

What We Do

OSM's authority to regulate surface coal mining and reclamation activities in the United States is derived from the Surface Mining Control and Reclamation Act of 1977 (SMCRA, or "the Act").

Title IV of SMCRA requires OSM to address environmental, public health, and safety hazards posed by past mining practices, including water pollution, acid mine drainage, unstable or open mining areas, landslides, and subsidence, which is the collapse of underground coal mines.

The Abandoned Mine Land (AML) Program derives the majority of its funds from current mine operators, which pay a fee for each ton of coal they produce. SMCRA sets a formula for determining this fee based on the type of coal mined, and the resulting monies are deposited into the AML Fund. When a state or tribe has addressed all of its AML-related issues, it can apply for certification from the Secretary of the Interior. Four states and three tribes have achieved certification, but most coal-producing states and tribes continue to address abandoned coal mine-related problems.

In Fiscal Year 2009, OSM distributed a total of \$298 million to 28 states and tribes. This amount represented an increase of \$24 million from the previous year. The states and tribes typically use these funds to reclaim abandoned mine sites that predate the passage of SMCRA. In the three decades of the AML program, OSM has provided nearly \$7 billion to reclaim more than 220,000 acres of abandoned mine lands.

Under Title V, OSM sets Federal standards for states and tribes to establish their own surface coal mining programs. The bureau also provides the states and tribes with the advice and consultation needed for the state to take primary responsibility for its state regulatory activities, which is known as "primacy."

In addition, OSM conducts oversight over the state regulatory agencies which have primacy. The bureau retains the responsibility to ensure state and tribal agencies adequately enforce their own programs. OSM can take action against a state if the state does not implement, enforce or sufficiently maintain its regulatory program.

To date, no tribes have achieved primacy, though OSM is currently working with the Crow Tribe, Hopi Tribe, and Navajo Nation to enable them to achieve primacy in the future.

States that have assumed primacy are eligible to receive up to half of their regulatory and enforcement operating budget from OSM, provided the state matches that amount to cover the full cost of the regulatory program.

In order to achieve primacy, a state or tribe must:

- establish a program that meets the minimum requirements of SMCRA and its implementing regulations
- ensure it hires and maintains enough staff to administer, inspect, and regulate coal mining and reclamation in the state
- coordinate with other Federal agencies to process and issue permits, and



A typical dragline operation, used at surface mines nationwide.

- obtain approval of the program from the Secretary of the Interior

The major advantage of primacy is that a state or tribe can tailor its surface mining regulatory program to address regional environmental conditions. For example, the geology, biology, and climate of Appalachia differ from that of the mountains and high plains found in the West. Primacy gives coal-producing states the flexibility to address such differences in their regulatory programs. Allowing states to administer their own programs also means SMCRA is considerably less expensive to implement than if the programs were carried out by the Federal government.

Under Title V, states and tribes that assume primacy must recognize and perform five major functions to regulate mining and protect the environment, including:

- develop and enforce performance standards on mining operations and subsequent reclamation activities

- issue detailed mining permits to companies that specify the mining activity and how the site will be reclaimed (these permits include baseline environmental standards both for pre- and post-mining activities, and the description of pre- and post-mining use of the land)
- determine the amounts of and issue bonds from mining operators to ensure post-mining reclamation activities are carried out in accordance with the permit terms (state or tribal authorities can only release performance bonds after operators meet all standards, reclaim the site, and achieve the required post-mining land use)
- perform on-site mine inspections to ensure compliance with the mining permit, and when appropriate, enforce the regulations through a series of violation notices
- create and maintain the ability to designate lands unsuitable for mining