Virginia	787,500	407,223
Total	\$3,896,190	\$3,606,743

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



Mine inspector examines acid seeps in the highwall.

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 Fiscal Year 1992, the Abandoned Mine Reclamation Act of 1990 increased the production limit from 100,000 to 300,000 tons defining whether small operators qualify for assistance.

the instructors from the Office of Surface Mining, 40 percent from 10 states, nine percent from field solicitor offices, and four percent from other sources.

In 1996, 456 participants attended the 26 sessions offered for 13 courses. State and tribal students accounted for 64 percent of program attendance, Office

Evidence Preparation and Testimony; Historical and Archeological Resources; NEPA Procedures; Soil Erosion and Sediment Control; Spoil Handling and Disposal Practices; Effective Writing; and Wetlands Awareness. A new Abandoned Mine Land Project Design course was added and several courses were revised to meet student

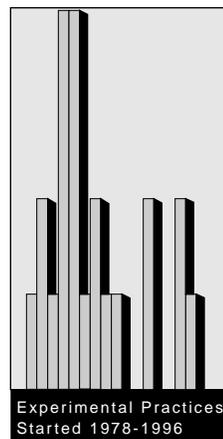
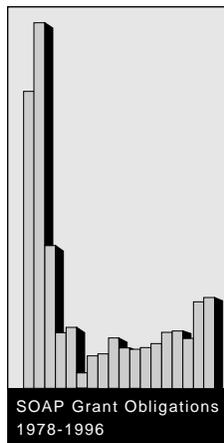


Under the Surface Mining Law reclamation follows closely behind the mining operation.

The Energy Policy Act of 1992 (Public Law 102-486) added technical permitting services provided under SOAP. These include engineering analyses and design necessary for the hydrologic impact “determination,” cross-section maps and plans, geologic drilling, archaeological and historical information and plans required for the protection of fish and wildlife habitat and other environmental values, and pre-blast surveys.



Inspectors check the regraded slope on reclaimed mine land to be sure it is in compliance with the mining and reclamation permit.



SOAP regulations 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 SOAP. In 1996, 145 small mine operators received assistance, a decrease from 156 operators in 1995. Table 8 provides a breakdown of SOAP grant awards by state during 1996.

Experimental Practices

Section 711 of SMCRA allows alternative, or experimental, mining and reclamation practices that do not comply with Sections 515 and 516 performance standards as a way to encourage advances in mining technology or to allow innovative industrial, commercial, residential, or public postmining land uses. However, the experimental practices must meet all

other standards established by SMCRA and must maintain protection of the environment and the public. 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.

At the end of 1996, there were two ongoing experimental practice projects. Both projects addressed direct seeding of slurry ponds. Another project involving the direct seeding of a slurry pond was successfully completed during the year. In addition, one experimental practice was terminated by state regulators before going to completion and four others were completed; but, administrative close-out procedures have not been completed. An environmen-

tal assessment was written for a new experimental practice which, if approved, will convert a slurry disposal facility into a recreational lake. No new experimental practices were started in 1996.

Reclamation Awards

The Office of Surface Mining did not present reclamation awards in 1996 due to budget limitations; however, funding for the awards program was included in the 1997 budget and reclamation awards will resume in 1997. Nominations are now being accepted for awards to be presented to mine operators who have completed the most exemplary reclamation of active coal mines in the country.