

ENVIRONMENTAL PROTECTION

		2002 Actual	2003 Estimate	Uncontroll. & Related Changes (+/-)	Program Changes (+/-)	2004 Budget Request	Change from 2003 (+/-)
Regulation & Technology	\$\$\$	77,730	79,159	449	-145	79,463	304
	FTE	225	222	0	0	222	0
Abandoned Mine Land	\$\$\$	0	0	0	0	0	0
	FTE	0	0	0	0	0	0
TOTAL	\$\$\$	77,730	79,159	449	-145	79,463	304
	FTE	225	222	0	0	222	0

MISSION GOAL: TO PROTECT PEOPLE AND THE ENVIRONMENT DURING CURRENT MINING OPERATIONS AND TO ENSURE THAT THE LAND IS RESTORED TO BENEFICIAL USE AFTER MINING HAS CEASED.

The Environmental Protection business line provides resources to administer a regulatory program over coal mine operations in 24 primacy States, in Federal program states, and on Federal and Indian Lands. The program addresses the protection of public health, safety, and general welfare from the adverse affects of current mining, and restoration of land at the conclusion of mining. Current coal mining operations include over 4.4 million acres in 26 States and on the lands of three Indian Tribes. During active mining, the potential risk from safety and environmental hazards exists within the permitted site. However, because of required SMCRA precautions, long-term effects are minimized. If these safeguards are not taken during and after current mining, the nation could face reclamation costs that far exceed the \$8.5 billion cost of addressing existing priority 1, 2, and 3 AML problems.

The business line supports DOI's Resource Use mission goal through the State and Federal regulatory programs under SMCRA to ensure that coal extraction operations are conducted in an environmentally responsible manner, and that the land is adequately reclaimed during and following the mining process. OSM administers Federal programs in Washington and Tennessee. OSM also administers the Indian Lands Program for mining on Navajo, Hopi, Ute, and Crow Tribal lands. States assist OSM through cooperative agreements to regulate mining on Federal lands. OSM supports State regulatory programs with grants and technical assistance.

The business line also supports the Department's goal of protecting lives, resources, and property under Serving Communities. OSM and State regulatory personnel conduct site inspections to ensure operations adhere to permit standards. This activity helps minimize the types and amounts of hazardous material leaving the permit area, thus minimizing any adverse impact from coal extraction activities on coal field communities. Examples of the types of

impacts minimized include landslides and other materials off the permit area and blasting damage to structures.

Operational Processes (Program Activities): Program activities within this business line ensure the environment is protected during surface coal mining operations and that coal operators adequately reclaim disturbed land after mining is completed.

<p style="text-align: center;">ENVIRONMENTAL PROTECTION ENCOMPASSES:</p> <p><i>State and Tribal Funding</i></p> <ul style="list-style-type: none">▪ <i>State Grants</i>▪ <i>State Regulatory Activities</i>▪ <i>Cooperative Agreement Funding</i>▪ <i>Tribal Regulatory Development Grants</i> <p><i>Federal Program</i></p> <p><i>Federal Lands Program</i></p> <p><i>Indian Lands Program</i></p> <p><i>State Program Evaluation</i></p>
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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 lands within their borders. For States with cooperative agreements, this activity also includes grants 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 with a Federally-administered 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.

FY 2004 PERFORMANCE GOALS AND MEASURES

OSM's Environmental Protection mission goal promotes responsible mineral extraction and addresses the protection of public health, safety, and general welfare from the adverse affects of current surface coal mining and reclamation operations since the enactment of SMCRA in 1977. The performance measures for this goal are 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 mining operations. This goal is accomplished through the cooperative efforts of the OSM and State regulatory offices. The following measures are used by OSM as indicators of annual performance.

Off-site impacts, are negative effects resulting from surface coal mining activities such as, blasting or water runoff that affect people, land, water, or structures outside the permitted area of mining operations. The severity of the impacts is rated as minor, moderate, or major. It is the ultimate goal of the surface mining program to have 100 percent of mine sites free of off-site impacts.

Acres released from Phase I, II, or III Bond Release, This performance measure is the number of acres of land that is reclaimed every year by active coal mine operators, and is dependent on the operator to file an application for the release. This is documented and measured through a series of bond releases. The bonds are required to assure that funds are available for reclamation in case the operator fails to reclaim the mined land. Phase III bond release shows the number of acres that have been fully reclaimed from current mining operations, and have met the performance standards.

Table 1 – Strategic Goals and Measures

OSM Mission Goal Area: Environmental Protection			
Protect people and the environment during current mining operations and ensure that the land is restored to beneficial use after mining has ceased.			
DOI Goal	DOI Outcome Measure	OSM Goal	OSM Measures
Resource Use – Manage or Influence Resource Use to Enhance Public Benefit, Promote Responsible Use, and Ensure Optimal Value – Energy.	1. Ensure X% of active sites are free of off-site impacts.	Maintain the percentage of sites free of off-site impacts	Maintain 94% sites free of off-site impacts.
	2. Number of acres where reclamation goals are achieved as evidenced by release from phase III performance bonds.	Increase the number of acres released from Phase I, II, and III.	Number of acres released from phase III performance bonds.
			Number of acres reclaimed in phase I and II performance bonds.
Serving Communities – Protect Lives, Resources and Property	Number of fatalities and serious injuries on DOI managed or influenced lands and waters.	Minimize amount of hazardous material outside of the permit area.	Maintain 94% sites free of off-site impacts (people and structures). ¹

The table illustrates the relationship between the Department of the Interior’s mission goals and OSM’s goals and measures.

¹ Off-site impact measure is broken down by impacts to people, land, water, and structures. Those impacts that pertain to people and structures support the Serving Communities goal area.

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, property, or the environment beyond the permit boundary. Examples of off-site impacts include hydrological problems that impact a nearby property owner’s water supply, damage to property from blasting

on the mine site, creation of off-site landslides or other instabilities, occurrence of off-site 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 comparison over time of the number and severity of off-site impacts.

Reporting the number of acres reclaimed meeting Phase I and II bond release requirements, and the number of acres of mined land fully reclaimed by achieving Phase III bond release will determine the overall status of reclamation of mined lands. Data collected will be derived from agency program systems and the performance agreement elements negotiated with the States. Data collection methods are established in accordance with an agency policy directive, which was developed in cooperation with the States.

Actions Required to Achieve Annual Goals: OSM continues its outreach to interested parties to address concerns related to mountaintop removal operations, acid mine drainage, and slurry and other impoundments, to evaluate its rules, to advance re-mining efforts, and to ensure that contemporaneous reclamation is occurring. OSM will continue to practice the Secretary's 4C's philosophy through working in partnership with States and Tribes in carrying out the mission of the SMCRA. The shift in OSM's role from direct enforcement to oversight has refocused actions on mission accomplishment while fostering better working relationships with States.

Resources, Skills, and Technology Needed: Program analysts, reclamation specialists, grant specialists, and various support personnel are needed to implement the State regulatory program and to conduct program evaluations. OSM and the primacy States also 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 that contains data from OSM's oversight and regulatory program inspections.

For FY 2004, the President's Budget requests \$57.6 million to fund 24 State regulatory programs at the maximum 50 percent Federal match level. Additionally, this amount will provide full funding for 14 Federal lands cooperative agreements with States and full funding of four Tribal regulatory program development grants.

The FY 2004 budget request includes \$8.1 million to continue its State program oversight activities and \$5.3 million to fund regulatory programs in non-primacy States like, Tennessee and Washington. Also included in the FY 2004 budget request is \$1.5 million for OSM to regulate Federal Lands. OSM also requests \$2.4 million for regulatory programs on Indian Lands and \$4.6 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 2 – Justification of Program and Performance
Environmental Protection**

Summary Increases/Decreases for FY 2004
(Dollars in Thousands)

Program Activity		Regulation & Technology			Abandoned Mine Lands			2002 Act.
		2002 Act.	2003 Est.	2004 Req.	2002 Act.	2003 Est.	2004 Req.	
State and Tribal Funding	\$\$\$	56,567	57,575	57,575	0	0	0	56,567
	FTE	0	0	0	0	0	0	0
State Program Evaluation	\$\$\$	7,850	8,007	8,121	0	0	0	7,850
	FTE	84	83	83	0	0	0	84
Federal Programs	\$\$\$	5,156	5,255	5,327	0	0	0	5,156
	FTE	53	52	52	0	0	0	53
Federal Lands	\$\$\$	1,437	1,464	1,484	0	0	0	1,437
	FTE	15	15	15	0	0	0	15
Indian Lands	\$\$\$	2,294	2,334	2,362	0	0	0	2,294
	FTE	21	21	21	0	0	0	21
Program Dev/Maint.	\$\$\$	4,426	4,524	4,594	0	0	0	4,426
	FTE	52	51	51	0	0	0	52
TOTAL	\$\$\$	77,730	79,159	79,463	0	0	0	77,730
	FTE	225	222	222	0	0	0	225

ONGOING PROGRAM

1. State and Tribal Funding

Two-thirds of the State and Tribal funding or \$38.6 million support the Resource Use goal area by promoting responsible coal extraction using technology to minimize the impact of operations on people, structures, and the environment. About one-third or \$19.0 million support the protection of people and property from the off-site effects of surface coal mining activities.

a. State Grants

The principal means of providing environmental protection within the framework of SMCRA is through "primacy" States that receive Federal grant funding. Primacy States have the most direct and critical responsibilities for conducting regulatory operations to minimize the impact of coal extraction operations on people and the environment. 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 a State were to relinquish 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 ensuring timely reclamation after mining. In addition, individual States may conduct special activities to address specific needs. These activities may include upgrading 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 that support coal mining and reclamation within a State are inspected by the State regulatory authority 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

Cooperative agreements with OSM allow States to 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 at up to 100 percent of the amount that the Federal government would have to spend to do the same work.

Currently, the following 14 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, West Virginia, and Wyoming.

d. Tribal Regulatory Development Program Grants

As allowed by the Energy Policy Act of 1992 and Section 710 (i) of SMCRA, 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 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 concerning mining and mineral resources. These grants fund 100 percent of the Tribal primacy development activities.

**Table 3 – Fiscal Year 2004 State & Tribal Regulatory Funding Estimates
(Federal dollars only)**

These amounts are based on FY 2004 grant requests (18-month estimates) and represent 50% of the costs to regulate surface coal mining on non-federal lands and 100% of the costs on Federal Lands. Actual grant awards will be based on historical expenditures, justifications by the States, and OSM evaluations.

State/Tribe	Non-Federal Lands	Federal Lands	Total
Alabama	1,095,333	13,290	1,108,623
Alaska	174,026	0	174,026
Arkansas	141,796	0	141,796
Colorado	688,551	1,234,776	1,923,327
Illinois	2,609,189	111,221	2,720,410
Indiana	2,035,155	0	2,035,155
Iowa	138,275	0	138,275
Kansas	121,551	0	121,551
Kentucky	11,672,604	834,190	12,506,796
Louisiana	142,918	0	142,918
Maryland	511,363	0	511,363
Mississippi	106,288	0	106,288
Missouri	491,723	0	491,723
Montana	336,591	683,381	1,019,972
New Mexico	511,898	198,086	709,984
North Dakota	169,856	329,719	499,575
Ohio	1,889,106	0	1,889,106
Oklahoma	593,220	376,723	969,943
Pennsylvania	11,072,006	0	11,072,006
Texas	1,374,221	0	1,374,221
Utah	185,464	1,441,411	1,626,875
Virginia	3,190,008	3,643	3,193,651
W. Virginia	10,537,633	0	10,537,633
Wyoming	201,193	1,714,930	1,916,123
Crow Tribe	57,589	0	57,589
Hopi Tribe	184,994	0	184,994
Navajo Nation	401,078	0	401,078
N. Cheyenne	0	0	0
Totals	50,633,629	6,941,371	57,575,000

2. State Program Evaluation

This activity ensures the efficient and effective operation of State regulatory programs and is an integral part of the State and Tribal funding activity. Two-thirds or \$5.4 million support the Resource Use goal and one-third or \$2.7 million supports Serving Communities.

a. Oversight Strategy

OSM's current oversight strategy 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. This includes prompt and effective reclamation of coal mine land and public participation in the regulatory program.

OSM and the States conduct oversight under a results-oriented strategy that emphasizes cooperative problem solving, tailoring evaluations to State-specific conditions, and the development of performance agreements. The strategy has promoted a more positive attitude and spirit of cooperation that lets OSM work cooperatively with the States to improve State program implementation. To provide clarity in guidance and consistency in oversight and evaluation, OSM continues to evaluate and refine its oversight strategy. OSM and the States plan to review the oversight strategy in FY 2003 and will make any needed changes.

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. Joint efforts to prepare workable performance agreements also maintain and improve the relationship between OSM and the State, fostering shared responsibilities and a more open discussion of difficult issues.

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 OSM 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 gives its regional and field managers discretion and flexibility to be proactive and to prioritize 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, impoundments and other problem areas, as well as current coal mining operations and abandoned mine sites awaiting reclamation. This policy allows for 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 86,300 in 2002. In contrast, OSM conducted about 2,300 inspections in primacy States.

The projected FY 2004 oversight inspection workload includes an estimated 2,300 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 issues and resolve them before they become 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, both of which require 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 review, which may include a field inspection, is conducted following a TDN when the State does not act or show good cause for not doing so. If the review or 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 State regulatory authority using the TDN process, 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 are notified prior to the inspection and given the opportunity to accompany the inspector when a Federal inspection is conducted.

In FY 2002, OSM issued 135 TDNs to States. In almost every case, the State took appropriate action to cause the violation to be corrected.

Table 7 provides FY 2002 data on the number of State inspections and OSM oversight inspections conducted in primacy States.

Table 4 – FY 2002 Primacy State and OSM Inspections				
	STATE			OSM TOTAL
	PARTIAL	COMPLETE	TOTAL	
Alabama	427	2,588	3,015	96
Alaska	55	27	82	4
Arkansas	13	57	70	5
Colorado	368	196	564	8
Illinois	1,013	414	1,427	106
Indiana	1,654	852	2,506	81
Iowa	24	96	120	23
Kansas	72	44	116	9
Kentucky	16,815	9,346	26,161	402
Louisiana	16	8	24	4
Maryland	634	341	975	41
Mississippi	9	3	12	2
Missouri	213	108	321	40
Montana	88	87	175	4
New Mexico	124	56	180	1
North Dakota	494	140	634	2
Ohio	2,009	1,455	3,464	221
Oklahoma	560	319	879	37
Pennsylvania	11,829	8,218	20,047	547
Texas	209	76	285	14
Utah	181	115	296	4
Virginia	3,417	2,575	5,992	167
West Virginia	11,328	7,435	18,763	466
Wyoming	243	132	375	13
Total	51,795	34,688	86,483	2,297

3. Federal Programs

Two-thirds or \$3.5 million promote responsible mineral extraction practices at active operations (Resource Use) and \$1.8 million goes to safeguard people and property from adverse impacts, such as blasting, noise, and water pollution (Serving Communities).

Under this program activity, OSM administers a full regulatory program for coal-mining activities in non-primacy States. Significant components of this program activity include review of permit applications (including preparation of any necessary NEPA compliance documents), determination of 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 and technical adequacy, preparation of findings and supporting documentation, and conducting an environmental analysis. Review timeframes vary depending on the complexity of a permit application, the size of the mine, and the response times of applicants 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 two of the largest Federal programs, Tennessee and Washington:

- Tennessee: There are 136 active mine sites, 32 inactive sites, and 176 abandoned sites in Tennessee. Coal production has stabilized in recent years and is fluctuating around 3 million tons annually. While OSM has discussed the possible return of primacy to Tennessee with State officials on numerous occasions over the years, there continues to be no interest shown in assuming the program.
- Washington: There are two active surface coal mines regulated under the Washington Federal Program. The Centralia Mine, located about 25 miles southeast of Seattle, Washington produces approximately 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. The John Henry No. 1 Mine, covering 422 acres near the City of Black Diamond, only produces a small amount of bituminous coal annually. During FY 2003, the operator, Pacific Coast Coal Company, plans to apply for a final bond release for about 20 acres.

Table 8 provides inspection and enforcement data for Federal program States during FY 2002.

Table 5– FY 2002 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	1,013	1,022	2,035	28	36	2	2
Washington	8	17	25	4	5	0	0
TOTALS	1,027	1,040	2,067	32	41	2	2

4. Federal Lands Program

This program activity includes direct OSM regulatory activities on Federal lands in States without cooperative agreements, implementation of cooperative agreements with primacy States to regulate coal mining on Federal lands within their borders, preparation of mining plan decision documents under the Mineral Leasing Act, and processing valid existing rights claims that involve certain Federal Lands. Approximately two-thirds or \$1.0 million supports the Department's Resource Use mission and one-third or \$0.5 million supports protection of people and property from current mining. As part of this program activity, OSM consults and coordinates with State Historic Preservation Offices, the U.S. Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), U.S. Forest Service (USFS), National Park Service (NPS), the Environmental Protection Agency (EPA) and the Army Corp of Engineers (COE). The processing of mining plan decision documents constitutes the largest part of the workload under this program activity.

Table 9 provides projected mining plan decision document workload data.

Table 6 – Projected Mining Plan Decision Document Workload on Leased Federal Coal, by Fiscal Year		
Mining Plans and Modifications to Existing Mining Plans		
Activity	FY 2003	FY 2004
In progress prior FY	5	5
Anticipated current FY	6	8
Total FY Workload	11	13
Completed in FY	6	7
Balance, end of FY	5	6

Under this program activity, OSM also provides support to BLM and USFS in leasing activities that involve Federal coal resources. OSM's 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 the need for a subsequent Environmental Assessment (EA) or Environmental Impact Statement (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 proposed budget provides \$2.4 million to fund the activities to promote responsible mineral extraction on Indian Lands to meet the Nation's energy needs.

The Crow, Hopi, and Ute Mountain Ute Tribes, and the Navajo Nation have coal-mining activities on their lands. The McKinley Mine and Navajo Mine are large surface mines on the Navajo Nation. 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. One surface mine in Montana mines coal owned by the Crow Tribe, and one underground mine in Colorado has completed mining coal under lands owned by the Ute Mountain Ute Tribe. Both the Crow and Northern Cheyenne Tribes are evaluating coal properties for future development. The Indian lands mines are among the largest in the United State, with a total of about 95,000 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	8	12	0	0
Hopi Tribe	7	11	18	0	0
Navajo Nation	53	60	113	6	7

Ute Tribe	7	8	15	0	0
TOTALS	71	87	158	6	7

**Table 8-Projected Permit and Permit Revision Workload
where OSM is the Regulatory Authority, by Fiscal Year**

Activity	Federal Programs (Non-Primacy States)		Indian Lands	
	FY 2003	FY 2004	FY 2003	FY 2004
In progress previous FY	60	53	65	65
Anticipated current FY	75	66	90	90
Total FY workload	135	119	155	155
Completed in FY	82	72	90	90
Balance, end of FY	53	47	65	65

6. Program Development and Maintenance

Work elements under this program are primarily related to policy actions, such as rulemaking, grants management and special studies that support the other program activities in the environmental protection business line. The budget proposal provides \$3.1 million or two-third of funding to support DOI's Resource Use goal and \$1.5 million or one-third supports the Serving Communities goal area.

a. Rulemaking

OSM issues Federal rules and prepares the 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, as well as 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 rule publication with the Office of the Federal Register.

Rulemaking Associated with State Programs: OSM assists States with development, administration, implementation, and maintenance of their approved regulatory programs. Decisions affecting State programs are Federal rulemaking actions. OSM evaluates State-initiated program changes (statutory, regulatory, or changes in the program's provisions, scope, or objectives), as well as OSM required modifications that are a result of legal interpretations or changes to SMCRA and Federal Regulations. In its evaluation,

OSM solicits public comments through proposed rules published in the Federal Register, holds public meetings, maintains the administrative record, approves or does not approve proposed State program amendments, and publishes the decisions as final rules in the Federal Register. During FY 2002, OSM published 31 proposed rules and 28 final rules for State programs.

States may be required 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 - after conducting hearings, establishing remedial actions, monitoring compliance, evaluating performance, and implementing the rulemakings associated with such withdrawal - that a State is failing to enforce its approved program. OSM also responds to requests under section 521 (b) to third-party requests to evaluate a State's program.

When a State program amendment is required, OSM notifies the State of the required change and reviews the State submission and either approves or does not approve the proposed change. This activity represents a significant workload for OSM staff. During FY 2002, the State Amendment activity was identified as follows:

Table 9 – FY 2002 State Program Amendment Activity				
<i>Number of Amendments</i>				
Amendment Type	Pending Oct. 1, 2001	Received FY 2002	Completed FY 2002	Pending Sept. 30, 2002
Informal	1	11	11	1
Formal	33	30	31	32
Total	34	41	42	33

OSM Rulemaking Initiatives: Before developing a formal proposed rule, OSM involves interested parties. Stakeholder participation results in improved regulatory proposals. During FY 2002, OSM published one final rule, Civil Penalty Adjustments (November 21, 2001).

Key rulemaking initiatives for which OSM anticipates activity in FY 2004 are described below.

- *Financial Assurances – Treatment of Pollutational Discharges:* During FY 2002, OSM published an advance notice of proposed rulemaking in the Federal Register seeking comment on issues related to bonding and financial mechanisms for the long-term treatment of acid mine drainage associated with coal mining. Comments were received from citizens, citizens' groups, states, coal and surety industries, associations, and other Federal agencies. OSM will be working with interested parties in FY 2003 and 2004 to address this important issue.

- *Revisions to the State Program Amendment Process:* Under OSM's existing regulations, the Director is required to begin proceedings under Part 733 when a State fails to submit a required program amendment pursuant to 30 CFR 732.17(f), or a description of the amendment and a timetable for enactment or fails to comply with the timetable. This rulemaking would provide additional, less drastic options for dealing with a State when the State fails to comply.
- *Ownership and Control Rule:* Based on settlement negotiations with the National Mining Association, OSM was required by the court to issue proposed changes to the 2000 final rule. During FY 2003, OSM will publish proposed changes. During FY 2004, OSM will finalize changes and focus on implementation of the final "Ownership and Control" rule and related regulations by providing assistance to the States, in the form of training, program review, and implementation strategies.
- *Placement of Excess Spoil:* OSM expects to propose this rule in FY 2003 and finalize it in FY 2004. This rule would be designed to address the environmental impacts of mining that involve creation of excess spoil fills, particularly fills placed in streams. It would (1) establish permit application requirements and review procedures for applications proposing to place excess spoil from surface coal mining operations into waters of the United States, (2) modify the backfilling and grading regulations to minimize the creation of excess spoil, and (3) revise the regulations governing surface coal mining operations within 100 feet of a perennial or intermittent stream to restore consistency with the language of the Act.
- *Revegetation:* Based on an outreach initiative conducted in previous years, OSM expects to propose minor revisions to its existing revegetation regulations in FY 2003. The proposed changes would improve the quality of reclamation achieved under SMCRA and achieve a more consistent application of these requirements to both arid and humid areas of the country. The changes are intended to facilitate the establishment and maintenance of diverse plant communities on reclaimed mine lands; to ensure the regulations are not an impediment to reforestation of mine lands and facilitates the evaluation of woody shrub communities in the West; and make the measurement of revegetation success in both the arid and humid areas of the United States more similar. This rulemaking activity will likely continue into FY 2004.
- *Abandoned Coal Refuse Piles:* The Energy Policy Act of 1992 requires the Secretary to develop new regulatory standards and a new permitting system, if appropriate, to facilitate the removal and on-site reprocessing of abandoned coal refuse piles, provided the Secretary determines through a standard-by-standard basis that a different standard would provide the same level of environmental protection as afforded by sections 515 and 516 of SMCRA.

The proposed rule would conform with the standards in sections 515 and 516 of SMCRA, instead of the corresponding regulations, and also would narrow the focus to small abandoned refuse areas. The concept would be to assign a specific acreage and time limitation. OSM expects to propose the rule in FY 2003 and finalize it in FY 2004.

b. Grants Management

OSM fully supports and participates in the efforts of the Department of the Interior to comply with Public Law 106-107, the Administration's E-Government initiative, and Health and Human Services E-Grants program. The use of electronic grants will simplify and expedite the application process for the States and Tribes. OSM has a cooperative working relationship with our grantees, working for a streamlined application and awards process, faster obligation of Federal funds, innovative program monitoring, less paperwork, and intensive reporting and close-out of grants.

c. Special Projects

OSM special projects include interpretation of SMCRA, reports to Congress, legislative analysis, and assistance in response to litigation. OSM also 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), EPA (Clean Water Act), Corps of Engineers (section 404 permits), and Mine Safety and Health Administration, all of whose activities can affect the surface coal mining regulatory program.

FY 2002 PROGRAM PERFORMANCE ACCOMPLISHMENTS

In 2002, the major accomplishments in the Environmental Protection program activity include:

- Issued new coal mining permits, in cooperation with state authorities, on 115,089 acres.
- Performed more than 35,700 complete mine inspections and over 52,900 partial inspections, in cooperation with state authorities, to insure coal mines are operated safely and in accordance with environmental laws. (figures include State and Federal inspections)

FY 2003 PLANNED PROGRAM PERFORMANCE

- Maintain 94% of current coal mine operations free from off-site impacts to people and the environment.
- Release 70,000 acres from Phase III Performance bond.

JUSTIFICATION OF 2004 PROGRAM CHANGES

Environmental Protection	FY 2004 Budget Request	Program Changes (+/-)
\$(000)	79,463	-145
FTE	222	0

Program Changes:

Information Technology (-\$145,000) - The Department is undertaking significant information technology reforms to improve the management of IT investments, to improve the security of systems and information, and to realize short and long-term efficiencies and savings. The Department is taking a corporate approach that will include consolidated purchases of hardware and software, consolidation of support functions including helpdesks and email support, and web services, and coordination of training.

In addition to Department-wide efforts, the Bureau will explore further savings in information technology by fully participating in Departmental enterprising and capital planning projects, delaying system enhancements, consolidating bureau level services (i.e., servers and helpdesk), accelerating the acquisition of the MS Enterprise Licensing agreement, and reviewing life cycle replacements. In addition, potential savings may result from competitive sourcing studies.

FY 2004 ENVIRONMENTAL PROTECTION PROGRAM PERFORMANCE

DOI Strategic Goal: Resource Use – Provide Access for Responsible Use and Optimal Value						
End Outcome Goal 2.1: Manage or Influence Resource Use to Enhance Public Benefit, Promote Responsible Use, and Ensure Optimal Value (Energy)						
End Outcome Measure(s)	FY 2001 Actual	FY 2002 Plan	FY 2002 Actual	FY 2003 Plan	FY 2004 Plan	Change in Performance 2003 to Planned 2004
Ensure 94% of active sites are free of off-site impacts.	93.9%	94%	92.8%	94%	94%	0
Number of acres where reclamation goals are achieved as evidenced by release from phase III performance bond.	81,853	75,000	73,407	70,000	70,000	0
Intermediate Outcome: Enhance Responsible Use Management Practices						
Intermediate Outcome Measures	FY 2001 Actual	FY 2002 Plan	FY 2002 Actual	FY 2003 Plan	FY 2004 Plan	Change in Performance 2003 to Planned 2004
Restore and mitigate damage:						
Number of acres reclaimed (phase I and II).	180,503	112,000	106,136	100,000	100,000	0
DOI Strategic Goal: Serving Communities – Protect Lives, Resources and Property						
End Outcome Goal 4.1: Protect Lives, Resources and Property						
End Outcome Measure(s)	FY 2001 Actual	FY 2002 Plan	FY 2002 Actual	FY 2003 Plan	FY 2004 Plan	Change in Performance 2003 to Planned 2004
Injury Reduction: Number of fatalities and injuries on DOI managed or influenced lands and waters.	N/A	N/A	N/A	N/A	0	0
Intermediate Outcome: Improve Public Safety and Security and Protect Public Resources from Damage						
Intermediate Outcome Measures	FY 2001 Actual	FY 2002 Plan	FY 2002 Actual	FY 2003 Plan	FY 2004 Plan	Change in Performance 2003 to Planned 2004
Maintain 94% of sites free of off-site impacts (people and property). ¹	93.9%	94%	92.8%	94%	94%	0

1\ Off-site impact measure is broken down by impacts to people, land, water, and structures. Those impacts that pertain to people and structures support the Serving Communities goal area.