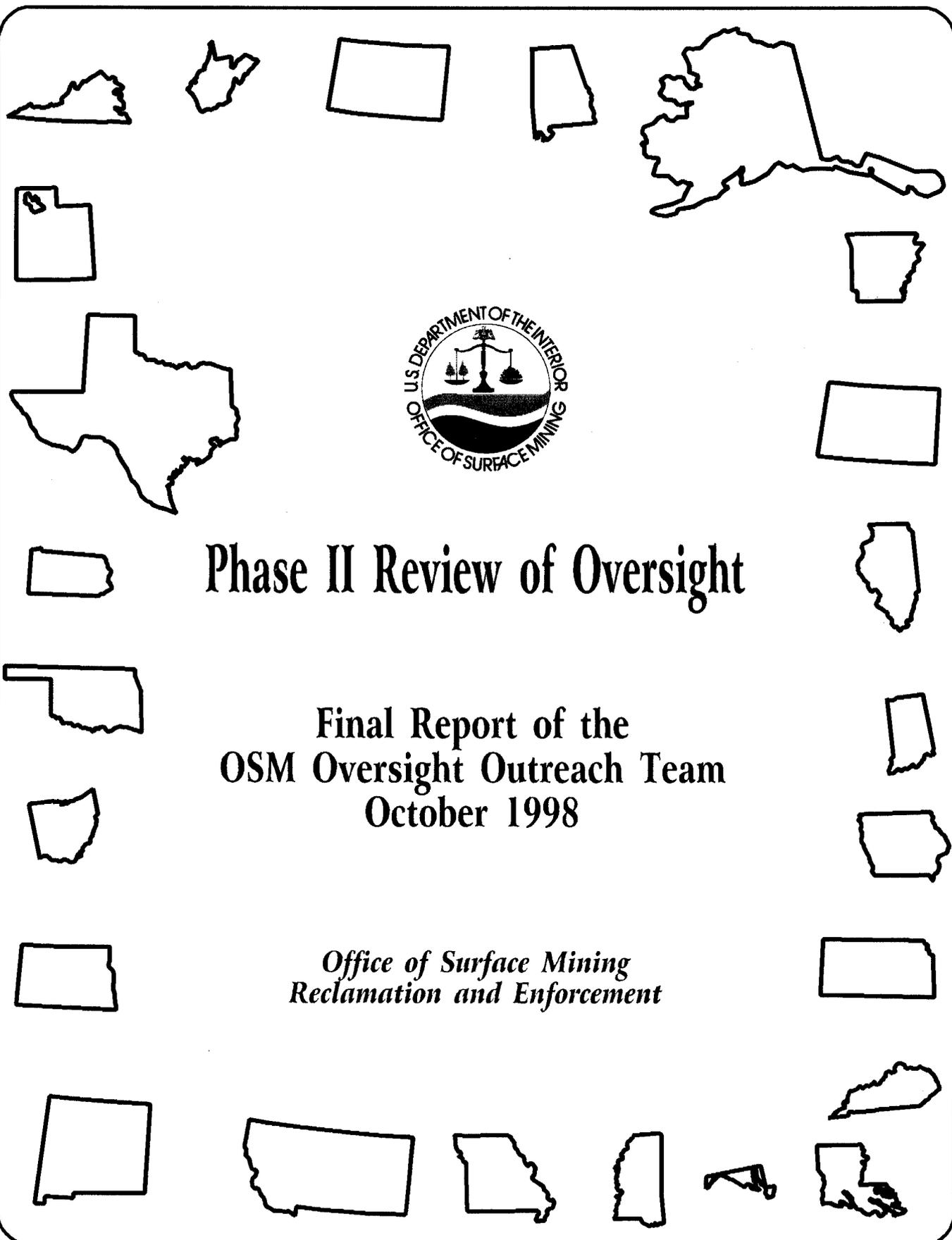




Phase II Review of Oversight

Final Report of the
OSM Oversight Outreach Team
October 1998

*Office of Surface Mining
Reclamation and Enforcement*



EXECUTIVE SUMMARY

In April 1998, the Director initiated a review of the Office of Surface Mining's (OSM) oversight policy to get feedback from both internal and external customers concerning OSM's oversight process. Part of this initiative included OSM members of the Oversight Steering Committee visiting each OSM field and area office during June 1998 to meet with all OSM inspectors and other field staff involved in oversight (collectively, the regulatory field staff). The purpose of the visits was to hear firsthand the successes and problems that the regulatory field staff is experiencing with OSM Directive REG-8.

This report provides the findings and recommendations and a summary of comments resulting from field meetings, interviews, and questionnaires completed by regulatory field staff. Below are the Team's findings concerning the OSM field staff's perception of the current oversight process, the citizens' complaint process, and the future of OSM.

The Team finds there is/are:

- diverse opinions and understanding of the basic concept of "oversight;"
- a need for flexibility to design and implement oversight work plans and performance agreements based upon State-specific conditions;
- a greater acceptance of OSM's oversight policy when there is a higher degree of involvement in planning and conducting oversight;
- improved relationship between OSM and the States resulting in better State programs;
- several opinions of the role of inspections in oversight;
- concern about inconsistency in data collection and reporting;
- concern about OSM's outreach efforts to garner public input into the oversight process is not fully successful;
- frustration over OSM's role in resolving citizen complaints; and
- concern about OSM's preparation for the upcoming retirement of a large number of its employees.

The Team recommends that:

The Oversight Steering Committee should consider minor changes to Directive REG-8 to clarify:

- OSM's responsibilities concerning prevention and protection under State primacy;
- one objective of measuring OSM success is to identify the number of improvements in State programs and resolution of problems; and
- the role of inspections in meeting a Field Office's oversight objectives.

The Oversight Steering Committee should:

- evaluate those methods currently used and develop a more consistent approach for collecting data and reporting on the two national measurements of success, and
- maintain flexibility to develop state-specific oversight plans in Directive REG-8.

The OSM Management Council should:

- meet periodically with the Oversight Steering Committee to discuss oversight and its implementation;
- conduct regional and/or national meetings or forums and develop training to promote understanding and direction of oversight;
- promote a cross-training program within job titles, both within Field Offices and between Field Offices;
- continue to encourage cooperative State/OSM working relationships in planning and conducting oversight activities;
- encourage exchange of successful approaches to public outreach;
- clarify OSM policy on citizen complaints; and
- continue in its current direction for succession planning.

INTRODUCTION

The Director initiated Phase II of a review of the OSM's oversight policy with her April 23, 1998, "Message on Oversight." (Phase I, completed in November 1997, was a review of the first year of implementation of the new oversight policy). Accompanying this message was a plan that outlined a number of activities designed to collect input from both internal and external customers concerning OSM's oversight process. The plan followed the approach taken by the Interim Management Team in 1993-94 to personally meet and interview individuals and groups at their work locations. The purpose of the Director's plan is to identify any needed refinement to Directive REG-8 which sets forth OSM's regulatory oversight policy. A copy of the plan and the Director's accompanying message is included as Appendix I.

As part of the plan's second step, the Director assigned a Team of OSM members of the Oversight Steering Committee to visit each OSM field and area office by the end of June 1998, to meet with the regulatory field staff. This Team includes Erv Barchenger (Alton), Richard Bryson (Washington), Jim Fulton (Denver), and Dan Schrum (Columbus). Kathryn O'Toole (Washington) assisted the Team with developing the questionnaire and this report. Specifically, the Director wanted to hear experiences and comments from the front line of oversight, OSM's inspectors and other regulatory staff. This report provides the Team's findings and recommendations and a summary of comments resulting from field meetings, interviews, and questionnaires completed by regulatory field staff.

The Team appreciates the opportunity afforded by the Director to visit each Field Office to hear the suggestions and criticisms, discuss issues, and address questions from the regulatory field staff about OSM's regulatory oversight program. The Team also greatly appreciates the interest and courtesy extended by the field staff in all locations where the Team visited. The feedback will be very helpful to further refine OSM Directive REG-8.

METHODOLOGY

The Team developed a questionnaire to assist the regulatory field staff in organizing their thoughts prior to the field meetings and also to provide written responses. The questions covered a broad spectrum of topics associated with OSM's oversight policy and implementation, including changes that have occurred since 1978 with States and industry; the concept and perception of the role of oversight; implementation and level of oversight; effectiveness of performance agreements; and public participation and citizen complaints. In addition, there were questions about training, opportunity at OSM, and the need for oversight meetings. The Team distributed the questionnaire two weeks prior to each office visit. The field staff was encouraged to provide written responses to the questionnaire which they could give to the Team during the office visits or send in at a later date.

Team members visited 15 OSM field locations that have regulatory oversight responsibilities. In two locations, Team members met with joint OSM/State oversight teams. During the course of

the field visits, the Team met with 96 OSM and six State staff members involved with the regulatory oversight process. (All OSM field regulatory staff had an opportunity to attend one of these meetings.) The Team received 60 completed questionnaires from OSM staff members; State staff members did not provide written responses. During the field meetings, the Team members provided a brief overview of the development of the current Directive REG-8 and then asked for informal feedback concerning staff perceptions. Following an open discussion period, the Team members asked for further input following the format of the questionnaire. The Team members took notes on the discussions and collected completed questionnaires. A copy of the questionnaire is included in Appendix II.

After completing the field visits, the Team reviewed the notes and written feedback from the questionnaires. The responses from questionnaires and interviews are summarized in this report. Based on observations during the field visits and the feedback provided by OSM regulatory field staff, the Team made its findings and developed recommendations. The implementation plan for the Team's findings is included in Appendix III.

FINDINGS AND RECOMMENDATIONS

Finding 1: *There are diverse opinions among OSM field staff on the basic concept of "oversight."*

Discussion: Although most of the OSM field staff seems to have a general understanding of OSM oversight as set forth in Directive REG-8, there is not overall agreement among the field staff that the current oversight is effective or meets the intent of the Surface Mining Control and Reclamation Act (SMCRA). There appears to be a distinct line of demarcation between field staff who accept that the States now have the primary regulatory responsibility (primacy) and those who are reluctant to accept OSM's current responsibility to monitor, assist, and report on the State's implementation of its program. A few seem disinclined to accept the transition from OSM's interim program to the Agency's permanent program responsibilities, or they believe that OSM should be a stronger enforcement Agency with little regard for State primacy.

Most commenters recognize that both industry compliance and State performance have significantly improved since the early days of primacy. Many attribute this improvement to OSM's presence, although some remain apprehensive that this trend could reverse itself at any time based on political influences within a State or market conditions within the industry. Thus, they believe that OSM must have a strong presence to stand between those influences and any backsliding. Most of the OSM field staff have a genuine interest in protecting the environment, but some may be frustrated when States accomplish environmental protection differently from the way OSM staff would. A few commenters have little or no confidence in the States' abilities or desires to adequately comply with all the requirements of the State programs without direct Federal intervention.

The Team believes there are several factors that have contributed to the various opinions about and understanding of the current oversight approach.

- *Inconsistent viewpoints concerning who's responsible for preventing environmental problems -*

Many maintain that OSM's primary responsibility is to protect the public and to prevent environmental problems resulting from mining, even though a State has been granted primacy. This viewpoint is inconsistent with OSM's oversight role. Section 102(g) of SMCRA specifies that OSM (in its oversight role) is to "assist States in developing and implementing a program to achieve the purposes of this Act." This means that once a State has primacy, the State has the primary responsibility for carrying out the applicable purposes of the Act within its borders. The regulatory field staff who maintain that OSM is responsible for prevention appear to be frustrated that OSM no longer needs to fulfill a primary enforcement role that has become a State responsibility. OSM's role is to ensure that the States maintain the capability to meet and actually fulfill those responsibilities, and to intervene through direct enforcement only when there is a clear breakdown in the States' implementation. However, the Team and many commenters also believe that OSM must continue to have a field presence to provide effective communication, assistance, and monitoring of the States' implementation of the program. A field presence helps OSM to

keep abreast of the on-the-ground impacts of mining and reclamation and to interact with the citizens and industry more effectively.

- *Inconsistent views concerning how OSM should evaluate and report on State programs: number of problems identified or the number of improvements in the State program and number of problems resolved -*

Some of the regulatory field staff believe that OSM will achieve success in its oversight role if the Agency keeps a score of the number of problems that can be identified within a State. Others acknowledge that a better measure of success may be the number of documented improvements in State program implementation that result from OSM's involvement or assistance. Taking this approach does not imply that the Agency should ignore problems or stop identifying any that are observed. However, the focus of OSM's resources should be on resolving problems. This latter approach is sanctioned by many respondents to the questionnaire, who support performance agreements and recent successes in solving long-standing problems through a cooperative approach between OSM and the States. The Team believes those performance agreements (PA's) provide an additional advantage in that they allow OSM and the States to recognize each other's limitations in funding, staff, and other influences that impact prioritizing solutions to problems. Finally, with respect to this point, the Team believes that documenting incremental improvements and solving identified problems is a more effective approach than continuing to identify and report new problems without being able to direct OSM's resources to help resolve them.

- *Fear and hope of "oversight creep" -*

The Team heard some concern that OSM may reverse its oversight approach and revert to the old style of oversight. This phenomenon was phrased "oversight creep" by one commenter, meaning that there could be a tendency by OSM to "creep" back to the old ways of doing oversight. That commenter suggested that OSM make a concerted effort to attest to some of the real successes of the new approach and reaffirm to OSM field staff and others that OSM is not going back to the old approach. On the other hand, some OSM field staff said that they would welcome a return to the old style of oversight as they believed it more effective. The Team believes that OSM management should negate any notion that OSM will return to the past oversight approach. The Team also believes that additional time to gain more experience and continually improve the new approach should improve the level of acceptance by internal and external parties.

- *OSM management has not consistently or effectively communicated its support of the current oversight approach to the field staff -*

When the new oversight approach was announced in mid-1995, internal and external criticism of the approach grew. Due to the criticism, it appears that OSM management, although supportive of the new approach, has not effectively communicated its support of the new approach to the field staff or consistently directed its full implementation. Due partially to OSM management's passive support of the current oversight and the impacts of the 1995 reduction-in-force, it appears that divergent opinions about the direction of OSM oversight have continued. There seems to be variability between regions, within regions, and, in some cases, within states, with the direction and understanding of oversight. This variability is an indication that OSM management has not

clearly communicated to the field regulatory staff the direction of the agency in fulfilling its oversight responsibilities.

- *Little effort by the Agency to provide training for OSM staff on the current oversight -*

The Team believes that due to the timing and chain of events (reorganization, reduction-in-force, changes in OSM leadership), that occurred concurrent with the release of the current oversight policy, OSM has done little to train staff to promote understanding of the current oversight concept. Although acceptance of the new approach is increasing with time, there has been no concerted effort by the Agency to encourage acceptance of the new approach and to promote better understanding of the principles of oversight. Even though oversight is one of the Agency's main responsibilities, the Team believes OSM has fallen short in providing training to staff involved with oversight on evaluation and reporting techniques. This void becomes increasingly significant as experienced OSM staff members leave the agency and new employees are hired. Some field staff expressed a need for national or regional meetings, training, or other forums that may promote a better understanding and acceptance of the current oversight approach. Such forums could promote exchange of ideas, allow detailed discussion of successes and failures, provide opportunities for managers to support and understand the new approach, and expand creativity.

Recommendations:

- A. The Team recommends revising Directive REG-8 to reaffirm that the responsibility for prevention of environmental concerns or protection of the public lies primarily with the States, and that OSM's oversight role is to monitor and report, and assist the States in implementing their responsibilities.
- B. The Team recommends revising Directive REG-8 to affirm that one objective of oversight is to measure success in terms of incremental improvements in State programs and/or success in solving identified problems.
- C. The Team recommends that the OSM Management Council meet with the Oversight Steering Committee periodically to discuss oversight and its implementation.
- D. The Team recommends that OSM's Management Council conduct regional and/or national meetings or workshops that provide a forum to promote and support the exchange of ideas and experiences with oversight. Such meetings should include OSM and State participants.

Finding 2: *There is a need for flexibility to design and implement oversight work plans and performance agreements based upon State-specific conditions.*

Discussion: Almost all commenters had opinions about **how much** (more or less) oversight activity should be done, with a general agreement that they should not be performing less oversight activity. Although most commenters supported the flexibility allowed under Directive REG-8 to conduct studies or review any area of the State's program, real differences emerged

when they considered **what kinds** of oversight should be performed. These differences ranged from a return to the cyclical review approach where all aspects of the program are reviewed over a multi-year time frame to targeting only the areas of a State program that need attention.

The Team agrees that flexibility is needed and believes that the current Directive REG-8 approach to oversight can encompass such wide-ranging views without proscription. The Team also noted that the differences in staffing levels that exist throughout OSM impact the level or type of oversight that can be accomplished.

The general approach section of current Directive REG-8 provides flexibility to OSM offices to design state-specific oversight plans. OSM and the State are to develop State-specific evaluations plans tailored to the unique conditions and needs of each State program. The evaluation plans may be part of a formal PA, or they may stand alone. They may contain inspections, topic-specific reviews, and/or technical analyses. The appendices attached to Directive REG-8 are to serve as guidance for developing such plans/PA's. The only real requirement is that the plans/PA's must contain the three required national measurement elements of off-site impacts, reclamation success, and customer service. The Team believes that Directive REG-8, by design, provides adequate latitude for each OSM office to direct its oversight resources to specifically fit the conditions in each State.

Recommendation: The Team recommends that Directive REG-8 continue to provide for a flexible approach to accomplish oversight.

Finding 3: *Field staff with a higher degree of involvement in planning and conducting oversight activities have a greater acceptance of OSM's oversight policy.*

Discussion: The level of staff involvement in different aspects of oversight appears to heavily influence the field staff's view of the validity of the oversight approach taken under the current Directive REG-8. The Team noted that field staff who are involved in developing oversight plans and/or perform program evaluation, in addition to inspection duties, tend to believe that oversight is working better than many of the staff who only perform inspections. In some cases, the Team also noted, even when inspectors' recommendations for topics often were included in performance agreements, these employees tend to believe that oversight is not working as well as it should. Also, field staff located in satellite offices that primarily are responsible for inspections generally believe that oversight without inspections is not valid oversight. Individuals in these offices generally believed themselves to be more isolated in their function and believed that oversight would be improved only by conducting more complete inspections.

While the Team believes that OSM will continue to employ inspections as a means of determining whether the States are implementing their approved regulatory programs, it is just one of many tools that can be used to make that determination.

Recommendation: The Team recommends that the OSM Management Council consider developing and implementing a plan that provides for cross-training within and between Field Offices and/or job titles to reduce isolation, enhance intra-office and Agency-wide communication, and maximize the use OSM makes of its oversight personnel.

Finding 4: *The relationship between OSM and the States has improved under the current oversight, resulting in better State programs.*

Discussion: A common theme found both in the meetings with field staff and in many of the questionnaire responses is that the current oversight policy is directly responsible for better, more positive OSM relationships with the States. Many cited the reason for this improvement is the result of OSM staff working with the State staff in negotiating PA's and/or work plans. Several staff commented that negotiating PA's improved the cooperation between OSM and the State and encouraged more State involvement in oversight. Additionally, OSM has established formal teams with two States to plan and conduct oversight activities in those States, and has formed teams with other States to carry out specific findings and recommendations or to develop solutions to identified problems. The success in the increased communication and cooperation is reflected in the statement made in one of the meetings that the first time the commenter really understood or accepted that OSM and the State were working toward the same goal was during the negotiation of the PA.

A positive result of the improved working relationship is that it facilitated problem solving and resulted in program improvements. One commenter noted that Directive REG-8 makes it easier to work with the State inspectors now that OSM is getting problems corrected rather than fixing blame for the problems. Several individuals indicated to the Team that more progress has been made in improving State programs under the current oversight policy than was accomplished under several years of the prior policy. The Team believes that it is easier for a State to make program improvements when it is involved in identifying and reviewing program areas for oversight evaluation.

Some commenters noted a possible downside of the cooperative working relationship between OSM and the States may be that OSM is less objective and independent in conducting its oversight activities. This cooperative relationship could potentially result in a credibility gap in the view of some field staff that OSM's evaluations are no longer independent reviews. However, the Team believes that the actual result of OSM's improved working relationships with the States and its effect of increased problem resolution overshadow any perceived decrease in OSM's objectivity and independence in conducting its oversight activities.

Recommendation: The Team recommends that OSM's Management Council continue to strongly support cooperative working relationships between its field staff and the States in planning and conducting oversight activities.

Finding 5: *There are several opinions as to the role inspections play in oversight.*

Discussion: The Team found that the field staff had a wide range of thoughts regarding the role inspections play in oversight. During the meetings and in responding to the questionnaire, many of the commenters acknowledged the current oversight policy gives their office the flexibility to conduct the inspections they believe are necessary. However, not all staff agreed with how their office is using inspections. Some suggested conducting fewer random inspections and more specialty focused inspections, while others suggested more random complete inspections and less off-site and bond release inspections. Others suggested more inspections on active sites or sites

where problems are known to exist. A few commenters suggested that OSM conduct independent inspections and move away from joint inspections. Also, a commenter noted that OSM should eliminate pseudo-inspections (site visits) by technical or program staff that are reported as increased OSM field presence, but do not evaluate compliance with performance standards. The Team believes that many inspection strategies are possible under Directive REG-8. Selection of the inspection strategy depends on the Field Office's oversight objectives.

The Team believes that some of the field staff have not acknowledged the shift in the role that inspections have in oversight. A major focus of the previous oversight policy was whether State inspectors were citing all observed violations. OSM's complete inspections were the primary measure in making these determinations. Under the current policy of primarily evaluating end-results instead of processes, complete inspections serve as an important tool, but are not the main focus of oversight. As noted in Directive REG-8, the Field Office Director (FOD) is responsible for planning and conducting oversight activities, including inspections. The current oversight policy provides the FOD with wide discretion on how to use inspections as part of oversight. The Team believes that inspections continue to have an important, valuable role in oversight, but that the inspections, regardless of their type, should be conducted to meet specific objectives of the Field Office oversight plan. Identifying specific objectives for each type of inspection in the oversight plan will help to clarify the role of inspections to field staff.

Recommendation: The Team recommends that the Oversight Steering Committee consider changes to Directive REG-8 that clarify the role of inspections in the oversight process to make it clear that inspections should meet specific objectives of the Field Office's oversight plan.

Finding 6: *There is a concern about inconsistency in data collection and reporting.*

Discussion: Many respondents commented that the establishment of off-site impacts, reclamation success, and citizen participation as the national programmatic measures is proving very valuable. However, there is concern about the lack of consistency of data collection and reporting for off-site impacts and reclamation success. Few, if any, suggestions were offered for changing the measurements or developing alternatives.

The Team agrees that there is a lack of consistency of data collection and reporting for the two national performance measures. However, with the fundamental change to Directive REG-8 to evaluate the on-the-ground success of States in achieving the environmental protection standards of SMCRA, the Oversight Steering Committee recognized that OSM and States had little data collection and reporting experience for the on-the-ground measurements. Based on the experience during the first year of implementation, changes were made to Directive REG-8 on October 1, 1997. The changes clarify the measurement of off-site impacts, including defining and providing examples of an off-site impact; report off-site impacts on bond forfeiture sites; and clarify how measurements of contemporaneous reclamation are evaluated and reported. Even with these clarifications, the Team believes that additional efforts will be necessary before achieving consistent data collection and reporting.

Also, there was some concern expressed that OSM is no longer collecting all the inspection and enforcement data previously collected through oversight. Much of this data concerned State

inspection and enforcement activities. The Team believes this issue has been addressed with the implementation of the I&E Data Team Report as approved by the Director on October 1, 1997. The data requirements included in the I&E Data Team Report, which includes much of the data collected under previous versions of Directive REG-8, are being collected and reported through OSM's Annual Report or other mechanisms. Formats and reporting periods for this data have been provided to the Field Offices. The State and Field Office will agree upon the manner in which this data is collected and include it in the PA.

Recommendation: The Team recommends that the Oversight Steering Committee evaluate data collection methodologies used by the various OSM offices to report off-site impacts and reclamation success and prescribe a more standardized method through revisions to Directive REG-8.

Finding 7: *OSM's outreach efforts to garner public input into the oversight process has had limited success.*

Discussion: Directive REG-8 requires Field Offices to develop and conduct an outreach program to interact on a routine basis with individuals and groups who may be interested in the oversight process. In particular, each Field Office is required to solicit input regarding the oversight process, recommendations for State-specific review topics for the evaluation year, and suggestions for improvements to the annual report. Most OSM field staff expressed disappointment with the results of their efforts to garner interest and involvement from outside parties. The overall lack of interest was not the result of a lack of effort by OSM. The Field Offices are to be commended for the many different approaches that have been attempted to generate public interest and participation in the oversight process. All Field Offices are making an honest, sincere effort in this regard. Their success should be based on these efforts, rather than the participation they attract. The Team did learn of some success from public outreach efforts that resulted in oversight topics being included in PA's. There also were some very innovative approaches at outreach identified by some field staff.

Recommendation: The Team recommends that Field Offices share outreach plans and results so that the more effective methods of outreach can be used and improved by other offices.

Finding 8: *There is frustration over OSM's lack of a direct role in resolving citizen complaints.*

Discussion: OSM field staff expressed dissatisfaction over OSM's role in responding to citizen complaints. This concern was recorded on many of the questionnaires and was a topic discussed during the visits to the field and area offices. Some said that OSM policy is not clear on handling complaints in primacy states and varying approaches were used to handle complaints among the OSM Field Offices. While OSM's procedures for processing citizens' complaints are not prescribed by Directive REG-8, the way complaints are handled can seriously impact the OSM/State relationship. Citizen complaints also can render programmatic information about State performance and can result in certain application of SMCRA provisions. In most cases, OSM cannot respond directly to a citizen complaint. Instead, OSM only can decide whether the State's action was arbitrary, capricious, or an abuse of discretion. OSM may not agree with the

outcome to the complaint, but it is limited to assessing the State's response in terms of the arbitrary and capricious standard. Many field staff believe this approach does not allow OSM to be responsive to individual complainants.

The Team believes that OSM field staff must recognize the primary role of the State regulatory authority and the arbitrary and capricious standard for assessing State actions. This may result in OSM's accepting States' responses to citizen complaints that differ from how OSM may have responded if it were the regulatory authority.

Recommendation: OSM should clarify its policy for addressing citizen complaints.

Finding 9: *OSM needs to prepare for the upcoming retirement of a large number of its employees.*

Discussion: A majority of respondents indicated that OSM should be preparing for the significant number of anticipated retirements, especially reclamation and program specialists, during the next few years. Most indicated that careful planning now for these vacancies would allow the Agency to take advantage of its institutional memory and avoid a crisis. Most commenters agreed that OSM should, as vacancies occur, recruit and hire well-qualified, college graduates with environmental or coal-related degrees, for entry grade level positions and train them in various disciplines over a period of time (two to three years) for inspector and program specialist positions. Mentoring by experienced staff would be part of this process.

This initiative would include recruitment of college co-op students with the goal of placing them permanently after graduation. In addition, some commenters indicated that OSM should afford opportunities to support staff to transition into professional positions. The Team agrees with the general concepts embodied in the comments.

Recommendation: The Team recommends that OSM's Management Council, as part of its succession planning, continue in the current direction to recruit, hire, and train well-qualified individuals for entry grade level reclamation and program specialist positions. In addition, field managers and supervisors should afford opportunities to support staff to transition into these positions.

SUMMARY OF RESPONSES TO QUESTIONNAIRES AND INTERVIEWS

General

1. (a) *What is OSM's mission?*

Generally, commenters phrased their description of OSM's mission in terms of some type of interaction involving SMCRA. Many respondents described the mission in relatively spare and global terms, such as implementing SMCRA, enforcing SMCRA, ensuring compliance with SMCRA, or carrying out the requirements - or mandates - of SMCRA. The remaining commenters focused more on the major requirements of SMCRA to describe the Agency mission. Among the more commonly cited themes were: ensuring that mining and reclamation are conducted in a manner that protects citizens and the environment; ensuring that the land is restored to a productive use; and mitigating the effects of past mining. A few commenters referenced SMCRA's implementing regulations or the States' regulations or approved programs.

Examining the responses from the standpoint of responsibility for regulation disclosed that a majority of commenters appeared to focus on the more unilateral aspects of OSM's role; e.g., to enforce, to protect, to ensure, to implement. However, several responses specifically mentioned assisting, helping, or working in cooperation with the States to implement SMCRA or the approved program as a primary part of OSM's mission. Almost as many referenced oversight of State programs or overseeing the States.

In addition, there were some unique interpretations when addressing the question of OSM's mission. One commenter referenced the reader to the "purposes" section" (section 102) of SMCRA. Another emphasized that the mining use of the land should be temporary. Yet another commenter mentioned OSM's responsibility to nurture successful State programs, to provide a level playing field for both the States and industry, and not to allow philosophical "regional differences" to affect enforcement of the Federal law over the State law. One response lamented the disappearance of OSM's mission statement from the recent annual report. Finally, one commenter said that OSM's mission was to keep the States and the coal industry satisfied.

(b) *Is it [OSM's mission] different now than it was in 1978?*

Aside from a few commenters who did not answer this question or who indicated that they were not employed by the Agency in 1978, the remaining responses were split fairly evenly between those who believed the mission had changed and those who did not.

(c) *If so, how do you believe it [OSM's mission] is different and why?*

Those who believed that the mission itself had changed were most likely to cite the shift from OSM's direct involvement in enforcement, permitting, etc., to the Agency's current role of oversight and assistance as reasons for the change. One commenter, who comes from an

industry background, stated that OSM had gone from an over zealous regulator with the objective of mine closure to a body of experienced employees dedicated to a realistic approach of administering and enforcing SMCRA. Maturity and improvement of the State programs, as well as the success of OSM's teaching and assistance, were cited by several as reasons for the change. A number of commenters stated that economic and technological changes affecting the mining industry also have helped alter OSM's mission. Another commenter stated that the law (then) was enforced either with or without the States. A couple of others voiced their belief that OSM must (now) defer to State action and fears making a decision that would anger the State. A few cited the effect of politics and changing administrations, while another noted the impact of industry politics. One commenter noted the impact upon OSM's mission in the Congressional bill to amend SMCRA. Some commenters identified particular areas of oversight that still need more emphasis, such as bonding, subsidence damage, and valley fills/mountaintop removal.

Interestingly, most of the respondents who believe that OSM's mission had not changed since 1978 indicated that, at the same time, they believe the process, method, approach, or tasks necessary to achieve that mission were now different. Further, they define these processes, methods, tasks, etc., as changing from direct regulation and enforcement in 1978 to oversight of, cooperation with, and/or assistance to the States currently. Some also mentioned that the greater level of industry compliance alters the actions necessary for OSM to accomplish its mission. A few cited the maturation of OSM and the States as reason for changes in implementing the mission. One commenter mentioned that (now) more citizen input is sought. Another cited the effect of different administrations' emphases on particular portions of SMCRA upon OSM's methods. Thus, it appears that - with respect to whether OSM's mission has changed - the commenters are coming from two related but differing perspectives to get to a similar point.

2. *How would you characterize industry's compliance with the coal regulatory program - (a) in the first year you worked in a Title V position (specify the year)?*

The majority of the respondents worked in a Title V position during the early years of the program (1978-1981). Of those, most described industry compliance as poor (or low) to nonexistent. Even so, many mentioned the variability of performance within the industry, which they attributed mainly to the size of the mining operations (smaller operations with fewer resources were less compliant) and to differing State attitudes toward enforcement and industry advocacy. The newness of and unfamiliarity with SMCRA also was a factor. Some commenters cited the legal and political pressure brought by industry as they fought the law. At the same time, belligerence or threats of violence from industry toward inspection personnel was mentioned by a few commenters. Another commenter stated that there was more industry compliance during the early years because OSM had a "dual enforcement role."

The second largest number of respondents began their Title V work with OSM in the mid to late 1980's, and the majority of them stated that industry compliance improved during this period. One commenter noted industry resistance to full compliance with certain of the regulations (specifics not included), while another mentioned "leftover problems" from the

beginning of the program (specifics not included). Again, commenters cited the variability of cooperation by States and by size of operation as factors that influenced industry compliance.

The remaining few respondents either believed they lacked sufficient experience to respond, did not indicate when they started working in Title V for OSM, or did not respond to this part of the question.

[How would you characterize industry's compliance with the coal regulatory program] (b) today?

By and large, most commenters stated that industry compliance is much improved today. Greater improvement was noted by those who began their Title V work in the late 1970's/early 1980's than by those who began during the mid to late 1980's. Compliance still varies by State and, to a lesser degree today, by size of operation or the degree to which an operator relies upon the profitability of the operation.

Of the respondents who began working in the regulatory program during OSM's early years, almost all have noted a considerable improvement in industry compliance with SMCRA. Some commenters noted that the types of violations cited have changed over the years, and, as surface mining has decreased, subsidence and water loss have emerged as the two major categories of violation (in their States). Others indicated that compliance today revolves around such "big ticket" items as pollutional discharges, subsidence, and valley fills. However, one respondent noted that violations cited today in his/her State are usually minor, like a lack of routine maintenance. Some commenters noted that industry in their States can be pro-active, sometimes taking the lead in compliance issues, or plans for compliance. One respondent cited the evolution of a "culture of compliance" in which issues are addressed through discussion and negotiation rather than litigation. Another stated that industry's legal and political pressures generally have been diverted from OSM to the States, except for recent Congressional efforts to limit OSM's authority. Two commenters stated that industry is getting by with more (noncompliance) because of politics. One respondent stated that industry complies only where it is easy and inexpensive.

About two-thirds of the respondents who started working in Title V during the mid to late 1980's noted that industry is generally in compliance with the coal regulatory program. Of those, half noted that industry compliance today has improved over that of the mid to late 1980's; most of the rest noted no change, and one stated that there was a little improvement. Most of the remaining third of those who started in Title V during the mid to late 1980's found compliance to be more accurately judged on a case-by-case basis: compliance has improved on the small items, but appears to be slipping on the more major items; and larger operators tend to be more out of compliance on the more costly compliance issues. One commenter described industry compliance as worse today than in 1984: "most are trying to see what they can get away with."

The remaining respondents to the survey, either skipped this question, or said they had not had sufficient Title V experience to respond, except that one commenter who started Title V work in the mid-1990's said that then and now industry complied only if they were forced to do so.

(c) To what would you attribute any changes [in industry's compliance with the coal regulatory program] you have noted?

About half of the regulatory staff who started their Title V work during OSM's early years mentioned the phasing out of the small operator/winnowing out of "bad" operators as a primary (or the main) reason for improvement in industry compliance. Many noted the education of industry; effective OSM enforcement - especially in the beginning; effective oversight of State activities; and the increasing maturity - or professionalism - of OSM, the State programs, or both as reasons for positive change. Several commenters added the State and OSM working as a Team; the Applicant Violator System (AVS); a stable coal market - therefore, no wildcatters; and OSM and State diligence in regulating and enforcing SMCRA to their list of reasons for improved industry compliance. At least a single mention was made of the following as reasons for increased compliance: a State that is not dependent upon industry for its existence; less surface mining; an active citizenry; industry's failure to put a stop to SMCRA through the courts; State recognition that reclamation benefits its citizens; a change operator and State attitude; and less "ticket fixing." Those respondents who believed that industry had changed for the worse said that State inspectors overlook more violations, States depend upon industry, and OSM has relaxed oversight.

Agreeing with the respondents who had started earlier in Title V, a little more than half who started in the mid to late 1980's cited phase-out of the small operator/reduction in the numbers of "bad" operators as a major reason for improved industry compliance. Other reasons given for the improvement were a change in operator and State attitudes; development of a "social conscience" - or pride - by some operators; effective OSM enforcement; AVS; OSM and the State working as a Team; and better permitting. Those who believed that industry compliance has decreased since the mid or late 1980's attributed it to State inspectors overlooking violations; the mid-1990's reduction-in-force, reducing OSM presence in the field; and Directive REG-8 - resulting in reduced oversight - combined with budget cuts. Several commenters did not respond to this portion of the question.

3. *Consider the State(s) for which you currently have some oversight responsibility. How would you describe the State's/States' approach to regulation of the coal industry - (a) when you first began to work with that State in an OSM Title V position (specify the year)?*

With the exception of those commenters who cited insufficient experience to respond to the question, survey participants almost uniformly characterized the State's approach to regulating the coal industry as "reluctant," "limited," or something similar. This observation did not seem to vary much regardless of whether the respondent started working in Title V when OSM was in its infancy or during the mid to late 1980's. Some variability was reported **within** States; e.g., enforcement on minor but not major infractions or enforcement alternating between strict

and lax. However, the comments do not appear to disclose that there was as much difference in approach as one might expect between the States, in spite of the fact that some already had State-approved coal regulatory programs. Respondents did note that some States were more overt in their industry advocacy or in confronting OSM; e.g., some States sued the Federal Government, and in one State it was reported that, after an OSM inspection, a State inspector would tell the operator to disregard the OSM inspector's instruction.

[Consider the State(s) for which you currently have some oversight responsibility. How would you describe the State's/States' approach to regulation of the coal industry -] (b) now?

Although the majority of commenters describe the approach of their State(s) to regulating the coal industry as more balanced, most indicated that industry still has more influence with the State or the present State administration than do other stakeholders, such as citizens. One respondent described it as the State's difficulty in depoliticizing its operation. Several respondents stated that their States have good programs and that they work more cooperatively now with OSM to regulate industry. Commenters with oversight responsibility for two particular States said that now the States work with industry to achieve the regulatory requirements. Several commenters remarked upon the good quality of the State inspectors in their States today, but some expressed concern about the attitude of their State counterparts. One respondent remarked upon the difference in the issues that are faced today. During the early years of the program, issues were related more to the education of all parties and interpretation of the rules, but today's issues are very specific and more difficult to deal with, such as minimizing hydrologic impacts. Several commenters reported that the State will address a problem but will endeavor to avoid formal enforcement measures. A few respondents expressed concern that a diminished OSM presence in the field will lead to State inspectors being less likely to take appropriate action. One commenter said that the State still views its role as consultant and partner to industry and does not function effectively as a regulatory agency.

Oversight - Definition/Concept

4. *(a) What is your definition or concept of "oversight" as it applies to a primacy State's coal regulatory program?*

A majority of the OSM oversight staff has a basic understanding of the agency's oversight policy. One-half of the staff responding to the questionnaire described their definition/concept of oversight as some version of monitoring the State's implementation of its approved program, evaluating the effectiveness of the approved program, or ensuring that the State enforces its approved program. Several staff indicated the purpose of oversight was to ensure the citizens/public and the environment are protected from the effects of mining. About one-fourth of the staff responding also indicated that oversight included some aspect of assistance to the States. A few believe OSM should do reviews of all portions/aspects of the State implementation of the approved programs. A couple of commenters believed that one of the purposes of oversight is to maintain a level playing field among the States.

(b) What do you believe is OSM's definition or concept of "oversight" as it applies to a primacy State's coal regulatory program?

Most of the staff commented that they believed their definition/concept of oversight was the same or very similar to OSM's. The others provided a wide range of definitions for their view of OSM's concept of oversight. These ranged from OSM's simply assisting the States, to OSM's not interfering with the States, and to OSM's keeping the States happy. A few noted that OSM no longer has enforcement as part of its oversight policy.

(c) If these definitions or concepts of "oversight" differ, please explain the difference.

A few commenters provided explanations for the differences between their definition and OSM's definition of oversight. Some of the staff indicated their definition/concept of oversight was more encompassing than OSM's in that OSM should look at both successes and failures. There is a definite minority of OSM's oversight staff that believes their concept of oversight is completely different from OSM's. Many of these believe that OSM does not do enough inspections and that it has given up its responsibility to be a regulatory agency by no longer doing enforcement and being non-responsive to the public. Several staff noted that politics is the reason their concept is different from OSM's. Some noted that staff should not be put in the position of being caught between politics and doing their job. A few also noted that OSM leadership and/or management will not do its job either because of Congress or because it is afraid to upset the States. One noted that enforcement has been thwarted since OSM revised its Ten-Day Notice (TDN) Directive in 1988 to adopt the arbitrary and capricious standard for TDN reviews.

5. *As part of the oversight of a State regulatory program, please list the type of activities that (a) your Division/Field/Area Office undertakes*

The respondents identified the wide range of oversight activities that an OSM office undertakes. These activities included developing work plans and performance agreements; conducting general assessment inspections, inspections and/or studies of off-site impacts, bond releases, bond forfeiture, and technical studies; conducting other evaluations as necessary; providing assistance; conducting public outreach activities; handling citizen complaints; and coordinating and meeting with the State. A few commenters seemed to have a very narrow view of the oversight activities their office performs with responses that identified limited activities, such as studies of off-site impacts, process reviews, or random sample and special study inspections.

[As part of the oversight of a State regulatory program, please list the type of activities that] (b) you undertake.

Most of the commenters identified their oversight activities. Many noted they undertake the same activities that their office does, while the others identified specific activities they undertake.

(c) Has the current oversight policy (Directive REG-8) affected the activities you or your office undertake as part of oversight, and, if your answer is "yes," please explain.

Over half of the commenters noted that Directive REG-8 had changed oversight in their office. Many of the respondents explained the change as focusing more on the on-the-ground end results rather than processes. Several also noted the current policy provides more flexibility so the office can target the areas of a State program that need attention. Others noted the relationship with the States and the States' programs have improved, that Directive REG-8 makes it easier to work with the State inspectors now that OSM is getting problems corrected instead of fixing blame for the problems, and that being able to spend more time on special studies by reducing the number of random complete inspections has been more productive in identifying problem areas and helping the State correct them.

A few commenters noted that Directive REG-8 had negative impacts on their office oversight activities. They noted that the number of oversight reviews, and especially inspections, has been cut significantly, and that most inspections before were complete and looked at the entire operation while now most are partial inspections where only limited portions of the operation are reviewed. A couple of commenters were concerned that all elements are no longer routinely reviewed. Others noted that the standards to measure are no longer clear, but are masked in catch phrases such as customer service and outreach; that Directive REG-8 is not precise enough in explaining minimum criteria for oversight; and that OSM's ability to effectively evaluate the State has been diminished under Directive REG-8.

6. *Do you believe that your office should be performing more or different oversight activities than currently are being performed.*

The responses were split with half of the commenters indicating that their office should be doing more or different oversight. Most of the remaining commenters responded with a no. Two commenters were not sure.

Several commenters noted that, because of staffing problems, their office is limited in the number of oversight activities that their office can complete.

If yes, (a) what change(s) would you make and why and (b) for which State.

The commenters provided a range of reasons why more or different oversight was needed. Several commenters wanted to do more inspections or to refocus the existing inspections. However, many of the suggestions were in conflict. Some commenters suggested more random complete inspections and fewer off-site and bond release inspections, others suggested doing fewer random complete inspections and more specialty reviews, and a few suggested moving away from random inspections and going to the problem areas instead. Some suggested more inspections on active sites, others suggested OSM refocus inspections to offer more assistance to get abandoned sites reclaimed, and another suggested going to independent inspections instead of joint inspections. One suggested OSM eliminate pseudo-inspections (site visits) by unauthorized personnel that are claimed as proof of increased field presence, yet do not evaluate compliance with performance standards.

Several commenters indicated that OSM should refocus its oversight efforts. Some suggested an increase in emphasis on special technical studies and that the easy issues are resolved and the

highly technical issues now need to be addressed. A few commenters suggested that OSM should return to the cyclical review approach where all aspects of the program are reviewed over a multi-year time frame, while others suggested that OSM needs to put more emphasis on reviewing the permitting process. Some of these commenters noted that States perceive permit or process reviews to be off-limits, but there are times when there is a real need to evaluate them to ascertain on-the-ground compliance or to evaluate aspects of the program that do not translate to on-the-ground impacts. Other commenters believe that OSM needs to refocus on procedures and on prevention, while a few thought the current emphasis on off-site impacts causes many to believe the on-site standards are being ignored. A couple of commenters suggested that OSM should conduct inspections and/or reviews scientifically and that they be statistically valid. Another commenter suggested that OSM should not be concerned with on-the-ground successes, but that on-the-ground failures should be the focal point of oversight.

Some commenters did not suggest specific changes, but noted OSM should do more oversight because OSM's presence and interest are important to maintaining the State's interest in fully implementing its program, and that OSM's interest counteracts the outside political pressure that the State constantly faces. Other commenters suggested that OSM management specifically describe what elements of each state program should be reviewed each year. Leaving these decisions to each office makes any overall national assessment nearly impossible and meaningless.

7. *Do you believe that your office should be performing fewer oversight activities than currently being performed.*

An overwhelming majority of the commenters do not believe their office should perform fewer oversight activities. Additionally, most of the commenters that stated they wanted fewer activities suggested that oversight efforts should be refocused rather than saying they should be reduced. Some commenters indicated that their office is doing the right amount of oversight. For example, a commenter from a multi-state Field Office noted their office allocates its resources on an as-needed basis and has reduced its presence in States that have demonstrated they do not need constant input or assistance.

If yes, (a) what change(s) would you make and why and (b) for which State.

The commenters gave a wide variety of reasons why OSM should not perform fewer oversight activities. Several commenters mentioned that OSM needs to maintain current oversight levels to be effective. Others mentioned that fewer activities could result in States disregarding parts of their programs or that State enforcement will be reduced. A few noted that State inspectors want a continued OSM inspection presence because it impacts State management. One commenter was not sure that OSM should do fewer oversight activities, and expressed the concern that the more OSM gets involved in assisting the State and in becoming partners with the State (which the commenter noted was good), the more OSM buys into these efforts and becomes less objective.

Several commented that OSM should refocus its oversight activities. However, many of the suggestions were conflicting. Some commenters suggested that OSM do fewer special studies, while others suggested that OSM should conduct more special studies. Others suggested OSM review fewer studies/inspections, but in greater detail. One commenter who recommended fewer

oversight activities felt that OSM should reduce the time and effort put into drafting, negotiating, meeting, revising, finalizing, signing, tracking, and publishing oversight outlines, programmatic agreements, performance agreements, and other paperwork that take time from oversight.

8. *What will OSM oversight look like in 5-7 years? Please be specific.*

Almost all of the commenters had an opinion on what OSM oversight will look like in the future; however, the opinions were widely divergent. A few commenters stated that the future of oversight is too difficult to predict because of politics.

Several commenters believed that oversight will look the same or similar in the future. They provided several reasons, including that making sweeping changes in agency policy is a lengthy process in that it has taken four years to make this shift in oversight; that future oversight will likely be very similar to the current strategy, since no one but OSM employees dislike it; and that oversight is needed, at least at this level, to ensure a level playing field, enforce SMCRA, and protect the coal field citizens.

Many of the commenters predicted that oversight will change in the future. Most of those predicting change believe it will become more technical and involve more training and assistance. Some noted OSM should continue its present course of becoming more technically and technologically supportive of States. Others felt if current trends continue, OSM will be a consulting and technical support agency for industry as well as States and citizens. A few noted that the problems we face are more technical in nature and OSM will focus on specialized technical review topics such as durable rock fills, subsidence, outcrop barriers, and mountaintop removal. Others believe that oversight will become less specialized. A few predicted the continued or increased use of OSM/State teams in the future as OSM focuses oversight in a cooperative, mutually beneficial manner with the States. Several commenters believe that inspections will remain the centerpiece of oversight. Some suggested OSM needed more inspectors and should conduct more independent inspections so that programs can be evaluated properly. One commenter suggested that OSM change its logic from monitoring success to monitoring failure; stating that although not as popular, the payback for monitoring success is public relation, the payback for monitoring failure is success.

Some predicted that oversight will become more regionalized with more activities performed by the regions and fewer by the Field Offices. A couple of commenters even predicted the phase out of Field Offices, although one recommended that it not happen within five to seven years.

A few commenters predict that oversight will be less in the future. Some believe that OSM will have a minor role in oversight as the States go to self-evaluation and self-reporting. Others acknowledged that, as the State continues to perform well, oversight should diminish. It will involve evaluations only on those areas where problems have been identified. Two commenters predicted there will be no oversight in five years.

Oversight - Implementation, General

9. *How well do you believe your Division/Field/Area Office is handling oversight in its State(s)? (Please address any effect the guidance contained in the current Directive REG-8 has on you answer.)*

Most respondents stated their Field Office was doing an excellent job of carrying out Directive REG-8 with good results. Several respondents cited improved State cooperation and willingness to address long-standing issues. Some commenters stated that their Field Office was properly implementing the Directive, but due to some deficiencies with the Directive, results were not effective. A minority of commenters stated that Directive REG-8 and lack of staff made effective oversight impossible.

10. *With regard to the current Directive REG-8 - (a) what aspects do you like? (b) are there any aspects you would change? Please explain your answers.*

Most commenters responded favorably about the flexibility afforded by Directive REG-8 to conduct studies or review of any area of the programs. Many think the special studies under Directive REG-8 have resulted in the States making improvements to the programs. State-specific plans and performance agreements for oversight were cited as very effective. The quality and availability of assistance, including training by OSM, is cited by some as very valuable. Many stated the establishment of off-site damages, reclamation success, and citizen participation as the key end results are proving very valuable. A few commenters stated that the establishment of off-site damages and reclamation success would lead to nationwide consistency in oversight. In those cases where OSM and the States have formed teams to work together on oversight, respondents believe the results are outstanding. In these cases, States are much more committed than before. Respondents stated that Directive REG-8 was beginning to grow on them. A few stated that the emphasis on outreach and public participation was good. One respondent stated that Directive REG-8 was very clear and provided clear guidance.

Some respondents do not like having to work with the States to decide what should be reviewed. Some said that it is unwise that States have to approve the selection of oversight topics. Some commenters stated that Directive REG-8 was too vague, it needed more detail and off-site damages needed more explanation. Some respondents did not like the change of focus from compliance to end results; how can the focus be changed since SMCRA was not changed? A few respondents believe OSM has lessened its ability to carry out scientific and valid studies. Several respondents stated that OSM inspections and, in particular, complete inspections were the backbone of good oversight activity, but Directive REG-8 no longer emphasized inspections. While Directive REG-8 includes outreach, respondents state that it is largely ineffective. One commenter stated that the old oversight, focusing on OSM inspections, was much easier. A few questioned the need to conduct any complete inspections and questioned the benefit of additional OSM inspections. Many respondents stated that, because of the new oversight focus and because of reduced staff, OSM is no longer able to prevent problems in the coal fields.

11. *Assuming no significant increases or decreases in OSM staffing over the next five years, would you make any changes in the way your Division/Field/Area Office handles oversight? If you answer "yes," what changes do you recommend?*

While most said they recommended no changes, some respondents suggested changes. Some said to concentrate on building mutual trust with States and refining consensus-building skills to arrive at common sense collaborative decisions. One respondent cited the need for more public involvement in deciding areas of consideration for review. A few commenters said long-term planning was needed. One commenter recommended that resources should be directed at those program areas which are regional or national in concept. One commenter suggested affording more flexibility to regulatory staff to become involved in working with on-the-ground problems beyond joint inspections. Another commenter said to quit wasting time doing joint inspections on sites with phase II bond release.

Another commenter said too much valuable time is spent awaiting State agreement to random samples for special studies. A few comments related to organization structure. One commenter recommended closing regional offices and move necessary personnel to Field Offices where work is closer to the customer. Another commenter said, in his/her office, having three different locations involved was difficult and cumbersome.

12. *Are there any areas where additional work with the State(s) is needed but cannot be accomplished under the current oversight guidance? If yes, what are those unmet needs (be specific; e.g., more training on ..., clearer policy on ...).*

[Note: Several of the following comments also apply to the question above.] Several respondents indicated that good oversight depends on doing complete inspections. OSM's presence in the field leads to more compliance than anything else. Only complete inspections can allow OSM to do its job of preventing problems. Include acceptable standards of success for each of the end results being measured. Change the focus back to compliance with regulations and away from end results. The focus of oversight should be on the problems in the State program, not on State successes. Several respondents stated that additional details are needed concerning what an off-site impact is and how to count them. These details are needed for nationwide consistency. Several also requested that OSM establish a routine for sharing oversight study results. Also, each Region should develop regional issues for oversight. A few commenters noted that, with the change in Directive REG-8, OSM unfortunately "gave up" many of its valuable data bases concerning compliance.

13. *How should the Oversight Steering Committee handle any recommendations for future refinements to Directive REG-8?*

Several commenters said to fine tune the current policy, but keep major changes to a minimum. Some said the current process works well. Some suggested that the Oversight Steering Committee seek the advice from the States and/or the Field Offices before adopting any changes. Several respondents asked that the Oversight Steering Committee respond in writing to comments on oversight. A few suggested that field personnel should be included on the

Oversight Steering Committee. One commenter recommended that the public should be provided an opportunity to comment on any changes.

Performance Agreements

14. *Please explain your understanding of the purpose of performance agreements between OSM and the primacy States.*

A large majority of respondents said that the purpose of PA's is to provide an understanding by both OSM and the State of the oversight and assistance that OSM will conduct and provide. Many stated that PA's improve cooperation between OSM and the States and encourage more State involvement. PA's also provide a way to obtain input from industry and citizens on where OSM should place emphasis. PA's define what each party will do and what each party expects to be done. Several comments included such words as: partnership, flexibility, focused program evaluation, joint commitments, understanding, cooperation, ground rules, and effective planning in their descriptions.

One commenter indicated that PA's were not necessary because OSM and the States have laws and rules to follow. Another suggested that OSM should do whatever oversight it wants to do. One commenter suggested that the purpose of the PA was to tone down OSM heat on industry in order for OSM to survive as an agency.

A few respondents expressed concern that the process requires State permission to do oversight. Some felt, in some cases, that States object to oversight studies or inspections. Therefore, OSM managers do not include those oversight topics in PA's even though the oversight topic(s) should be evaluated. There was some concern expressed about some States' opinion that Directive REG-8 does not allow OSM to review any State program processes unless related on-the-ground problems have been identified. One or two commenters suggested that there is far too much time devoted to negotiating the PA so that not enough time is devoted to actual inspections and oversight.

A few did not respond to the questions and others indicated they did not know the purpose of the agreements.

15. *Are there signed performance agreements in place for the State(s) for which you personally have some oversight responsibility [please identify the State(s)]?*

Nearly all respondents indicated that there is either a formal PA, an evaluation plan, or a work plan in place with their states.

16. *If performance agreement(s) either do not exist or are not signed (please indicate which is correct), does this impact the implementation of oversight with that State [please identify the State(s)]? If yes, please explain.*

A couple responses indicated that formal PA's are not signed, but some form of a written work plan is negotiated with the State even if there is not a signed formal agreement. There was no indication that the lack of a signature on a work plan or PA has any impact on oversight.

17. (a) How are the items/elements to be included in performance agreement selected?

Most responses indicated that oversight areas proposed for a PA are initially drafted by the Field Office based on Directive REG-8 guidance; input from staff members; resources available; prior oversight findings; input from the public (environmental groups, industry, others) and the State; and then negotiated to reach a consensus at meetings with the State. Some responses indicated that joint OSM/State teams develop the elements and then obtain OSM/State management approval. One response suggested that the Management Council determines the elements of the PA.

(b) Can the performance agreement be modified during the evaluation period (i.e., how binding is it, or, how easy is it to change?)

There were no responses that indicated that PA's could not be modified. Some said that changing the PA is not easy while others indicated it is no problem to change a PA. One commented that the PA is routinely modified.

(c) Did you have an opportunity to participate in the development of the performance agreements for the State(s) for which you have some oversight responsibility [please identify the State(s)]? If you answered "yes," please explain your role in developing the performance agreement(s).

Most respondents had an opportunity to or actually participated in selection of the oversight topics and in the development of the PA's. However, a few respondents either did not respond substantively to this question or indicated that they were not involved in the development process or did not understand the purpose of a PA. One comment stated that he or she fully supports the new oversight and knows of no oversight topic that has been suggested by an inspector that has not been included in the PA.

(d) (For multi-State offices) Does the process by which items/elements are selected differ significantly from State to State?

There was no comment on any notable difference in the process used for selecting items/elements for a PA in multi-state offices. Some responses explained the successful role of State/OSM teams in selecting oversight elements.

18. How are performance agreements working in the State(s) for which you personally have some oversight responsibility?

Performance agreements are working well. They are effective, have substantially improved cooperation between OSM and the States, promoted problem resolution, and encouraged more State involvement according to the vast majority of the responses.

In some cases, OSM and the State have developed joint oversight teams through PA's and have solved some longstanding issues where, previously, even discussion of the problems was very contentious. To demonstrate the success of PA's, a person commented that the first time he or she really understood or accepted that OSM and the State were actually working toward the same goals was during the time they were negotiating the first oversight PA. One commenter stated that speciality reviews have effectively identified and confirmed issues that were not seen on random complete inspections. Another commented that he or she has noticed that the state has actually participated and gotten excited about changes and actually made changes as a result. One commented that OSM/State relationship has never been better. One commenter suggested that PA's work well for the current year, but do nothing for future years or national interests.

One commenter suggested we contact management since management does not tell the field staff much. A few said that they do not know how elements are selected. One commenter indicated his/her concern that OSM management and States have determined that some topics should not be included.

Citizen Participation/Complaints

19. *Do you believe that the oversight process being implemented by your office is effective in addressing concerns raised by the public? Please explain.*

Many respondents believe that their office is effectively addressing complaints, inquiries, and requests from the public. Several indicated that they liked the outreach aspects of Directive REG-8 and the objective of getting more public involvement. However, several expressed the feeling that, although they have tried several approaches to engage the public's participation in the oversight process, there has been only limited success or interest. Due to this ineffectiveness, the desire to continue to seek public input may be dwindling in some offices. Some expressed that they believe their own efforts are effective but the citizens may likely feel differently. A few believe their outreach activities have been very effective and have resulted in changes to oversight or the addition of new oversight elements to the PA. Two suggested that the OSM Home Page use a different reader than Adobe to make it more user friendly and more accessible to the general public.

Several responses indicated that OSM is not effective in addressing concerns raised by the public. Two responses suggested that OSM needs to find answers to difficult problems resulting from blasting, loss of water, subsidence damage, coal bed methane, fugitive dust, and mud on public roads, and adopt rules that protect citizens by addressing these problems. One response indicated that problems in the state permitting process and mining in certain areas are not being addressed by OSM. The response stated that in cases where the Field Office does address a problem, the Field Office decision is many times overturned by the regional office. The same response indicated that violations are only written on five percent of the citizens' complaints. Another comment indicated that OSM is not addressing citizens' concerns about the lack of OSM inspections and field presence. A couple comments suggested that OSM management has no strategy to address public concerns and the public has an impression that OSM is not interested in their concerns. Some expressed the public's skeptical feeling about OSM based on past disappointments. One suggested that OSM needs to spend more time to educate the general

public. He or she indicated that OSM is more responsive to industry requests than it is to the citizen in the field.

20. (a) Does your office have an effective means of interacting with citizens or citizens groups in your State(s)? Please explain.

Most responses indicated that their office has some method of interaction with citizens or groups through periodic meetings, mailings, outreach presentations, responding to individual complaints, or simply through telephone calls. Some reported a variety of creative approaches like state fair displays, presentations at schools, e-mail trees, newsletters, and other innovative attempts to further engage the public in OSM oversight. The effectiveness of these means varies widely. Many responses indicated that interest in OSM programs is limited and most interest is expressed by individuals with site-specific problems. Some believe that citizens have given up on OSM due to past disappointment with OSM's response to their concerns, giving OSM a serious credibility problem. Some said that they would welcome more citizen interest in developing the oversight plan.

(b) Are you personally and routinely involved in interaction with citizens or citizen groups for your State(s)? If so, how?

Most respondents reported that they are personally involved in interaction with the public through the citizens' complaint process, conducting and attending outreach meetings, or addressing inquiries. A few indicated that they were not involved since the managers handle most public inquiries and outreach.

21. (a) How are written citizen complaints handled by your Division/Field/Area Office? (For both parts of this question, please address how you give feedback to the citizens and how you give feedback to the system.)

Most responses indicated that written complaints are forwarded to the State with a TDN in accordance with OSM policy. A few indicated that some investigation is conducted to determine if there is reason to believe that a violation exists prior to sending a TDN to the State. A few suggested that OSM finalize changes proposed over the last few years to Directive INE-35 to clearly define the Agency's policy on addressing complaints and issuing TDN's. One commented that the citizens' complaint process is awkward and without clear guidance. Some expressed frustration with OSM's limited ability to directly address citizen complaints due to the arbitrary and capricious standard of review set out by the regulations. Under this standard, OSM usually accepts a State's response even though OSM may have addressed the complaint differently.

(b) How are "oral" citizen complaints handled by your office?

Nearly all responses indicated that oral complaints are referred to the State and/or the complainant is asked to file the complaint in writing.

Training

22. *(a) What skills are necessary to perform your job? (b) What formal educational disciplines or subjects have been the most helpful in the performance of your current job? Please be specific.*

With regard to skills necessary to perform the job, several commenters indicated that knowledge of SMCRA/Federal regulations, other Federal laws; i.e., Endangered Species Act, NEPA, National Historic Preservation Act), and applicable State programs, were required. One mentioned experience as a State inspector. Also, several commenters stated that communication and interactive "people skills" were necessary to do the job. One commenter said that Total Quality Management has led to a strong foundation in consensus building that is essential in oversight.

Regarding formal educational disciplines or subjects that have been most helpful, a number of subjects were identified. They include business, economics, political science (government and law), English (effective writing), basic computer skills, law enforcement, court testimony, safety, scientific research (investigation and analysis), and natural resources and mining technology-related courses (such as blasting, forestry, geology, hydrology, engineering, soil science, silva-culture, underground mining technology). Several commenters cited formal degrees that are helpful. These include Biology, Chemistry, Engineering, Forestry, Hydrology, Geology, and Natural Resource Management.

23. *Do you believe an "oversight workshop" or meeting would help you better administer the new oversight? If yes, please explain what type of training and subjects you would find helpful.*

Most commenters indicated that a workshop would be helpful for a number of reasons, including interaction and exchange of information with peers and State staff, as well as presentation of case studies on documenting field activities, root cause analysis techniques, data collection methodology and consistency (particularly for off-site impacts and reclamation success), electronic permitting and current technology. One commenter suggested an alternative to the oversight workshop is team training to learn how to better resolve problems with State representatives.

24. *Are you interested in training opportunities in areas not directly related to the job you now perform (i.e., "cross-training")? Please explain.*

Most commenters enthusiastically endorsed the concept of cross-training, but there were a few negative responses expressing a belief that the Agency would not really follow through with such training. The majority endorsing the idea indicated that such opportunities have been few and said that cross-training builds a stronger employee. A few suggested exchanges between Title IV and Title V personnel. One commenter said that oversight personnel should be rotated on OSM/State teams on a predictable basis to ensure a well rounded and knowledgeable oversight staff. In addition, this would provide both additional professional challenges and increased job satisfaction. Other suggestions included management training, computer-related training, and formal course

work in local colleges. Several others indicated that a change of location for a limited period would be greatly advantageous for enhancing skills and broadening exposure to other types of mining, as well as for observing how other State programs work and how other Field Offices conduct oversight.

Opportunity at OSM

25. *OSM employees, as a group, are aging, and many will elect to retire within the next 10 to 15 years. How should OSM prepare itself for this change in the area of Title V oversight and how long will such preparation take? Please be as specific as you can.*

Although two commenters said that retirements are a natural phenomenon and the Agency should have little concern about replacing retirees, the majority of respondents indicated that OSM should be preparing for the significant number of retirements in the next few years. To take advantage of its institutional memory and avoid a crisis, OSM should, as vacancies become available, hire well-qualified, recent college graduates with environmental or coal-related degrees for entry grade level positions and train them in several disciplines over a period of time (two to three years) for inspector and program specialist positions. Similarly, some suggested that OSM recruit college level, stay-in-school, and co-op students with the goal of placing them permanently after their graduation. In connection with this approach, several commenters recommended assigning new employees to mentors with similar job descriptions. A few commenters indicated that OSM should rehire any inspectors separated in the 1995 reduction-in-force before hiring new personnel.

A few commenters suggested that one method to fill gaps left by retirement would be to offer interested support staff the opportunity to transition into professional positions. They said that this may involve significant training, but the Agency would reap the benefit of promoting staff who are already knowledgeable of OSM's functions and mission. Due to their belief that many OSM inspectors will retire in the next five to seven - not 10 to 15 - years, a few commenters indicated that OSM should seek relief from the hiring ceiling and hire approximately 20 young people now. As existing staff retire, the number of OSM employees would decrease to that allowed under the current personnel ceiling. Another commenter suggested that the Agency form an "OSM Retirement Association" to draw on as a means of maintaining institutional knowledge and ideas. One other commenter said that OSM should be more flexible about permanent part-time positions.

Other

26. *Are there any other comments you would like to make about how oversight is operating in the States for which you have some oversight responsibility? Please be specific.*

[Note: Comments that address issues directly related to other portions of the questionnaire are incorporated in the relative sections above].

One commenter indicated that employees in an ever-changing world need to be flexible, creative, efficient, and independent and management should support this approach. One commenter said that he or she appreciates the opportunity provided by the Agency to comment on the current oversight. One commenter said that States and industry are generally more receptive to the partnership idea championed by Directive REG-8. Three other commenters said that the current oversight is directly responsible for better, more positive OSM relationships with States and industry. One commenter added that more profound, positive changes have been made in the last two years of oversight than during the previous 13 combined.

Two commenters said that OSM should take action; e.g., withhold grant funds, to prohibit States from implementing program changes before they are submitted to OSM. Two other commenters said in their States that State inspectors unofficially are being told not to cite violations and to yield to political influence and favoritism. As a result, one of these commenters said that State inspectors are relying on OSM inspectors to tell them to write a violation. One commenter said the Agency should abandon the excellence in surface mining awards.

One commenter indicated that OSM should establish a national council for oversight consisting of representatives of citizens at large, environmental groups, industry, other federal agencies, scientific community, and academia. This council would direct how the success of SMCRA would be assessed. A similar comment was made on involving citizens and industry in oversight. One commenter expressed concern about the definition of arbitrary, capricious, and abuse of discretion standard for TDN's.

One commenter expressed a concern about "oversight creep." This commenter indicated that there is a concern that OSM may start to "creep" back to the old method of oversight. He or she suggested that OSM management needs to strongly support and continually promote the current approach and highlight the resulting successes.



United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Washington, D.C. 20240

APR 23 1998

A Message on Oversight

As you know, in January of 1996, OSM released a new version of Directive REG-8, "Oversight of State Regulatory Programs" which establishes the policies and procedures and responsibilities for conducting oversight of State regulatory programs. However, before its implementation, this new policy already had a long history.

Briefly, in 1993 Vice President Gore initiated a strategy called "Reinventing Government." Out of that strategy came the National Performance Review (NPR) in which it was recommended that the Office of Surface Mining (OSM), in consultation with State mining regulators, develop national standards of excellence for regulatory and abandoned mine land programs, establishing goals, performance measures and a process for evaluation of effective performance.

During that same year, Secretary Babbitt appointed an Interim Management Team to direct OSM in the absence of a confirmed director. It also was part of the Team's mission to identify common ground between the diverse interests of OSM stakeholders and to recommend organizational changes consistent with the NPR goals for the Department and the focused mission of OSM to enforce the law. The Team in late 1993 and early 1994 conducted extensive interviews of OSM employees, citizens, environmentalists, States and industry. These interviews confirmed a broad-based consensus for change and gave rise to specific recommendations for the agency oversight policy.

As a result, a State-Federal Oversight Team was created and charged with designing a plan to implement OSM's goals and objectives for oversight, including the development of specific criteria on which to judge State program performance. Building upon direction from the NPR and the work of the Interim Management Team, the Oversight Team created the results-oriented oversight policy released in 1996.

Since the release of OSM's new oversight policy, there have been several opportunities for interested parties to comment on the nature and success of the oversight directive. Comments from all OSM stakeholders were solicited in early 1997 and another opportunity was provided for input from the States and OSM Field Offices in May of that year.

Drawing on the success of the Interim Management Team approach of interview and feedback, we completed Phase I of a review of OSM's oversight policy (the first year of implementation), and I am now directing that we proceed with Phase II as described in the attached plan. This second phase contains a number of different activities designed to collect input from internal and external customers, and when I say "internal," I specifically wish to hear from our front line of oversight - our inspectors and other involved regulatory staff. I encourage all of you to share your experiences and comments with the interviewers who will soon be coming to the field. After we assess the input and determine the need for any refinement of Directive REG-8, we'll communicate our findings to all those affected by or interested in the outcome.

And, again, thank you for your commitment to the successful implementation and improvement of OSM's oversight program.



Kathy Karpan
Director

Attachment

April 23, 1998

Oversight - Plan for Review, Feedback, Refinement and Communication

Plan Objective: OSM is committed to the oversight policy as articulated in Directive REG-8. Building upon this commitment, we are dedicated to continued stakeholder involvement in assessing the results of that policy. Toward this end, and consistent with the Government Performance and Results Act, we are conducting an internal review of the implementation of the new oversight policy. This review will be followed by an outreach phase involving input from internal and external customers, an assessment of that input and the need for any refinement to Directive REG-8, and communication of our findings to all those affected by or interested in the outcome.

Action	Time frame for Completion
<p>Phase I - Implementation Review</p> <p><i>Evaluate outcomes of new oversight policy during its first year of implementation (1996).</i></p>	<p>Completed November 1997</p>

April 23, 1998

Action	Time frame for Completion
<p>Phase 2 - Outreach Efforts</p> <p><i>Step 1. <u>Plan Approval</u></i></p> <p>A. <i>Director approves plan for Phase 2 of review and communicates content to State organizations.</i></p> <p>B. <i>Director announces plan to public (press release)</i></p>	<p>April 24</p> <p>April 30</p>

April 23, 1998

Action	Time frame for Completion
<p>Step 2. <u>Feedback - Internal</u></p> <p>A. <i>Meet with all OSM inspectors and other field staff involved in oversight.</i></p> <ul style="list-style-type: none">• A team of OSM members from the Oversight Steering Committee visits every Field Office/Division and Area Office to hear firsthand the successes and problems our regulatory field staff are experiencing with Directive REG-8 and to answer questions about implementation of the Directive.• Team reports the results of these discussions to the Director. <p>B. <i>Review of performance agreements between each Field Office and its States.</i></p> <ul style="list-style-type: none">• Each Field Office, through its Region, provides the list of items contained in the performance agreements it has developed with each State for the current oversight year to Program Support. This assists the Director in preparing for meetings with citizen, environmental, industry and State groups and provides an overall sense of the types of oversight activities that are being conducted in the States.• Each Field Office, through its Region, provides its current performance agreements to the Office of Communications for placement on the OSM Home Page.• Each Field Office, through its Region, provides a written report providing the status of each item in every performance agreement to Program Support. (The written report consists of one or two sentences for each item in the performance agreement.)	<p>May-June</p> <p>May 1</p> <p>May 1</p> <p>September 1</p>

Action	Time frame for Completion
<p>Step 3. Feedback - External</p> <p><i>Conduct outreach within each State and invite public and other interested parties to provide input into the development of FY 1999 performance agreements.</i></p> <ul style="list-style-type: none"> ● Each Field Office solicits comments from the public and interested parties regarding the oversight process, recommendations for review topics for the evaluation year, and suggestions for improvements of future annual reports. Where meetings are scheduled, the Director will select some to attend, as schedule permits. ● Each Field Office, through its Region, provides a brief report on the results of the outreach effort to Program Support for the Director. 	<p>July - September</p> <p>October 1</p>
<p>Step 4. Refinement</p> <p><i>Determine whether Directive REG-8 needs any refinement in future evaluation years.</i></p> <ul style="list-style-type: none"> ● Team (from Step 2-A) evaluates input from previous steps and prepares report. 	<p>early FY 1999</p>

April 23, 1998

Action	Time Frame for Completion
<i>Step 5. Communication</i>	
A. <i>Director communicates Phase 2 outreach findings internally and externally.</i>	FY 1999
B. <i>Conduct pilot of training course, "SMCRA in the 21st Century," to include input as appropriate from previous steps.</i> <ul style="list-style-type: none">• <i>Target audience: State and OSM managers, program and inspection staff, and members of industry, environmental and citizen groups.</i>• <i>The course objective is, among other things, to develop a common understanding of the relationship of SMCRA, CPERA and oversight.</i>	FY 1999

**Oversight and Related Issues
Outreach Interview Questionnaire**

Appendix II

General

1. (a) What is OSM's mission? (b) Is it different now than it was in 1978? (c) If so, how do you believe it is different and why?

2. How would you characterize industry's compliance with the coal regulatory program - (a) in the first year you worked in a Title V position (specify the year)? (b) today? (c) To what would you attribute any changes you have noted?

3. Consider the State(s) for which you currently have some oversight responsibility. How would you describe the State's/States' approach to regulation of the coal industry - (a) when you first began to work with that State in an OSM Title V position (specify the year)? (b) now?

Oversight - Definition/Concept

4. (a) What is **your** definition or concept of "oversight" as it applies to a primacy State's coal regulatory program? (b) What do you believe is **OSM's** definition or concept of "oversight" as it applies to a primacy State's coal regulatory program? (c) If these definitions or concepts of "oversight" differ, please explain the difference.

5. As part of the oversight of a State regulatory program, please list the type of activities that - (a) your Division/Field/Area Office undertakes, and (b) you undertake. (c) Has the current oversight policy (Directive REG-8) affected the activities you or your office undertake as part of oversight, and, if your answer is "yes," please explain.

6. Do you believe that your office should be performing more or different oversight activities than currently are being performed? If yes, (a) what change(s) would you make and why and (b) for which State?

7. Do you believe that your office should be performing fewer oversight activities than currently are being performed? If yes, (a) what change(s) would you make and why and (b) for which State?

8. What will OSM oversight look like in 5-7 years? Please be specific.

Oversight - Implementation, General

9. How well do you believe your Division/Field/Area Office is handling oversight in its State(s)? (Please address any effect the guidance contained in the current Directive REG-8 has on your answer.)

10. With regard to the current Directive REG-8 - (a) what aspects do you like? (b) are there any aspects you would change? Please explain your answers.

11. Assuming no significant increases or decreases in OSM staffing over the next five years, would you make any changes in the way your Division/Field/Area Office handles oversight? If you answer "yes," what changes do you recommend?

12. Are there any areas where additional work with the State(s) is needed but cannot be accomplished under the current oversight guidance? If yes, what are those unmet needs (be specific, e.g., more training on ..., clearer policy on).

13. How should the Oversight Steering Committee handle any recommendations for future refinements to Directive REG-8?

Performance Agreements

14. Please explain your understanding of the purpose of performance agreements between OSM and the primacy States.

15. Are there signed performance agreements in place for the State(s) for which you personally have some oversight responsibility [please identify the State(s)]?

16. If performance agreement(s) either do not exist or are not signed (please indicate which is the correct), does this impact the implementation of oversight with that State [please identify the State(s)]? If yes, please explain.

17. (a) How are the items/elements to be included in performance agreement selected? (b) Can the performance agreement be modified during the evaluation period (i.e., how binding is it, or, how easy is it to change?) (c) Did you have an opportunity to participate in the development of the performance agreements for the State(s) for which you have some oversight responsibility [please identify the State(s)]? If you answered "yes," please explain your role in developing the performance agreement(s). (d) (For multi-State offices) Does the process by which items/elements are selected differ significantly from State to State?

18. How are performance agreements working in the State(s) for which you personally have some oversight responsibility?

Citizen Participation/Complaints

19. Do you believe that the oversight process being implemented by your office is effective in addressing concerns raised by the public? Please explain. *(More answer space on next page)*

20. (a) Does your office have an effective means of interacting with citizens or citizens groups in your State(s)? Please explain. (b) Are you personally and routinely involved in interaction with citizens or citizen groups for your State(s)? If so, how?

21. (a) How are written citizen complaints handled by your Division/Field/Area Office? (b) How are "oral" citizen complaints handled by your office? (For both parts of this question, please address how you give feedback to the citizens and how you give feedback to the system.)

Training

22. (a) What skills are necessary to perform your current job? (b) What formal educational disciplines or subjects have been the most helpful in the performance of your current job? Please be specific.

23. Do you believe that an "oversight workshop" or meeting would help you better administer the new oversight? If yes, please explain what type of training and subjects you would find helpful.

24. Are you interested in training opportunities in areas not directly related to the job you now perform (i.e., "cross-training")? Please explain.

Opportunity at OSM

25. OSM employees, as a group, are aging, and many will elect to retire within the next 10 to 15 years. How should OSM prepare itself for this change in the area of Title V oversight and how long will such preparation take? Please be as specific as you can.

Other

26. Are there any other comments you would like to make about how oversight is operating in the States for which you have some oversight responsibility? Please be specific.

Preparer Information

Name (optional) _____

Field Office _____

Position (optional) _____

Number of years working in OSM's Title V program _____

**Implementation Plan for the Recommendations Contained in the Report of the OSM
Oversight Outreach Team**

Finding 1: *There are diverse opinions among OSM field staff on the basic concept of "oversight."*

A. The Team recommends revising Directive REG-8 to reaffirm that the responsibility for prevention of environmental concerns or protection of the public lies primarily with the States, and that OSM's oversight role is to monitor and report, and assist the States in implementing their responsibilities.

By January 30, 1999 - The Oversight Steering Committee (OSM & State members) will meet to discuss this recommendation and to develop proposed language for revising Directive REG-8.

By June 1, 1999 - The Oversight Steering Committee will provide proposed revisions to Directive REG-8 to the OSM Director and Management Council.

By August 1, 1999 - The Director will issue the revised directive.

B. The Team recommends revising Directive REG-8 to affirm that one objective of oversight is to measure success in terms of incremental improvements in State programs and/or success in solving identified problems.

Same schedule and action as Recommendation 1A.

C. The Team recommends that the OSM Management Council meet with the Oversight Steering Committee periodically to discuss oversight and its implementation.

By June 1, 1999 and On-going - The Oversight Steering Committee will brief the OSM Management Council on proposed changes to Directive REG-8 and discuss oversight implementation in general.

D. The Team recommends that OSM's Management Council conduct regional and/or national meetings or workshops that provide a forum to promote and support the exchange of ideas and experiences with oversight. Such meetings should include OSM and State participants.

By June 30, 1999 - The Assistant Director, Program Support will develop a pilot training course recommended by the OSM National Technical Training Steering Committee to address a broad spectrum of topics including program evaluation, GPRA, reporting results, measurements, etc.

During FY 1999 and On-going - Regional Directors will conduct meetings, workshops,

or seminars that include field staff responsible for oversight to reaffirm and advance the Agency's oversight objectives and to continually improve the Regions' implementation of oversight as provided by Directive REG-8.

Finding 2: *There is a need for flexibility to design and implement oversight work plans and performance agreements based upon State-specific conditions.*

The Team recommends that Directive REG-8 continue to provide for a flexible approach to accomplishing oversight.

No action required.

Finding 3: *Field staff with a higher degree of involvement in planning and conducting oversight activities have a greater acceptance of OSM's oversight policy.*

The Team recommends that the OSM Management Council consider developing and implementing a plan that provides for cross-training within and between Field Offices and/or job titles to reduce isolation, enhance intra-office and Agency-wide communication and maximize the use OSM makes of its oversight personnel.

On-going - There are currently national and regional efforts underway concerning succession planning that include a component of cross-training opportunities for OSM employees. The Management Council will continue its current efforts on succession planning.

Finding 4: *The relationship between OSM and the States has improved under the current oversight, resulting in better State programs.*

The Team recommends that OSM's Management Council continue to strongly support cooperative working relationships between its field staff and the States in planning and conducting oversight activities.

By October 30, 1998 - The Director will release the Team's report including a message to the staff. The message will reaffirm the agency's oversight policy expressed in Directive REG-8.

Finding 5: *There are several opinions as to the role inspections play in oversight.*

The Team recommends that the Oversight Steering Committee consider changes to Directive REG-8 that clarify the role of inspections in the oversight process to make it clear that inspections should meet specific objectives of the Field Office's oversight plan.

Same schedule and action as Recommendation 1A.

Finding 6: *There is a concern about inconsistency in data collection and reporting.*

The Team recommends that the Oversight Steering Committee evaluate data collection methodologies used by the various OSM offices to report off-site impacts and reclamation success and prescribe a more standardized method through revisions to Directive REG-8.

Same schedule and action as Recommendation 1A.

Finding 7: *OSM's outreach efforts to garner public input into the oversight process has had limited success.*

The Team recommends that Field Offices share outreach plans and results so that the more effective methods of outreach can be used and improved by other offices.

By December 1, 1998 - The Regional Directors will request Field Office Directors to identify and share with other Field Offices any specific outreach activities or methods that have been particularly effective or ineffective in obtaining input from the public on the oversight conducted or planned in their individual states.

By February 1, 1999 - Regional Directors will provide the results from this internal communication to the Assistant Director, Program Support to provide to the Oversight Steering Committee for consideration in making improvements to Directive REG-8.

Finding 8: *There is frustration over OSM's lack of a direct role in resolving citizen complaints.*

OSM should clarify its policy for addressing citizen complaints.

By March 31, 1999 - The Assistant Director, Program Support will review comments and complete another draft of Directives INE-35 and INE-24 and distribute for internal and external comment.

Finding 9: *OSM needs to prepare for the upcoming retirement of a large number of its employees.*

The Team recommends that OSM's Management Council, as part of its succession planning, continue in the current direction to recruit, hire, and train well-qualified individuals for entry grade level reclamation and program specialist positions. In addition, field managers and supervisors should afford opportunities to support staff to transition into these positions.

On-going - The Management Council will continue its current efforts on succession planning.