

Shared

environmental

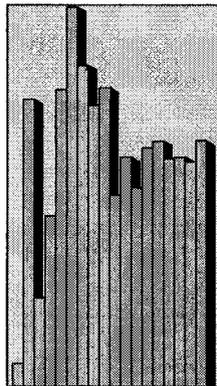
protection

Regulatory enforcement

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 Act. The permanent regulatory program and related rules provide the fundamental mechanism for ensuring that SMCRA's goals are achieved. A major objective is to establish a stable regulatory program by improving the regulation development process and obtaining a broad spectrum of viewpoints on rulemaking activities.

Rulemaking and State Program



Final Rulemaking Actions
1978-1995

Amendments

The 1995 rulemaking process included discussions with representatives of the coal industry, environmental groups, and state regulatory authorities to obtain their input and suggestions.

During the year, the Office of Surface Mining published one proposed permanent program rule in the *Federal Register*: Notification and Permit Processing. In addition, seven final permanent program rules were published during 1995. Table 3 describes final regula-

Trees are more commonly planted during reclamation than they were in past years. Here they are established on a reclaimed Alabama mine.

tions published in the *Federal Register* during 1995. Each regulation

includes a *Federal Register* citation that gives the volume and page number, effective date, Code of Federal Regulations (CFR) number, and date of publication.

Subject to Office of Surface Mining approval, states have the right to amend their programs at any time for appropriate reasons. In addition, whenever SMCRA or its implement-

ing regulations are revised, the Office of 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 Mining has been decentralized, and format and content guidelines for state program amendment submissions have been issued to the states. Also, steps have been taken to make sure that states' schedules for rulemaking in response to CFR Part 732 notification can be accomplished

in a reasonably timely manner. In 1995, the Office of Surface Mining published 88 proposed and 71 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 approved state program provisions (in states that have primacy). Currently, there are 24 primacy states that administer and enforce 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 success-

"An effective relationship between the Office of Surface Mining and the states is fundamental."

TABLE 3
FINAL RULES PUBLISHED DURING 1995

Coal Formation Fire Control 59 FR 52374	11/16/94	30 CFR Part 880	Published 10/17/94
This rule implements a change to mine fire control activities under SMCRA and the Appalachian Regional Development Act in accordance with the Energy Policy Act of 1992.			
Permanent and Temporary Impoundments 59 FR 53022	11/21/94	30 CFR Parts 701, 780, 874, 816, and 817	Published 10/20/94
This rule clarifies the design precipitation event requirements for impoundments that rely primarily on storage to control storm water runoff. Also, in response to a recent court decision, the rule clarifies that stability and margin of safety requirements for impoundments to meet the criteria established in Technical Release No. 60 and Practice Standard 378 prepared by the U.S. Department of Agriculture, Soil Conservation Service.			
Standards and Procedures for Ownership and Control Determinations 59 FR 54306	11/28/94	30 CFR Parts 701, 773, 778, 840, and 843	Published 10/28/94
This rule establishes procedures, standards, and types of proof required to challenge ownership or control links and to disapprove violations; amends the regulations affecting permit blocking abatement of notices of violation, improvidently issued permits, and permit application information; and reduces the chances of violators receiving future permits.			
Abandoned Sites 59 FR 60876	12/28/94	30 CFR Parts 840 and 842	Published 11/28/94
This rule changes the minimum inspection frequency for surface coal mining and reclamation operations that have been abandoned without completion of reclamation or abatement of violations.			
Abandoned Mine Reclamation Grant Procedures 60 FR 9974	3/24/95	30 CFR Parts 870, 886, 887, and 888	Published 3/31/95
This rule reduces the burden on industry, states, and the federal government to request and process abandoned mine land grants.			
Underground Mining Performance Standards (Subsidence) 60 FR 16722	5/1/95	30 CFR Parts 701, 784, 817, and 843	Published 3/31/95
This rule amends the regulations applicable to underground coal mining and control of subsidence-caused damage through the adoption of permitting requirements, performance standards, and implementation procedures.			
Arizona Federal Program 60 FR 18710	5/12/95	30 CFR Part 903	Published 4/12/94
This rule creates a federal program to regulate coal exploration and surface coal mining and reclamation operations on non-federal and non-Indian lands in the state of Arizona.			

TABLE 4
1995 SIGNIFICANT COURT and IBLA DECISIONS

TAKINGS

M & J Coal Co. v. United States, No. 94-5081 (Fed. App.)

On February 15, 1995, the United States Court of Appeals for the Federal Circuit found favorably for the Government in this takings claim. In April 1992, plaintiffs filed a complaint asserting that the Office of Surface Mining's enforcement action requiring them to leave additional coal in place to protect surface structures and single private dwellings from subsidence effected a taking of their property. They sought \$2,365,881 plus interest. The court held that the right to remove the additional coal was not a part of the bundle of property rights plaintiffs acquired along with their mineral interest, because removing so much coal as to cause dangerous subsidence constituted a "nuisance-like activity." On October 2, 1995, the Supreme Court denied plaintiff's petition for a writ of *certiorari*.

STATE PROGRAM AUTHORITY

Pennsylvania Coal Ass'n v. Babbitt, No. 94-7538 (3rd Cir.)

On August 16, 1995, the U.S. Court of Appeals for the Third Circuit ruled favorably for the Government in its reversal of a decision by the U.S. District Court for the Middle District of Pennsylvania. The district court had reversed the Office of Surface Mining's approval of proposed revisions in the Pennsylvania state program that applied a stricter standard of liability for individual civil penalties than the standard in section 518(f) of SMCRA. The Third Circuit's opinion confirms that state regulatory programs may be more protective of the environment, even if more burdensome to the coal industry, than the nationwide minimum protections in SMCRA. The Third Circuit also upheld the Office of Surface Mining's approval of Pennsylvania program amendments that eliminated the option for coal operators to delay appeal of a violation notice until a civil penalty had been assessed.

RULE CHALLENGES

On August 31, 1995, Federal Judge Robinson upheld three sets of Office of Surface Mining rules:

National Wildlife Federation v. Babbitt, Nos. 88-3117, 88-3464, 88-3470 AER (D.D.C. Aug. 31, 1995)

Judge Robinson upheld the ownership and control regulations against challenges brought by environmentalist groups and industry representatives. The court found that the Secretary's definition of "owned or controlled" at 30 C.F.R. Section 773.5 had a rational basis in light of the structure and language of SMCRA as a whole and was consistent with the Act, its purposes, and the legislative history.

National Wildlife Federation v. Babbitt, Nos. 89-1751, 89-1811 (D.D.C. Aug. 31, 1995)

Judge Robinson upheld the Office of Surface Mining's imprudently issued permit and permit rescission regulations as being consistent with principles of primacy under SMCRA. The court observed that the permit rescission regulations were not impermissibly retroactive in their effect. In addition, the Court noted with approval that the Office of Surface Mining had adopted amended regulations in 1994 which provided for written notice and an opportunity for permittees to seek administrative review prior to rescission. The court rejected environmentalists' challenge to the regulations stating that the agency had provided a rational basis for the regulations.

National Wildlife Federation v. Babbitt, Nos. 89-1130, 89-1167 (D.D.C. Aug. 31, 1995)

Judge Robinson upheld the Office of Surface Mining's permit information regulations. Those rules require disclosure of an applicant's ownership and control relationships and information about enforcement actions taken against surface coal mining operations linked by ownership or control to the applicant. The Court found that "[c]onsideration of SMCRA as a whole provides ample support for the Secretary's authority to issue" the regulations.

ADMINISTRATIVE DECISIONS: INTERIOR BOARD OF LAND APPEALS

Ownership and Control

James Spur, Inc., et v. OSM, IBLA No. 93-633

On July 26, 1995, the IBLA issued a major decision establishing the IBLA's parameters for analysis of an ownership and control link under 30 CFR Section 773.5(b)(6) and for purposes of the Applicant Violator System. While ultimately rejecting the Office of Surface Mining's contention that mineral owner James Spur, Inc., controlled contract miner B & J Excavating Company, the Board agreed with the Office of Surface Mining that the actual exercise of control by a controller is unnecessary to establish control. The Board indicated that a finding of indirect authority to control may be made by inference from facts about the relationship between the parties and the events which occurred. Nonetheless, the IBLA decision makes it easier for an applicant to rebut an ownership and control finding.

oversight inspection and enforcement activities during 1995.

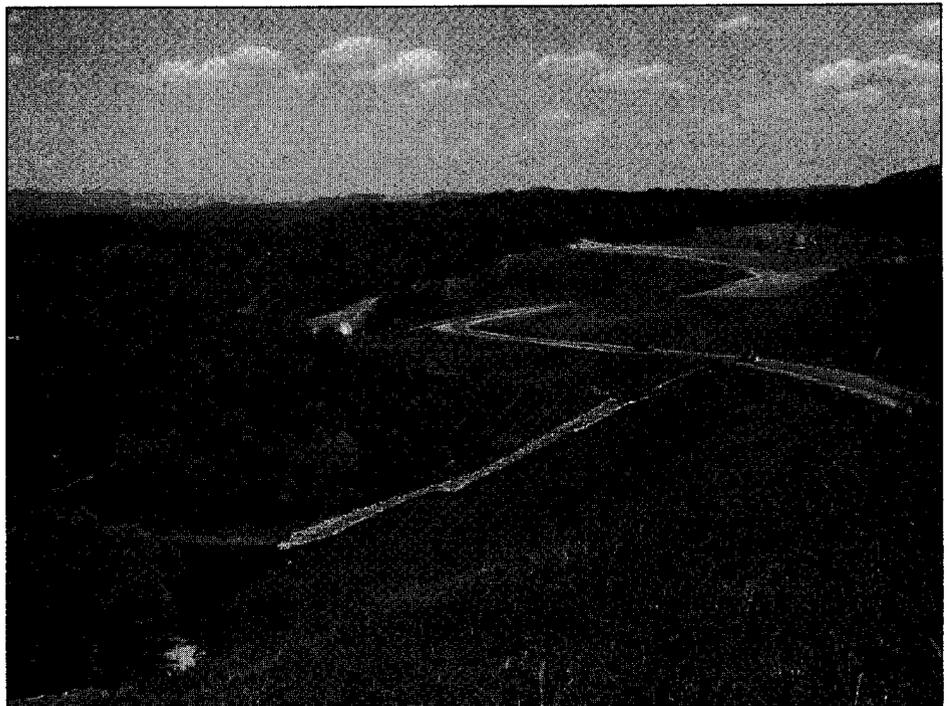
Building on a draft plan developed in 1994, the Office of Surface Mining and the states completed a new oversight strategy for evaluating the states' success in meeting SMCRA's environmental protection goals and achieving adequate reclamation. The new oversight plan was implemented January 1, 1996. Under this plan, the Office of Surface Mining, in cooperation with each primacy state, will develop a state-specific evaluation plan. The plan will include joint development of success measures and measurement tools appropriate to each state, based on the unique conditions of each state program. The process is customer driven, i.e., provide a means for obtaining customer feedback on targets and performance measures. Fundamental

Before mining by the Red River Coal Company, this Virginia site was characterized by barren outcrops, dangerous highwalls, acid mine drainage, and stream sedimentation. After mining, the site was transformed from hazardous and environmentally destroyed to its present outstanding condition.

ful 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

SMCRA Section 517(a) requires the Office of Surface Mining to make inspections as necessary to evaluate the administration of approved state programs. To meet this requirement, the Office of Surface Mining reviews permits, conducts oversight inspections of mine sites, and undertakes oversight review on topics of concern in the 24 states with approved primacy programs. Table 5 summarizes the Office of Surface Mining's





Louis Hinch, reclamation inspector, Virginia Department of Mines, Minerals, and Energy. After college, Louis began his career in the engineering department of a surface and underground coal mining company. With over 26 years in the coal industry, including thirteen years as a Virginia reclamation inspector, he has played an active role in implementing SMCRA. He says his experience has shown that "coal extraction in the Virginia mountains can be accomplished on an environmentally sound and economical basis."

Louis was the mine inspector for the Red River Coal Company remining operation shown below left. This was the first remining site in Virginia, and his mine inspections demonstrated that "this operation proved mining and the elimination of environmental problems can be accomplished at the same time." When talking about the concept of remining he quickly points out the excellent opportunity it provides for regulators and the mining industry to work together to solve abandoned mine problems while economically mining the coal resource.

measures and reports will be developed which can be easily understood by our customers.

The benefits of this plan are many. It will allow program managers to allocate state and federal resources to the places which maximize achievement according to SMCRA. In this regard, states, as an integral part of program management, will carry out ongoing evaluation of their own processes and develop core data to gauge trends in mining, reclamation, and program activities. Office of Surface Mining managers will have the ability to direct resources to known prob-

"Each primacy state will develop a state-specific evaluation plan."

lems, and front-line employees will use the oversight strategy to develop specific success measures. By focusing on results rather than process, the Office of Surface Mining and the states can concentrate their resources on preventing problems in natural resource-based (water, land, vegetation) and people-based (health and safety, off-site protection, property protection) areas.

The role of the Office of Surface Mining will not duplicate the state programs' implementation responsibilities. Instead, the Office of Surface Mining will evaluate the on-the-ground success of the state programs in achieving the purposes of SMCRA and provide a framework to help the states implement the principle of continuous improvement.

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 the 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.

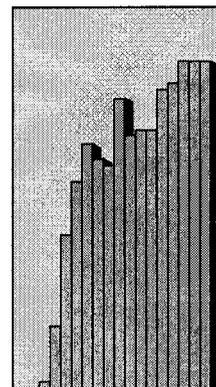
Although the Office of Surface Mining encourages and supports state primacy in the regulation of surface coal mining and reclamation operations, certain states with coal reserves have elected not to submit or maintain regulatory programs. Those

states are called federal program states, and their surface coal mining and reclamation operations are regulated by the Office of Surface Mining. Full federal programs are in effect in twelve states: Arizona, California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington.

The Office of Surface Mining established a federal program in Arizona, 30 CFR Part 903, on April 12, 1995. The program was needed to regulate planned surface coal mining activities under applicable provisions of SMCRA and under regulations found in 30 CFR Part 736, in the absence of a state program. Sections within Part 903 cross-reference the counterpart permanent program rules. The Arizona federal program also includes a process for coordinating the review and issuance of surface mining permits with other federal or state permits applicable to the proposed operation, according to Section 504(h) of SMCRA.

Of the federal program states, only Tennessee and Washington had active coal mining in 1995. Table 6 includes the Office of Surface Mining's regulatory actions in those two states during 1995.

Grants to States



Permanent Program Regulatory Grants 1978-1995

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

**TABLE 5
FEDERAL OVERSIGHT OF STATE PROGRAMS
1995 (July 1, 1994 - June 30, 1995)**

State	Number of OSM Inspections		Violations Cited in OSM Enforcement					
	Complete	Total	Notice of Violation Actions	Violations	Failure-To-Abate Actions	Cessation Orders	Imminent Harm Actions	Cessation Orders
Alabama	106	239	0	0	0	0	0	0
Alaska	3	3	0	0	0	0	0	0
Arkansas	10	15	1	1	1	1	0	0
Colorado	19	30	1	1	1	1	0	0
Illinois	0	114	0	0	0	0	0	0
Indiana	20	61	1	1	0	0	0	0
Iowa	10	17	0	0	0	0	0	0
Kansas	5	9	0	0	0	0	0	0
Kentucky	415	1,146	60	66	23	23	0	0
Louisiana	1	4	0	0	0	0	0	0
Maryland	42	69	4	4	1	1	0	0
Missouri	30	87	0	0	0	0	0	0
Montana	10	20	0	0	0	0	0	0
New Mexico	3	8	0	0	0	0	0	0
North Dakota	21	41	0	0	0	0	0	0
Ohio	111	193	0	0	2	2	0	0
Oklahoma	38	148	3	4	0	0	1	1
Pennsylvania	267	458	41	41	19	19	0	0
Texas	10	12	0	0	0	0	0	0
Utah	10	17	0	0	0	0	1	1
Virginia	131	351	6	6	0	0	0	0
West Virginia	107	654	23	26	9	11	0	0
Wyoming	15	26	0	0	0	0	0	0
Total	1,384	3,722	140¹	150	56	58	2	2

1. Of the 140 Notice of Violations issued by the Office of Surface Mining, 124 were for failure to pay fees or file the OSM-1 form, 4 were for ownership and control violations, and 12 were based on failure to meet performance standards.

were awarded in 1995, the Office of Surface Mining did work with Indian tribes to plan for 1996 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 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

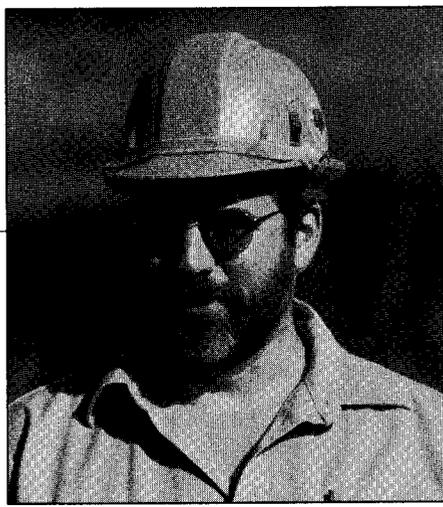


**TABLE 6
REGULATORY PROGRAM STATISTICS
1995 (July 1, 1994 - June 30, 1995)**

	Alabama	Alaska	Arkansas	Colorado	Crow Tribe**	Georgia*	Hopi Tribe**	Illinois	Indiana	Iowa	Kansas	Kentucky	Kentucky*	Louisiana	Maryland	Missouri
Regulatory Program Staffing (FTE's 6/30/95)	33	4	6.1	26	NA	NA	NA	62	63	4.7	4.1	482	NA	4.2	13	15.6
Abandoned Mine Land Program Staffing (FTE's 6/30/95)	19.1	4	6.5	13	6.5	NA	2.5	34	27	5.2	12.1	52	NA	1.3	6	12.4
New Permits Issued	14	0	0	1	0	0	0	9	21	0	0	117	5	0	2	0
New Acreage Permitted	4,200	0	0	591	0	0	0	1,040	17,861	0	0	65,771	1,094	0	75	0
Total Acreage Permitted	95,054	4,418	1,800	158,800	5,294	12	62,760	119,880	487,302	8,100	10,705	1,626,400	25,800	45,100	1,500	46,400
Inspectable Units (6/30/95)	305	7	28	80	1	3	2	106	482	32	21	3,435	57	2	79	67
Complete Inspections	3,526	24	117	217	4	2	10	414	1,485	112	87	14,106	232	8	483	270
Partial Inspections	598	35	230	447	11	9	16	900	3,404	224	136	18,186	332	16	705	498
Notices of Violations (Actions)	269	4	2	39	0	0	5	30	118	64	7	1,348	15	2	29	107
Notices of Violations (Violations)	345	4	2	39	0	0	7	30	130	64	7	2,613	20	2	29	107
Failure-to-Abate Cessation Orders (Actions)	80	0	0	0	0	0	0	0	4	73	0	214	0	0	7	110
Failure-to-Abate Cessation Orders (Violations)	80	0	0	0	0	0	0	0	5	73	0	214	0	0	7	110
Imminent Harm Cessation Orders (Actions)	9	0	0	0	0	0	0	0	0	0	0	21	0	0	0	0
Imminent Harm Cessation Orders (Violations)	9	0	0	0	0	0	0	0	0	0	0	21	0	0	0	0
Bond Forfeitures	7	0	0	0	0	0	0	0	1	4	0	83	0	0	1	0
Acreage of Phase III Bond Release	4,513	0	14	0	0	0	0	1,245	1,635	0	542	15,839	0	0	356	338

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

Reforestation is the post-mining land use at the Centralia Mine site in Washington state. Douglas fir and red alder are being planted to reestablish the mixed stands that were growing here prior to mining. Washington is a federal program state, and all permitting and enforcement is performed by the Office of Surface Mining.



Glenn Waugh, a senior reclamation specialist with the Office of Surface Mining's Olympia Area Office, is responsible for SMCRA enforcement in the state of Washington.

Growing up in southern Ohio, Glen lived with the adverse environmental impacts wrought by poor surface coal mining and reclamation practices. After college he joined the Ohio Division of Reclamation, working to prevent these impacts before SMCRA was passed by Congress. He joined the Office of Surface Mining in 1979. Today he is one of the Office of Surface Mining's most experienced inspectors, having worked in many different jobs at headquarters and in all regions of the country. In his current role as principal regulator in a federal program state, he is a front-line inspector doing everything from permitting to on-the-ground inspection. When he describes his career implementing SMCRA, he says, "The most rewarding thing for me is to see quality reclamation, reclamation that wasn't even imagined when I was younger."

spent to regulate coal mining on those lands. Table 7 shows grant amounts provided to states during 1995 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 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

**TABLE 6 (continued)
REGULATORY PROGRAM STATISTICS
1995 (July 1, 1994 - June 30, 1995)**

	Navajo Montana 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 6/30/95)	20.9	NA	13.8	9.7	61	36.5	297	87	56	23.5	NA	86	NA	249	NA	31.1
Abandoned Mine Land Program Staffing (FTE's 6/30/95)	10	1	11.5	9.7	31	12	97	0	14	8	NA	18	NA	57	NA	14
New Permits Issued	0	0	0	1	53	5	142	4	3	2	0	23	0	97	0	1
New Acreage Permitted	0	0	0	102	14,535	1,718	3,684	339	14,617	0	0	1,933	0	16,162	0	980
Total Acreage Permitted	93,289	32,268	432,690	59,800	167,100	41,600	563,300	22,300	189,600	139,344	145	60,700	58,392	281,600	20	300,600
Inspectable Units (6/30/95)	34	6	15	44	735	106	2,793	460	23	28	1	821	4	3,435	1	396
Complete Inspections	118	20	60	175	3,072	483	11,678	1,641	86	119	4	3,689	36	11,151	4	160
Partial Inspections	104	44	59	665	4,626	726	7,912	2,450	242	241	8	3,720	0	16,807	8	307
Notices of Violations (Actions)	20	11	10	5	312	89	1,183	115	12	36	0	230	0	2,601	0	29
Notices of Violations (Violations)	20	12	10	5	312	265	1,466	139	12	47	0	308	0	2,601	0	296
Failure-to-Abate Cessation Orders (Actions)	1	2	0	0	53	27	130	17	0	2	0	8	0	435	0	1
Failure-to-Abate Cessation Orders (Violations)	1	2	0	0	53	114	185	17	0	2	0	9	0	435	0	1
Imminent Harm Cessation Orders (Actions)	0	0	0	0	7	0	0	5	0	2	0	2	0	19	0	1
Imminent Harm Cessation Orders (Violations)	0	0	0	0	7	0	0	5	0	2	0	2	0	19	0	1
Bond Forfeitures	1	0	0	1	2	5	67	0	0	0	0	1	0	NA	0	0
Acreage of Phase III Bond Release	0	0	331	75	8,162	1,578	20,562	1,197	0	0	0	1,598	0	6,707	NA	30

Note: The Black Mesa/Kayenta mining complex consists of 62,760 permitted acres that are within the boundaries of the Navajo and Hopi Indian Reservations. The Hopi and Navajo are each 50% owners of the coal on this land. The Navajo Nation is the surface owner of 56,623 acres and the Hopi Tribe owns 6,137 surface acres of the total permitted area. In this table all data reported for this permit area is listed under the Hopi Tribe.

**TABLE 7
REGULATORY GRANT FUNDING
1995 OBLIGATIONS**

State	Federal Funding* 1995	Federal Funding* 1994	Cumulative Through 1995*
Alabama	\$ 1,204,372	\$1,197,778	\$18,686,179
Alaska	175,785	196,428	4,396,821
Arkansas	173,151	164,247	2,407,831
Colorado	1,502,111	1,469,791	15,900,568
Illinois	2,340,818	2,362,417	35,733,694
Indiana	1,708,648	1,757,834	19,832,154
Iowa	156,978	156,468	1,744,876
Kansas	126,708	116,069	2,139,417
Kentucky	12,412,454	12,344,711	170,762,348
Louisiana	210,985	209,830	2,353,115
Maryland	446,308	443,864	7,889,891
Michigan	0	0	135,458
Mississippi	0	43,191	475,702
Missouri	428,956	406,255	5,430,766
Montana	870,673	840,038	10,312,003
New Mexico	685,471	681,718	8,056,519
North Dakota	516,459	513,631	7,950,063
Ohio	2,508,662	2,494,927	46,622,553
Oklahoma	848,494	843,848	11,053,799
Pennsylvania	10,559,476	10,515,900	133,511,798
Rhode Island	0	0	158,453
Tennessee	0	0	5,340,085
Texas	1,195,607	1,189,061	11,977,713
Utah	1,305,350	1,298,203	16,635,008
Virginia	3,172,726	3,155,354	43,798,824
Washington	0	0	4,893
West Virginia	7,469,870	7,428,970	63,097,328
Wyoming	1,511,704	1,518,455	20,758,671
Crow Tribe	0	0	732,759
Hopi Tribe	0	0	885,450
Navajo Tribe	0	0	2,140,461
Total	\$51,531,766	\$51,348,988	\$670,925,200
Budget Amount	\$51,562,000	\$51,661,000	\$671,295,000

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

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 1995, the Secretary had entered into such cooperative agreements with Alabama, Colorado, Illinois, Montana, New

Mexico, North Dakota, Ohio, Oklahoma, Utah, Virginia, 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 1995, five new permits were issued by the Office of Surface Mining on

This acid mine drainage site located in the Chickamauga watershed was an Appalachian Clean Streams Initiative pilot project. In 1995 a passive treatment facility was constructed to eliminate this source of pollution.



Linda Hixson is an attorney and citizen activist from Chattanooga, Tennessee. Through her efforts and leadership more than \$250,000 has been raised for restoration of the North Chickamauga Creek, a stream severely polluted from the effects of acid mine drainage. She initially became involved in stream improvement projects when she formed the Friends of North Chickamauga Creek Greenway Inc. The group completed its first on-the-ground project in 1995, which raised the pH from 3.1 to 7.2. Local leadership, as exemplified by Linda Hixson, is the key to successfully cleaning up acid mine drainage in Appalachia.



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 1995, 12 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 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 regulated under the interim program.

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 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 mining activities on Indian lands (including permitting, mine plan review, and bond release); and education in the area of mining and mineral resources. During 1995 the Office of Surface Mining began working with the four tribes to develop legislation for them to assume primacy. Development grant funding is contained in the Bureau of Indian Affairs 1996 budget. Table 6 includes statistics on regulatory activity on Indian lands during 1995.

Applicant/Violator System

Section 510(c) of SMCRA and corresponding regulations (30 CFR 773) prohibit the issuance of permits to applicants with previous uncorrected violations and to applicants related to violators through ownership and control. The Applicant/Violator System (AVS), a computer data base, was developed to assist the Office of Surface Mining and the state regulatory authorities ensure compliance with those requirements. The Applicant/Violator System identifies associations between permit applicants or their affiliates and uncorrected violations of SMCRA. The Office of Surface Mining and the states use the information to help determine whether a permit should be issued. During 1995, the Applicant/Violator System provided recommendations on 6,456 permit applications. The overall system reliability rate was over 78 percent on those applications. (This rate represents the percent of system recommendations which the Applicant/Violator System office agrees with and does not overturn during its quality check and review.) The 11 percent drop from 1994 was largely due to moving the system from the U.S. Geological Survey mainframe computer to the Office of Surface Mining's own mini-computer. The Office of Surface Mining estimates the 1995 cost savings resulting from the system move to be \$950,000. In 1995, as a result of "Deny" recommendations, or the potential for such a recommendation, the Office of Surface Mining's Division of Debt Management collected \$677,200 in Abandoned Mine Reclamation fees and federal civil penalties.

Pennsylvania Anthracite Program
Section 529 of SMCRA provides an exemption from federal performance standards for anthracite coal mining operations, provided the state law governing these operations was in

"During 1995, the Applicant/Violator System provided recommendations on 6,456 permit applications."



Hugh L. Frederick, P.E., Tennessee Abandoned Mine Land Program. Having experience with the Soil Conservation Service, U.S. Forest Service, and the Office of Surface Mining, he joined the Tennessee program in 1986 with responsibility for designing water treatment facilities. He is a leader in the field, and has used the latest proven technology and developed new methods for passive treatment of acid mine drainage. He says "clean water is one of our most precious resources. We have a responsibility to protect, clean up, and conserve this necessary commodity." Hugh Frederick was responsible for the design and construction at the site shown to the left.

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 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 that 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 1994³ the anthracite mining industry increased production to around 8.0 million net tons per year, approximately 12 percent of Pennsylvania's annual coal production. More than two-thirds of anthracite coal production is from the reprocessing of anthracite culm banks which fuels eight cogeneration plants. Anthracite operators mined approximately 5.4 million tons from banks, 2.2 million from surface mines, and 0.4 million tons from underground mines.

Pennsylvania's Department of

3. Calendar year 1994.

Environmental Protection continues to successfully carry out the provisions of the anthracite regulatory program. Citizens gave the District Mining Office in Pottsville a high rating for quick and efficient response to mining complaints. State mine inspectors achieve over 95% of their required complete inspections. On complete inspections, over 80% of the mines were in compliance with performance standards.

"Citizens gave a high rating for quick and efficient response to mining complaints."

Technical Assistance

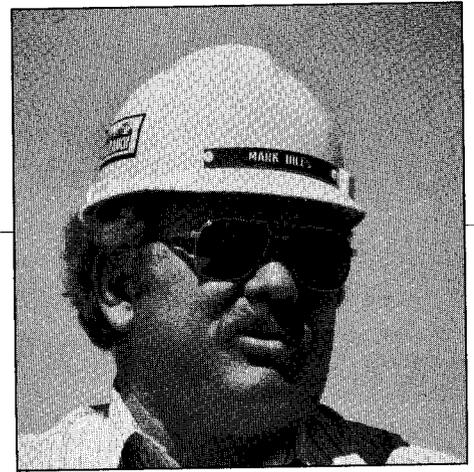
The Office of Surface Mining provides technical assistance to the states, tribes, and the industry to improve the effectiveness of the regulatory process. Although it deals mainly with regulatory functions, technical assistance also supports the Abandoned Mine Land program.

Technology transfer increased in 1995 due to the shared commitment with the states. This has provided an atmosphere for resolving problems through technical assistance, rather than oversight.

On February 27, 1995, the Office of Surface Mining signed a contract for technical assistance with Indonesia's Bureau of Environment and Technology of the Ministry of Mines and Energy. Over the next three years, technical assistance from the Office of Surface Mining will help the Ministry regulate Indonesia's rapidly expanding surface coal mining industry. The World Bank will fund the \$3.2 million agreement, and all Office of Surface Mining work will be 100 percent reimbursable.

Technical Information Processing System (TIPS)

The Technical Information Processing



Mark Hiles is a senior environmental specialist with the Lee Ranch Coal Company. Having grown up in southern New Mexico and worked on both coal and uranium mining reclamation in the southwest, he is very knowledgeable about the sensitivity of an arid environment.

Soon after he started work at the Lee Ranch Mine regulators began questioning the success of the revegetation. Large areas had only a small number of perennial plants established. When the New Mexico mine inspectors offered to help solve the problem, a spirit of cooperation was initiated. Realizing that annual weeds were a major part of the problem, Mark and the inspectors agreed on a plan to burn the weeds to control annual vegetation. After only one growing season it was evident that controlling annual weeds through burning was a success, allowing the desired perennials to flourish. Mark sums up this experience best when he says, "Doing reclamation work is personally rewarding, especially when the company and regulators are so supportive of continued improvement."

System is a computer system designed by the Office of Surface Mining in partnership with primary states. TIPS is maintained by the Office of Surface Mining for use by state regulatory authorities, including the Office of Surface Mining, 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. In



Larry Byrd, mine inspector for the New Mexico Energy, Minerals, and Natural Resources Department. With over 20 years experience in environmental planning, his goal in implementing SMCRA is to strive for a balance between coal production and protecting the environment. Achieving this goal includes working closely with industry representatives to ensure that coal production continues while protecting the environment and completing the highest quality reclamation. As the mine inspector, Larry Byrd worked closely with the Lee Ranch Mining Company, and coupled with his personal commitment to success, encouraged teamwork and innovative reclamation methods.

1995 more than 300 state, Office of Surface Mining, and private-sector scientists attended 25 training courses in how to use the system.

One successful application using TIPS is electronic permitting. For example, Wyoming permit applications can be electronically submitted by mine operators. In an evaluation of a test case, this reduced permit review time by one third.



The Lee Ranch Coal Company is located in the semi-arid Southwest, where it is difficult to establish self-sustaining rangeland and wildlife habitat. Annual weeds make it difficult to establish a successful stand of native perennial vegetation in reclaimed areas. At Lee Ranch, the use of fire to control weeds has resulted in the reestablishment of native vegetation while providing an outstanding method for improving rangeland in this arid environment.

Training

During 1995, 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 1995, a total of 139 instructors contributed to the program. 55 percent of instructors were from the Office of Surface Mining coordinating



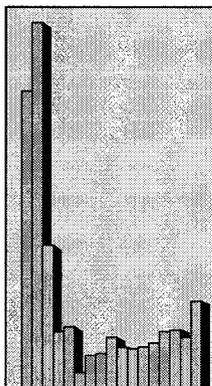
centers and field offices, 38 percent from 15 states, six percent from field solicitors offices, and one percent from other sources.

1,091 participants attended the 62 sessions offered for 24 courses. State and tribal students accounted for 73 percent of program attendance, Office of Surface Mining 22 percent, and private totaled 5 percent. The 1995 program presented a 25 percent increase in offerings and services over 1994. These increases were in direct response to the needs expressed by state and tribal customers.

The 24 courses offered in 1995 included: Acid-Forming Materials: Fundamentals; Acid-Forming Materials: Planning & Prevention; Administration of Reclamation Projects; Alternative Enforcement; Basic Inspection Workbook; Blasting; Bonding Workshop: Administrative and Legal; Bonding: Cost-Estimating; Enforcement Procedures; Engineering Principles for Program Personnel; Expert Witness; Evidence Preparation and Testimony; Historical and Archeological Resources; Instructor Training; NEPA Procedures; Permitting Hydrology; Principles of Inspection; Soil Erosion and Sediment Control; Soils and Revegetation; Spoil Handling and Disposal Practices; Surface and Ground Water Hydrology; Technical Writing; Underground Mining; and Wetlands Awareness. Five of these courses were new and seven were revised. In addition, Indonesian students attended three courses in the U.S. and two courses conducted in Indonesia.

Due to Office of Surface Mining staffing and budget cuts, the 1996 training schedule will be more limited than in past years. Major efforts will be directed to revising and re-engineering the existing program rather than conducting courses.

Small Operator Assistance Program (SOAP)



SOAP Grant Obligations 1978-1995

Section 401 (b)(1) of SMCRA authorizes that up to 10 percent of the fees collected for the Abandoned Mine Reclamation Fund can be used to help qualified small mine operators obtain technical data needed for permit applications. Through 1991, operators who produced 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 from 100,000 to 300,000 tons the production limit that defined whether small operators qualify for assistance.

**TABLE 8
SMALL-MINE OPERATOR ASSISTANCE
1995 GRANT AWARDS***

State	Grant 1995	Amount 1994
Kentucky	\$ 1,009,805	\$ 310,000
Maryland	103,715	50,000
Ohio	272,000	314,500
Oklahoma	4,000	0
Pennsylvania	1,800,000	1,200,000
Virginia	10,000	0
West Virginia	407,223	153,785
Total	\$3,606,743	\$2,028,285

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

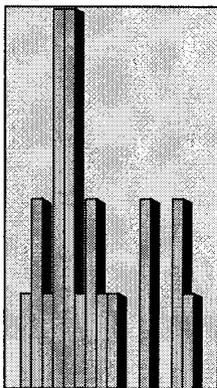
The Energy Policy Act of 1992 (Public Law 102-486) added a number of enhancements to the technical permitting services provided under SOAP. These include engineering analyses and designs necessary for the hydrologic impact "determination," cross-section maps and plans, geologic drilling, archaeological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

Regulations for SOAP place responsibility with the states that have



approved permanent programs. In states with federal programs, the Office of Surface Mining operates SOAP. In 1995, 156 small mine operators received assistance, an increase from 129 operators in 1994. Table 8 provides a breakdown of SOAP grant awards by state during 1995.

Experimental Practices



Experimental Practices Started 1978-1995

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 of encouraging advances in mining technology or to allow innovative industrial, commercial, residential, or public post-mining land uses. However, the experimental practices must meet all other standards established by SMCRA and must maintain

In 1995 the Office of Surface Mining issued a directive encouraging the construction of wetlands as a postmining land use. Wetlands improve water quality and recreational opportunities, encourage greater biological diversity and wildlife habitat, and reduce storm and flood damage.

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.

In 1995 there were eight ongoing projects addressing a variety of reclamation possibilities, including the creation of wetlands through direct seeding of coal slurry ponds, alternative sediment control methods, and post-mining land use for housing development. No new experimental practices were started in 1995.

Reclamation Awards

To recognize the people responsible for the nation's outstanding achievements in carrying out environmentally sound mining and reclamation under Title V, the Office of Surface Mining presents awards to operators who have developed innovative reclamation techniques or who have completed mining and reclamation operations that resulted in outstanding on-the-ground performance. Awards for 1994 were presented October 9, 1995, at the National Mining Association's annual meeting:

Director's Award

- The Director's award was presented to the McKay Coal Company for exemplary reclamation that eliminated acid mine drainage from previous mining at its mine near Ohl, Pennsylvania.

National Awards

- Cumberland River Coal Company, for exemplary reclamation of a fish and wildlife habitat at its Ridgeline Mine, near Jackson, Kentucky.

- Lee Ranch Coal Company, for successful use of new methods for controlling weeds when reestablishing native vegetation in arid conditions. This company also received the "Best-of-the-Best" award for achieving the years best overall reclamation at its mine near Milan, New Mexico.

- Branham & Baker Coal Company, near Pikeville, Kentucky, for exemplary reclamation and long-term management of the donated reclaimed land.

- B & N Coal Company, Ullman Pit, near Lower Salem, Ohio, for exemplary remaining and no-cost abandoned mine land reclamation.

- Peabody Coal Company, Broken Aro Mine, near Coshocton, Ohio, for exemplary reclamation of a previously mined slurry disposal area.

- Jamieson Construction Company, Atkinstown, Kentucky, for outstanding reclamation achieved by a small coal operator adjacent to an endangered species habitat.

- Falkirk Mining Company, Underwood, North Dakota, for its sensitive and successful handling of Native American skeletal remains uncovered during mining.

- Bridger Coal Company, Jim Bridger Mine, Rock Springs, Wyoming, for its exemplary techniques to mitigate conflicting nesting/highwall use by raptors.

- Rawl Sales & Processing Company, for the construction of a bridge used by the company and local residents at Sprigg, West Virginia.

*"Regulations
for SOAP
place
responsibility
with the
states."*

