

BUSINESS LINE: ENVIRONMENTAL PROTECTION

		FY 2000 Enacted	Uncontrollable Costs	Program Change	FY 2001 Request	Difference from FY00
Regulation & Technology	\$\$\$	72,049	852	541	73,442	1,393
	FTE	248	1	0	249	1
Abandoned Mine Land	\$\$\$	0	0	0	0	0
	FTE	0	0	0	0	0
TOTAL	\$\$\$	72,049	852	541	73,442	1,393
	FTE	248	1	0	249	1

Operational Processes (Program Activities): Program activities within this business line ensure that the environment is protected during surface coal mining operations and that coal operators

GOAL #2: IMPROVE OSM'S REGULATORY PROGRAM FOR PROTECTING THE ENVIRONMENT, PEOPLE AND PROPERTY DURING CURRENT MINING OPERATIONS AND SUBSEQUENT RECLAMATION THROUGH COOPERATIVE RESULTS - ORIENTED OVERSIGHT AND EVALUATION OF STATES' PROGRAMS, AND IN CARRYING OUT OSM'S REGULATORY RESPONSIBILITIES - IN ORDER TO SAFEGUARD PEOPLE AND THE ENVIRONMENT.

adequately reclaim disturbed land after mining is completed. This business line also provides for OSM's costs to ensure that States' programs are current with all Federal regulatory requirements. The State and Tribal Funding program activity includes grants to States to regulate coal operations on their lands. When a cooperative agreement exists, this activity also includes grants to States to regulate coal operations on Federal lands. Finally, this activity includes grants to Tribes to develop regulatory programs and to assist OSM in the regulation of surface coal mining and reclamation operations on Tribal lands. State Program Evaluation funds OSM's oversight of State programs. The Federal Program funds OSM activities to ensure SMCRA compliance for non-primacy States (States without an approved regulatory program). The Federal Lands program activity funds OSM's activities in preparing Mining Plan Decision Documents for leased Federal coal as well as any regulatory activities on Federal Lands not covered by a

cooperative agreement. The Indian Lands program activity funds OSM's regulatory responsibilities on Indian Lands.

Strategic Outcome: The protection of the environment and public from off-site impacts resulting from surface coal mining operations; and successful reclamation on lands affected by surface coal

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mining operations.

Indicator Measure(s): *Strategic Goals and Measures for 2002 are provided to put in perspective (provide linkage to) the 2001 Annual goals. Those goals and activities that are accomplished through the Surface Mining Program (SMP) include the cooperative efforts of the Office of Surface Mining and State regulatory offices. Those goals and activities that are accomplished by the Office of Surface Mining are measurements of OSM's program results.*

Table 5: Strategic Measures and FY 2000 Measures	1999 Actual	2000 Enacted	2001 Estimate	Annual Perf Goals
<p><i>By 2002, OSM will provide regulatory grants and award funds within 60 days of receipt of a complete application in accordance with its customer service standards.</i></p> <ul style="list-style-type: none"> • In FY 2001, OSM will provide 93% grants and award funds within 60 days. 	85%	93%	93%	2.1
<p><i>By 2002, the SMP will increase the percent of mine sites that are free of off-site impacts (based on the number and severity) to protect the environment and public from current mining.</i></p> <ul style="list-style-type: none"> • In FY 2001, SMP will increase the percent of sites that are free of off-site impacts (based on the number and severity) to protect the environment and public from current mining to 95% (baseline FY 1997). 	94%	94%	95	2.2
<p><i>By 2002, the SMP will report the number of acres released from Performance Bonding Phases I & II in order to show the progression of permitted acreage being reclaimed.</i></p> <ul style="list-style-type: none"> • In FY 2001, the SMP will report 170,000 acres released from Performance Bonding Phases I & II. 	102,820	160,000	170,000	2.3
<p><i>By 2002, the SMP will increase the number of acres reclaimed as measured by the release from Phase III Performance Bonds, while encouraging more timely request of Phase III bond release by operators.</i></p> <ul style="list-style-type: none"> • In FY 2001, the SMP will increase the number of acres reclaimed as measured by the release from Phase III Performance Bonds to 110,000, while encouraging more timely request of Phase III bond release by operators. 	75,532	100,000	110,000	2.4

Data Verification and Validation for Measures: The overall goal of the regulatory program is to minimize off-site impacts, including problems that may affect persons or property beyond the permit area. Examples of off-site impacts include hydrological problems that affect a nearby property owner's water supply, damage to property from blasting on the mine site, land stability, sedimentation, Acid Mine Drainage (AMD), and mining off of the permit area. All off-site impacts observed are evaluated in terms of severity and included in State program and other evaluation reports. The indicator and measure will be the number of incidents involving off-site impacts that are investigated, documented, and verified. Progress under this goal will be measured by

comparisons over time of the number and severity of off-site impacts.

The overall status of reclamation of mined lands will be determined by reporting the number of acres that are released from Phase I and II bonds, and the number of acres of mined land released from Phase III. Data collected will be derived from agency program systems and the performance agreement elements negotiated with the States. Most of the data is established in accordance with an agency policy directive, which was developed in cooperation with the States.

Actions Required to Achieve Annual Goals: OSM will expand its outreach to address concerns related to mountaintop removal operations, to evaluate its rules, to advance remaining efforts, and to ensure that contemporaneous reclamation is occurring.

Resources, Skills, and Technology Needed: Program analysts, grant specialists, and other support personnel are needed to implement the State regulatory grants program and to conduct program evaluations. OSM and the primacy States will continue to need a diverse and multi-disciplinary cadre of personnel skilled in scientific and engineering areas to review mine permits, determine whether performance bond coverage and amounts are sufficient to ensure reclamation, conduct mine site inspections, and implement enforcement actions when necessary. Computer systems personnel are needed to help maintain various data systems such as the National Mine Site Evaluation and Inspection Reporting System, which contains data from OSM's oversight and regulatory program inspections.

In FY 2001, OSM requests \$52.7 million to fund twenty-four State regulatory programs at the maximum 50 percent Federal match level. Additionally, this amount will provide full funding for thirteen Federal lands cooperative agreements with States, and full funding of four Tribal regulatory program development grants.

In FY 2001, OSM requests \$7.6 million to continue its State program oversight activities; \$5.0 million to fund regulatory programs in non-primacy States like Arizona, Tennessee and Washington. The FY 2001 Budget requests \$1.4 million for OSM to regulate Federal Lands. OSM \$2.2 million for regulatory programs on Indian Lands and \$4.5 million for program development and maintenance to ensure that regulatory standards adequately reflect changes in technologies and program needs.

The following section details, by program activity, the funding and FTE resources required to meet the annual performance measures. It also includes examples of cooperative work between OSM, States, and Tribes to regulate coal mining activities.

**Table 6 - Justification of Program and Performance
Environmental Protection
Summary Increases/Decreases for FY 2001
(Dollars in Thousands)**

Program Activity	Regulation & Technology		Abandoned Mine Lands		Total		Inc/Dec	
	2000	2001	2000	2001	2000	2001		
State and Tribal Funding	\$\$\$	52,156	52,697	0	0	52,156	52,697	541
	FTE	0	0	0	0	0	0	0
State Program Evaluation	\$\$\$	7,321	7,634	0	0	7,321	7,634	313
	FTE	91	91	0	0	91	91	0
Federal Programs	\$\$\$	4,808	5,015	0	0	4,808	5,015	207
	FTE	60	60	0	0	60	60	0
Federal Lands	\$\$\$	1,341	1,400	0	0	1,341	1,400	59
	FTE	17	17	0	0	17	17	0
Indian Lands	\$\$\$	2,157	2,239	0	0	2,157	2,239	82
	FTE	24	24	0	0	24	24	0
Program Dev/Maint	\$\$\$	4,266	4,457	0	0	4,266	4,457	191
	FTE	56	57	0	0	56	57	1
TOTAL	\$\$\$	72,049	73,442	0	0	72,049	73,442	1,393
	FTE	248	249	0	0	248	249	1

ONGOING PROGRAM

1. State and Tribal Funding

a. State Grants

Twenty-four States have approved permanent regulatory programs (primacy) for the regulation of coal mining activities. Primacy States have the most direct and critical responsibilities for conducting regulatory operations. The States have the unique capabilities and knowledge to regulate the lands within their borders. Providing a 50 percent match of Federal funds to primacy States in the form of Administration and Enforcement (A&E) Grants results in the highest benefit and the lowest cost to the Federal Government. If any State relinquished primacy, OSM would have to hire sufficient numbers and types of Federal employees to implement the program. The cost to the Federal government would be significantly higher.

b. State Regulatory Activities

Activities of State regulatory authorities include: permit review and issuance, (with reliance on the Applicant Violator System (AVS) to ensure that permits will not be issued to operators with outstanding violations); inspection and enforcement; designation of lands unsuitable for mining; and administration of bonding and bond release programs for reclamation of lands after mining. In addition, special activities are conducted by individual States to address specific needs. These activities may include expanding permitting programs, computerizing systems to improve review of pending permits, and drafting regulations that respond to changes in Federal rules.

All active and inactive sites, facilities, and areas in support of coal mining and reclamation within a State are inspected by the State regulatory authority (SRA) for compliance with all program requirements. SMCRA requires all active inspectable units under the permanent program to have four complete and eight partial inspections per year. Four complete inspections are required annually for all inactive units.

c. Cooperative Agreement Funding

States which have cooperative agreements with OSM review and issue permits and conduct the required inspections of regulated facilities on Federal lands. Cooperative agreements provide for uniform enforcement of State program requirements at all facilities within the State and reduce both direct Federal program costs and Federal staff requirements. SMCRA section 705 (c) sets the amount that a State may receive through a cooperative agreement as up to 100 percent of the amount that the Federal Government would have to spend to do the same work.

Currently, the following thirteen States have entered into cooperative agreements with OSM to administer most surface coal mining requirements on Federal lands: Alabama, Colorado, Illinois, Indiana, Kentucky, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Virginia, and Wyoming.

d. Tribal Regulatory Development Program Grants

As allowed by the Energy Policy Act of 1992 and SMCRA Section 710(i), OSM has provided grants to the Crow, Hopi, Navajo, and Northern Cheyenne tribes to assist them in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands. The grant amounts are based on each Tribe's anticipated workload to develop Tribal regulations and SMCRA program policies, to assist OSM with surface coal mine inspections and enforcement (including permitting activities, mine plan review, and bond release), and to sponsor employment training and education in the area of mining and mineral resources. These grants fund 100 percent of the Tribal primacy development activities.

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Table 7 - Fiscal Year 2001 State & Tribal Regulatory Funding Estimates (Federal dollars only)

The figures below are based on estimates provided by the States as of June 1999; these figures were then proportionately adjusted to achieve the budget target level. These amounts represent 50% of the costs to regulate surface coal mining on non-federal lands (the Federal share) and 100% of the costs on Federal lands. Final estimates will be based on historical expenditures, justifications by the States, and OSM evaluations.

STATE/TRIBE	NON-FEDERAL LANDS	FEDERAL LANDS	TOTAL
Alabama	1,009,712	13,085	1,022,797
Alaska	163,836	0	163,836
Arkansas	165,786	0	165,786
Colorado	490,871	1,354,508	1,845,379
Illinois	2,177,508	81,781	2,259,289
Indiana	1,790,102	0	1,790,102
Iowa	149,085	0	149,085
Kansas	109,476	0	109,476
Kentucky	12,354,975	380,238	12,735,213
Louisiana	176,727	0	176,727
Maryland	515,028	0	515,028
Mississippi	115,209	0	115,209
Missouri	401,964	0	401,964
Montana	162,382	706,887	869,269
New Mexico	329,389	228,897	558,286
North Dakota	254,450	197,906	452,356
Ohio	1,483,044	0	1,483,044
Oklahoma	862,541	307,944	1,170,485
Pennsylvania	11,867,556	0	11,867,556
Texas	1,247,406	0	1,247,406
Utah	231,165	1,250,037	1,481,202
Virginia	3,004,597	3,512	3,008,109
W. Virginia	7,054,986	0	7,054,986
Wyoming	245,543	1,145,867	1,391,410
<i>Tribal Funding</i> Crow, Hopi, No. Cheyenne Tribes & Navajo Nation	663,000	0	663,000
TOTALS	\$47,026,338	\$5,670,662	\$52,697,000

2. State Program Evaluation

a. Oversight Strategy

OSM's current oversight strategy (as revised in FY 1996) focuses on whether the public protection requirements and environmental protection standards of SMCRA are being met with primary focus on end results and the on-the-ground success of States in meeting SMCRA's environmental protection goals. These include prompt and effective reclamation of coal mine land, and public participation in the regulatory program. This approach is consistent with the Government Performance and Results Act.

OSM and the States have experienced a more positive attitude and spirit of cooperation with the current strategy. In FY1999, OSM used information obtained from outreach to make minor changes to its oversight policies. The revised policies, which were implemented in FY 2000, clarify OSM's objectives and responsibilities in conducting oversight.

b. OSM-State Performance Agreements

OSM's oversight directive outlines the performance agreement as a framework for OSM and the State to agree on a plan to conduct oversight activities, and to this end, the performance agreement concept works. The performance agreement also maintains and improves the relationship between OSM and the State. Efforts are made to prepare workable agreements. Improved relationships, shared responsibilities, growing interest in joint reviews, and a more open discussion of difficult issues are achieved through this process.

Inspections are identified in performance agreements and are planned and conducted to collect data relative to the oversight directive and the annual evaluation report. Many reviews are designed to investigate some previously-identified areas of concern. Inspections often are the means to collect the data. Joint inspections provide the opportunity for OSM's field offices to work cooperatively with the States and industry to resolve problems.

c. Public Participation

OSM's oversight directive provides great flexibility to conduct oversight activities in a manner consistent with the needs of individual State programs. Central to identifying potential needs and oversight topics are the views of the public. Periodic meetings are held by our Field Offices to identify public concerns regarding coal mining regulatory programs.

d. Oversight Inspections

SMCRA requires the Secretary to conduct mine inspections to evaluate the administration of State programs. Inspections are conducted on a range of sites from those actively producing coal to forfeited bond sites awaiting reclamation. OSM's policy is to allow its regional and field managers discretion and flexibility to stratify and selectively target their inspections to focus on those topics

and activities that present the best opportunity for environmental improvement or the best means of evaluating the impact of program implementation on society and the environment. For example, inspections may focus on high-priority problems such as acid mine drainage and other problem areas, as well as current coal mining operations, and abandoned mine sites awaiting reclamation. This policy provides the most effective use of available resources.

Consistent with the intent of SMCRA that States take the lead in regulatory programs, the vast majority of inspections were performed by the States: about 99,000 in 1999. In contrast, OSM conducted just over 2,500 inspections in primacy States.

The projected FY 2001 oversight inspection workload includes an estimated 2,500 program evaluation inspections. The actual number will be adjusted depending on the program areas, the presence or absence of problems, input from the public, and the terms of the performance agreements in each State.

e. Ten Day Notices

The primary emphasis of inspections is to identify and resolve problems and to evaluate whether SMCRA's environmental protection and reclamation goals are being achieved. When an inspection reveals violations of State programs (other than imminent danger of significant environmental harm or danger to the public which requires immediate issuance of a cessation order), a Ten-Day Notice (TDN) is issued to the State. All such notices require written responses from the State regarding the actions taken to resolve the alleged violations or a statement of good cause for not taking such action. A Federal inspection is conducted following a TDN where the State does not act or show good cause for not doing so. If the inspection shows that a violation exists, and the State fails to take appropriate action, a Federal enforcement action may be taken. While OSM does not second-guess States on judgment calls, the agency's ability to take enforcement actions to address isolated State program violations is far less drastic, disruptive, and costly than a Federal takeover.

The inspection component also includes the process for addressing citizen requests for Federal inspection. Citizen requests received by OSM in primacy States are referred directly to the SRA unless there is evidence that imminent danger of significant environmental harm or immediate danger to the public exists. In such cases, OSM will immediately conduct a Federal inspection. The State official and citizen requestor will be notified prior to the inspection and given the opportunity to accompany the inspector when a Federal inspection is conducted.

In FY 1999, OSM issued 116 TDNs to States. In almost every case, the State took appropriate action to cause the violation to be corrected.

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Table 8 provides FY 1999 data on the number of State and OSM oversight inspections conducted in Primacy States.

Table 8 - FY 1999 Primacy State and OSM Inspections				
	<i>STATE</i>			<i>OSM</i>
	Partial	Complete	Total	Total
Alabama	452	3,213	3,665	130
Alaska	69	32	101	3
Arkansas	123	71	194	13
Colorado	382	250	632	19
Illinois	3,011	1,172	4,183	133
Indiana	2,420	1,095	3,515	145
Iowa	224	112	336	33
Kansas	109	65	174	17
Kentucky	15,177	9,699	24,876	724
Louisiana	25	8	33	2
Maryland	496	257	753	29
Mississippi	9	4	13	4
Missouri	130	134	264	50
Montana	197	89	286	15
New Mexico	180	60	240	9
North Dakota	565	164	729	16
Ohio	2,404	1,882	4,286	167
Oklahoma	568	376	944	40
Pennsylvania	13,509	8,410	21,919	493
Texas	221	97	318	16
Utah	205	113	318	9
Virginia	3,476	3,770	7,246	233
West Virginia	13,579	9,901	23,480	232
Wyoming	303	159	462	10
Total	57,834	41,133	98,967	2,542

3. Federal Programs

This program activity regulates coal mining activities in non-primacy States (those with a Federally-administered regulatory program). Within this program activity, OSM implements a full regulatory program including a considerable permitting workload. Significant components of this regulatory program include review of permit applications (including preparation of any necessary NEPA compliance documents), determining performance bond amounts, inspection and enforcement (including civil penalty assessment and collection), release of performance bonds, reclamation of bond forfeiture sites, and processing petitions to designate lands as unsuitable for mining.

The permit review process in federally-administered programs consists of review of the permit application package for administrative completeness, technical review, preparation of findings and supporting documentation, and environmental analysis. Review times varies depending on the complexity of a permit application, the size of the mine, and the response times from applicants in submitting additional information required to process the permit application.

Tennessee is the largest Federal program in terms of the number of permits. Other Federal programs with current or projected regulatory activity include Arizona, Georgia, and Washington, with the bulk of that activity in Washington. Programs also are in place for California, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, and South Dakota. The following bullets highlight key characteristics of the Georgia, Tennessee, and Washington Federal programs:

- Tennessee: In Tennessee there are 153 active minesites, 27 inactive sites, and 184 abandoned sites.

OSM is currently processing a petition to designate the watershed and viewshed of Fall Creek Falls State Park and Natural Area in Van Buren and Bledsoe Counties as unsuitable for all types of surface coal mining operations. The petition area includes approximately 66,869 acres and an estimated 137 million tons of recoverable coal.

OSM has discussed the possible return of primacy to Tennessee with State officials on numerous occasions over the years. The primary barrier is cost. Given the relatively low level of coal production, Tennessee believes that operation of an effective regulatory program would be too expensive. The Tennessee coal industry determined that a tax of \$0.30 per ton of coal mined (assuming an annual production of 3.5 million tons) would be necessary to generate the revenues needed to provide the matching funds required for Federal regulatory program grants to primacy States.

- Washington: The Centralia Mine in Washington produces about five million tons of coal annually and will affect some 8,100 acres of land within a 14,200-acre permit area during the 41-year life of the mine.

- Georgia: This State has no active coal mining, only a few abandoned minesites:

Table 9 provides inspection and enforcement data for Federal program States during 1999.

Table 9 - FY 1999 Federal Program States Inspection / Violation Data							
STATE	INSPECTIONS			NOV's		FTA CO's	
	COMPLETE	PARTIAL	TOTAL	ACTIONS	VIOLATIONS	ACTIONS	VIOLATIONS
Georgia	6	1	7	0	0	0	0
Tennessee	1,026	1,095	2,121	14	16	7	14
Washington	7	16	23	2	2	0	0
TOTALS	1,039	1,112	2,151	16	18	7	14

4. Federal Lands Program

This program activity includes direct OSM regulatory activities on Federal lands in States without cooperative agreements, implementing cooperative agreements with primacy States to regulate coal mining on Federal lands within their borders, preparing of Mining Plan Decision Documents under the Mineral Leasing Act, and processing valid existing rights claims that involve certain Federal Lands. This involves consultation and coordination with State Historic Preservation Offices, the U.S. Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), U.S. Forest Service (USFS), and National Park Service (NPS). The processing of Mining Plan Decision Documents constitutes the largest part of the workload under this program activity.

Table 10 provides Projected Mining Plan Decision Document workload data.

Table 10 - Projected Mining Plan Decision Document Workload on Leased Federal Coal, by Fiscal Year		
Mining Plans and Modifications		
Activity	FY 2000	FY 2001
In progress prior FY	11	10
Anticipated current FY	17	13
Total FY Workload	28	23
Completed in FY	18	11
Balance, end of FY	10	12

This program activity also provides support to BLM and USFS in leasing activities that involve Federal coal resources. OSM participation in NEPA compliance analyses prepared at the leasing stage ensures the consideration of OSM permitting or mine plan approval concerns. This cooperative effort saves mining companies valuable time in the leasing and mine plan approval process; it also may result in improved resource recovery. In addition, satisfactory evaluation of the environmental impacts of coal mining in the proposed lease area at the time of leasing can reduce the likelihood of a need for a subsequent EA or EIS for mining plan approval under SMCRA.

5. Indian Lands Program

OSM is responsible for coal mining and reclamation activities on Indian lands. The Indian lands program includes permit application review, determination of performance bond amounts, inspection and enforcement, bond release, and maintaining a staff to coordinate with the individual Tribes and other Federal agencies, as necessary.

The Crow, Hopi, Ute Mountain Ute tribes and Navajo Nation have coal mining activities on their lands. The Black Mesa/Kayenta mining complex involves Navajo coal beneath Navajo surface, and coal jointly owned by the Navajo Nation and the Hopi Tribe, most of which is beneath Navajo surface. There also are several mines on Navajo lands in northwest New Mexico, some of which are no longer actively producing coal. There is one mine in Montana, mining coal owned by the Crow Tribe, and one in Colorado with two permits on lands owned by the Ute Mountain Ute Tribe. The Crow and Northern Cheyenne tribes are evaluating coal properties for future development. The Indian lands mines are among the Nation's largest and together have about 100,000 acres under permit.

OSM coordinates closely with Indian Tribes. The Federal trust responsibility is a legal obligation under which the United States has charged itself with moral obligations of the highest responsibility and trust toward Indian tribes. OSM ensures that the lands and trust resources of Federally-recognized Tribes and their members are identified, conserved and protected. In fulfilling these responsibilities, OSM operates within a government-to-government relationship with Indian tribes. To aid in meeting trust responsibilities, OSM, BIA, BLM, and MMS sponsor a continuing Indian Trust and Obligation training program.

TRIBE	INSPECTIONS			NOV's	
	COMPLETE	PARTIAL	TOTAL	ACTIONS	VIOLATIONS
Crow Tribe	4	9	13	0	0
Hopi Tribe	4	7	11	1	1
Navajo Nation	49	63	112	18	21
Ute Tribe	10	14	24	1	1
TOTALS	67	93	160	20	23

Table 12 - Projected Permit and Permit Revision Workload where OSM is the Regulatory Authority, by Fiscal Year

Activity	Federal Programs (Non-Primacy States)		Indian Lands	
	FY 2000	FY 2001	FY 2000	FY 2001
In progress previous FY	85	90	37	32
Anticipated current FY	88	88	50	50
Total FY workload	173	178	87	82
Completed in FY	83	86	55	55
Balance, end of FY	90	92	32	27

6. Program Development and Maintenance

Work elements under this program activity are primarily policy actions, such as rulemaking, grants management, and special studies.

a. Rulemaking

OSM issues rules and associated information collection clearance packages required by the Office of Management and Budget. Functions under this program activity include: coordinating clearance and publication of rules and preparing environmental assessments, environmental impact statements, records of compliance, and economic analyses for all rules prepared by OSM. OSM also maintains the administrative record for rules and coordinates with the Office of the Federal Register.

Rulemaking Associated with State Programs: OSM assists States to develop, administer, implement and maintain their approved regulatory programs. Decisions affecting State programs are Federal rulemaking actions. OSM evaluates State-initiated changes (statutory, regulatory, or changes in the program's provisions, scope, or objectives) to their approved programs, holds public meetings, maintains the administrative record, approves or disapproves proposed State program amendments, and publishes the decisions as final rules in the *Federal Register*.

OSM requires the States to amend their programs as a result of changes to SMCRA and Federal regulations. Under the authority of section 521(b) of SMCRA, OSM recommends withdrawal, in whole or in part, of an approved State program if it finds a State is failing to enforce the approved program after conducting hearings, establishing remedial actions, monitoring compliance, evaluating performance, and implementing the rulemakings associated with such withdrawal. Also, OSM responds to requests under section 521(b) to evaluate a State program.

This activity represents a significant workload for OSM staff. During FY 1999 the State Amendment activity was less formally identified as follows:

Table 13A - State Amendment Activity FY 99				
Number of Amendments				
Amendment Type	Pending Oct. 1, 1998	Received FY 1999	Completed FY 1999	Pending Sep. 30, 1999
Informal	3	23	19	7
Formal	31	37	26	42
Total	34	60	45	49

Table 13B identifies the Amendment activity by the characteristics identified for the Federal Register.

Table 13B - State Amendment Activity FY 99				
Number of Amendments				
Amendment Type	Pending Oct.1,1998	Received FY 1999	Completed FY 1999	Pending Sep. 30, 1999
Proposed	2	44	46	0
Final	0	34	32	2
Total	2	78	78	2

OSM Rulemaking Initiatives: Before development of a formal proposed rule, OSM involves interested parties. Stakeholder participation results in improved regulatory proposals. Key rulemaking initiatives for which we anticipate activity in FY 2001 are described below.

- *Mountaintop Mining/Valley Fills:* As part of a settlement agreement arising from litigation in West Virginia, OSM is participating in the preparation of an environmental impact statement (EIS) to assess the impacts of various regulatory alternatives concerning mountaintop mining and the associated placement of excess spoil in valley fills and streams. Should OSM decide to pursue rulemaking on this topic, that activity would begin in FY 2001 after completion of the EIS.
- *Subsidence:* On April 27, 1999, the U.S. Court of Appeals for the Federal Circuit remanded certain provisions of OSM's regulations concerning subsidence control plans and the requirement to repair or compensate for subsidence-related material damage to certain structures. After suspending those provisions on December 22, 1999, OSM anticipates initiating rulemaking during FY 2000 to address this topic and other issues relating to subsidence from underground mining. That rulemaking effort would extend into FY 2001.
- *Contemporaneous Reclamation:* We anticipate initiating rulemaking in either FY 2000 or FY 2001 to clarify the statutory requirement that coal mine operators conduct mining and reclamation activities in a contemporaneous manner.
- *Remining:* During FY 2000 and 2001, OSM will continue to explore rulemaking options to facilitate the removal and reclamation of abandoned coal mine refuse piles, as directed by the Energy Policy Act of 1992.
- *Other Regulatory Initiatives:* OSM will continue to work with States, other Federal agencies, and public stakeholders to identify areas requiring regulatory changes. There are several areas of possible rulemaking in FY 2000 and FY 2001. For instance, in the area of (1) financial liability for long-term pollution discharges (e.g.,

acid mine drainage); (2) dam safety in response to the National Dam Safety Act passed in 1996 and an internal review of the Department of the Interior's Dam Safety Program; and (3) provisions governing the temporary cessation of mining operations.

b. Grants Management

Under the grants management program, OSM and the State/Tribal grantees cooperate to maximize the use of available funding and operate an effective program. Grantees provide input to the program by participating on *ad hoc* teams and by reviewing and commenting on proposed changes in the program. This cooperative working relationship contributed to streamlined application and awards processes, faster obligation of Federal funds, innovative program monitoring, and less paperwork-intensive reporting and close-out of grants. In addition, OSM periodically holds meetings/workshops with the State/Tribal grantees to provide training for grantees and to keep them abreast of policies and procedures.

c. Special Projects

Special projects include interpretation of SMCRA, reports to Congress, legislative analyses, and assistance in responses to litigation. OSM conducts studies and analyses in response to Departmental initiatives and coordinates with other Bureaus and Federal agencies, including the Fish and Wildlife Service (Endangered Species Act), Advisory Council on Historic Preservation (National Historic Preservation Act), and EPA (Clean Water Act), whose activities affect the surface coal mining regulatory program.

e. Tribal Primacy Initiative

In FY 2000, OSM will continue to work with Tribes to enhance their ability to assume primacy under SMCRA. OSM will work closely with the Tribes to:

1. Ensure that the proposed legislation meets their needs.
2. Develop a legislative package that would allow Tribes to enhance their ability to assume primacy under SMCRA.
3. Develop Tribal regulations and expertise.
4. Promote Tribal assistance in current regulation of Indian lands mines.

Justification of Program Changes:

Environmental Protection	FY 2001 Budget Request	Program Changes (+/-)
\$(000)	73,442	+541
FTE	249	0

State and Tribal Grants

+541,000

OSM is seeking an increase of \$541,000 to State and Tribal grants to help support the higher costs of their programs. For a period of five years, OSM did not seek an increase for the states because they were unable to meet the fifty percent matching requirements. During that period, state revenues were depressed and operating costs were held to a minimum. State pay plans did not keep pace with the cost of living increase. The economies of most states have improved and States have increased pay rates to employees and are attempting to upgrade their regulatory programs.