REPORT BY THE

Comptroller General

OF THE UNITED STATES

Issues Surrounding The Surface Mining Control And Reclamation Act

The intent of the Surface Mining Control and Reclamation Act of 1977 is that coal-producing States will be responsible for regulating surface coal mining. But the States have found it hard to meet the law's timetable for developing programs because the Department of the Interior missed its deadlines for issuing program regulations. States and the coal operators claim that Interior's regulations are too stringent and will lead to Federal domination of the program. However, Interior disagrees.

The Abandoned Mine Reclamation Fund, established by the act to promote reclamation of abandoned mines, now is limited to Federal projects. To date, over $200 million has been collected in reclamation fee payments from coal operators. Half of the funds, earmarked for State reclamation projects, currently are idle, waiting for State surface mining regulatory and reclamation programs to be developed and approved by Interior. Should the Congress amend the act? The report includes three alternatives.

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Chairman, Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
House of Representatives
Chairman, Subcommittee on Energy Resources and
Materials Production
Committee on Energy and National Resources
United States Senate

This report discusses several concerns expressed by various coal-producing States, the coal industry, and environmental and citizens groups about the Surface Mining Control Act of 1977 and the implementing Federal regulations.

Copies of the report are being sent to the Director, Office of Management and Budget, and the Secretary of the Interior.

Comptroller General
of the United States

REPORT OF THE
COMPTROLLER GENERAL

ISSUES SURROUNDING THE SURFACE MINING CONTROL AND RECLAMATION ACT

D I G E S T

In passing the 1977 Surface Mining Control and Reclamation Act, the Congress intended that States would be responsible for regulating coal mine operators and undertaking reclamation of abandoned mines. However, the coal-producing States do not think they will be able to meet their legislative deadlines for developing environmental protection and reclamation programs because the Department of the Interior, due primarily to a delay in funding the Office of Surface Mining, has not met its statutory deadlines.

The act required the Secretary of the Interior to publish permanent program regulations by August 3, 1978. The regulations however were not published until March 13, 1979--about 7 months later. Lacking Federal guidance, States were not able to develop their regulatory programs by the February 3, 1979, legislative deadline. Therefore, Interior revised the timetable for the States to complete their program requirements as follows:

--By August 3, 1979, States were supposed to submit their regulatory programs to Interior for an initial review.

--Through November 15, 1979, States may make the necessary revisions from the initial review.

--By February 3, 1980, the Secretary of the Interior will approve or disapprove all or part of the proposed State programs.

--Through April 3, 1980, States may resubmit disapproved programs.

--By June 3, 1980, either a State or Federal permanent program must be established.

However, 12 of the 14 States GAO contacted said they would have difficulty submitting a program meeting the basic requirements of the act by August 3, 1979, or even by November 15, 1979. But most States said they should be able to make necessary modifications and have full legal authority by April 3, 1980, as specified in the Interior regulations.

Nevertheless, all 14 States remain concerned about Interior's timetable because:

--They fear Interior's Office of Surface Mining will try to prematurely impose a Federal program on them.

--As of August 3, 1979, they did not have an approved program and citizens or environmental groups might take legal action to force Interior to take over the program. However, Office of Surface Mining officials told GAO such litigation is unlikely and would not compel it to institute a permanent Federal program before the June 3, 1980, deadline.

--If a proposed State program is not approved expeditiously and Interior declares it inadequate at the end of its review, the State would be without an approved program. However, Office of Surface Mining officials said that this concern is unjustified because States have an opportunity to resubmit their proposed programs before the final decision.

--They said that the missed Federal deadlines are jeopardizing the success of the national surface coal mining program and the States' attempts to take over the program. (See pp. 7 through 8.)

In April 1979, GAO suggested that the Secretary of the Interior request the Congress to amend sections 503(a) and 504(a) of the act to extend both the August 3, 1979, and June 3, 1980, deadlines by at least 7 months if it becomes necessary to allow additional time for the

States to develop their programs and for Interior to review and approve them. On June 26, 1979, the Secretary of the Interior asked the Senate Committee on Energy and Natural Resources for the extensions.

If the Congress approves the extensions, coal-producing States would have until March 3, 1980 (rather than the August 3, 1979, deadline) to submit their applications. The June 3, 1980, deadline for Federal approval of the States' proposed programs would be extended to January 3, 1981. A July 25, 1979, U.S. District Court decision recently enjoined the Secretary of the Interior to extend the August 3rd deadline to March 3, 1980, but letting the June 3, 1980, deadline stand. (See p. 20.)

OVEREXTENSION OF AUTHORITY

State and industry officials believe that Interior's regulations are designed to take regulatory responsibility from the States, ignoring the intent of the Congress, and that the Interior regulations are more stringent than necessary. Environmental and public interest groups disagree with this assessment. Interior officials believe that its regulations allow the States and coal operators flexibility while assuring that the standards are achieved and maintained uniformly. (See pp. 12 through 20.)

OTHER CONCERNS ABOUT SURFACE MINING REGULATIONS

The States and the coal industry are concerned with how the Office of Surface Mining is carrying out its congressional mandate to develop the national surface coal mining program. They are especially concerned with the:

--Differences in State and Federal enforcement philosophy. (See p. 24.)

--Potential duplication between the Office of Surface Mining and other Federal agencies' coal programs. (See p. 26.)

--Impact on the small coal mine operator. (See p. 27.)

--Inflationary impact of Interior's stringent standards. (See p. 28.)

RECLAIMING ABANDONED MINES

To pay for reclamation of abandoned underground and surface mines, the act established an Abandoned Mine Reclamation Fund financed from fees levied on current coal mining operators. Over $200 million has been collected in reclamation fee payments from coal operators. Half of these funds earmarked by the act for State reclamation programs are currently idle. Under the act, States may not have reclamation programs approved and implemented before their surface mining regulatory programs are approved.

ALTERNATIVES FOR CONSIDERATION BY THE CONGRESS

GAO identified three alternatives that the Congress should consider concerning the Abandoned Mine Reclamation Fund:

--Continue the present policy to encourage the States to achieve primacy by providing a strong economic incentive to induce the States to complete the process of gaining Interior's approval of their State regulatory programs. However, this prevents the States from using any of the funds accumulated to date and earmarked for State reclamation programs which are necessary for the restoration of the abandoned mined lands.

--Amend section 405(c) of the act to grant Interior the authority to approve a State's abandoned mine reclamation program whether or not that State has an approved State regulatory program so that the States can start reclaiming and

restoring land and water resources harmed by past coal mining. However, this alternative may reduce the incentive for the States to take the lead in the regulatory program.

--Amend section 405(c) of the act to allow Interior to provide "seed" money from the reclamation fund for preliminary engineering design work on projects that the States plan to undertake. This would permit early design of reclamation projects while waiting for State surface mining regulatory program approval. Any project designs developed would be available to the Office of Surface Mining for its use in the event a State program is not approved. GAO believes that project design work would ordinarily be an integral part of a reclamation project and require amending the act. However, Interior believes it may use reclamation funds for this purpose without amending the act and is developing procedures to provide this money.

Even if Interior were to develop a technically legal means to release State reclamation funds before regulatory program approval, doing so would circumvent Congress' intent to tie these programs together and might diminish a State's incentive to implement a satisfactory regulatory program. Accordingly, GAO believes the Congress, not Interior, should decide whether to permit the early release of reclamation funds for design work. (See pp. 38 and 39.)

AGENCY COMMENTS

Commenting on GAO's draft report, Interior officials acknowledged that the issues raised and its position are presented accurately.

Contents

ABBREVIATIONS

AMR	abandoned mine reclamation
GAO	General Accounting Office
MSHA	Mining Satety and Health Administration

CHAPTER 1

INTRODUCTION

The concept of a nationwide program to protect society and the environment from the adverse effects of coal mining operations while assuring an adequate coal supply to meet the Nation's energy needs originated in the Congress in the early 1970s. And, on August 3, 1977, President Carter signed the Surface Mining Control and Reclamation Act of 1977 (Public Law 9587, 30 U.S.C. 1201 et seq.), a national mandate for strong environmental controls to guide the coal mining industry and to strengthen certain State and Federal standards for surface coal mining and reclamation.

The legislation established the Office of Surface Mining Reclamation and Enforcement (hereafter referred to as the Office of Surface Mining) under the Department of the Interior, to implement the provisions of the act. The act also provided financial and technical assistance to States to develop and implement improved surface coal mining reclamation and control programs. The Office of Surface Mining was to accomplish its goals by working as partners with the States and by relying on State-administered programs. In fiscal years 1978 and 1979, Federal funds totaling $67.5 and $115.4 million, respectively, were available to the Office of Surface Mining to support its program activities.

The act also provided for reclaiming previously mined, abandoned land. Funds for this abandoned mine reclamation program are derived from levying fees on coal produced after October 1, 1978.

Because of the controversial issues still surrounding the act, the implementing regulations, and the Office of Surface Mining, there is and will continue to be congressional oversight interest in the act's implementation and enforcement. In this report we included only those issues associated with the act which appeared to need attention. Thus, our review was primarily concerned with (1) the way the Office of Surface Mining was implementing the act (see ch. 2), (2) the problems and concerns being expressed by the coal-producing States, the coal industry, and various special interest groups, including environmental, citizens, and agricultural groups, regarding the implementation of the act and the corresponding development of State laws to

comply with the act (see chs. 2 and 3), and (3) the status and use of the abandoned mine reclamation fund created under the act to prevent further environmental degradation from abandoned mines. (See ch. 4.)

Previous GAO reports commenting on surface mining matters are described in appendix I.

SCOPE OF REVIEW

We conducted our review at the Washington, D.C. headquarters of the Office of Surface Mining, the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Mines, the Department of Energy, the Environmental Protection Agency, the Forest Service, the Geological Survey, the Mining Safety and Health Agency, and the Soil Conservation Service and at the following Office of Surface Mining field locations:

--Region I--Charlestown, West Virginia, and Johnstown, Pennsylvania.

--Region II--Knoxville, Tennessee.

--Region III--Indianapolis, Indiana (via telephone conversation).

--Region IV--Kansas City, Missouri (via telephone conversation).

--Region V--Denver, Colorado.

We also obtained information from representatives of the major coal-producing States of Colorado, Illinois, Indiana, Kentucky, Maryland, Montana, New Mexico, North Dakota, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wyoming. In addition, we met with representatives from the Washington, D.C., headquarters of the American Mining Congress, the National Coal Association, and the Mining and Reclamation Council of America trade associations and with some of their members (private coal mine operators and State trade associations) in various States, principally those located in the Office of Surface Mining Regions I (Pennsylvania, Virginia, and West Virginia) and V (Colorado, Montana, and Wyoming). We also obtained information from members of various environmental and citizens groups concerned with the implementation of the national surface coal mining program.

We discussed our work with Interior's Office of Inspector General and determined that at this time there was no need for any followup action in connection with our findings.

AGENCY COMMENTS

Interior officials in commenting on a draft of this report agreed with GAO and acknowledged that the issues raised and its position are accurately presented.

CHAPTER 2

REGULATING COAL MINE OPERATORS--

FEDERAL OR STATE RESPONSIBILITY?

A major issue surrounding the national surface mining regulatory program is whether Interior or the States will be responsible for enforcing the environmental protection standards outlined under the act and discussed in Interior's March 13, 1979, permanent program regulations. The act intended that the States meeting the statutory requirements were to be responsible for regulating coal mine operators. The States are concerned about taking on this responsibility and complying with what they believe are overly stringent permanent regulations.

WILL THE STATES BE ABLE TO CARRY OUT THEIR LEAD ROLE RESPONSIBILITIES UNDER THE ACT?

The Surface Mining Control and Reclamation Act encourages all coal-producing States to assume regulatory responsibility by developing permanent regulatory programs for the Office of Surface Mining's approval. Section 101(f) of the act states that

> "* * * because of the diversity, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States." (Underscoring provided.)

In this way, the States would be responsible for applying the requirements of the act and enforcing the program regulations to the coal mining industry, and Interior would act as a general overseer.

Interior officials have indicated that Interior is committed to the congressional objective of maximum State implementation of the surface mining program. Similarly, the Director, Office of Surface Mining, has repeatedly stated that the States should take the lead responsibility for the surface mining program by relying on State regulation of coal mining and that his Office should be used primarily to support and assist the States. However, missed statutory deadlines, delayed appropriations, staffing and organization difficulties, and claims by the States and industry

of over-regulation and of Federal domination have resulted in the States experiencing difficulties in developing their State programs in the time frames established by the act and those required under the new permanent Federal regulations.

STATUTORY DEADLINES ARE NOT BEING MET

Despite a delay in receiving its fiscal year 1978 appropriations, the Office of Surface Mining was able to phase-in the initial regulatory program for all coal mining and reclamation operations in a fairly timely manner. Furthermore, the Office of Surface Mining made grants in fiscal year 1978 of more than $6 million to 21 States to cover their additional inspection and enforcement costs a consequence of the Federal law and regulations.

Nevertheless, the Office of Surface Mining experienced numerous problems in implementing the act's provisions. The Supplemental Appropriations Act, 1978, was not signed by the President until March 7, 1978. The resulting delay of over 7 months in receiving its initial appropriations has caused many of the Office's and related Interior programs to be delayed and to be inadequately staffed initially.

The Office of Surface Mining has been unable to meet almost every statutory deadline, particularly those deadlines under title V of the act associated with controlling the environmental impact of surface coal mining. These missed deadlines usually resulted in the late publication of new Federal requirements that must be met by the States wishing to take over the program. The States told us that it is difficult to develop their State regulatory programs as the national program progresses from the interim to the permanent phase without timely Federal guidance in the form of regulations.

The Congress directed Interior and the States to meet certain deadlines for implementing the act. One deadline was for the Office of Surface Mining to issue final Federal regulations governing the permanent regulatory programs by August 3, 1978. These are the regulations under which States may apply for Interior's approval to assume primary enforcement responsibility for limiting environmental damage from strip mining operations and for overseeing land reclamation by coal miners. The Office of Surface Mining did not meet the August 3rd goal. Instead, it issued its regulations on March 13, 1979--7 months late. Some States said that the fact the final Federal regulations took so long to be issued reduces their chances of submitting an acceptable program for Interior's approval by the existing statutory deadlines.

According to the congressional timetable, the States were required to submit their regulatory programs by February 3, 1979, and have their State legislature approval for the programs no later than August 3, 1979--12 months after the Federal regulations were to have been issued. Since Interior was not able to meet its congressional deadline for publishing the regulations, the States, lacking needed guidance in the form of regulations, were unable to meet the initial statutory deadline.

INTERIOR HAS REVISED PROGRAM DEADLINES

To reconcile this problem, Interior in early January 1979, granted a 6-month extension until August 3, 1979, as allowed under the act.

Also, a new timetable contained in the permanent program regulations should alleviate the problem. States may have until April 3, 1980, to complete their program requirements. The timetable is as follows.

--By August 3, 1979, States were supposed to submit their regulatory programs to Interior for an initial review.

--Through November 15, 1979, as a result of the initial review States may make necessary revisions.

--By February 3, 1980, the Secretary of the Interior will issue an initial decision approving or disapproving all or part of the proposed State program.

--Through April 3, 1980, States may resubmit disapproved programs.

--By June 3, 1980, a State or Federal permanent program must be established.

Interior officials noted that provisions also existed under its regulations for conditional approval of State programs. Under conditional approval, States may be granted additional time after June 3, 1980, to correct relatively minor deficiencies in their programs.

Interior initially believed the timetable in the regulations was consistent with the key dates established in sections 503 and 504 of the act and gave the States the needed flexibility to comply with the act. Interior officials originally preferred this timetable as compared to others advocating amendments to the act because it requires no tampering with the June 3, 1980, deadline for implementation

of permanent programs. In addition, Office of Surface Mining officials told us that if a State is serious about implementing a program and submits a proposed program by August 3, 1979, it plans to work with the State until the program is approved and State legislation and regulations are final. Interior is currently reviewing draft portions of several State programs at the States' request.

Twelve of the 14 States we contacted, including States such as Illinois, Kentucky, and Pennsylvania (3 of the leading coal-producing States), have stated that it would be very difficult for them to complete an acceptable program submission--meeting all the basic requirements set forth in section 503(a) of the act--by August 3, 1979, or even by November 15, 1979. Yet, given flexibility to April 3, 1980, as provided under Interior's permanent program regulations, the States said they should be able to make the necessary modifications to their proposed programs and have full legal authority through State legislation to implement a program by this date. To date, 12 States have told Interior that they expect to submit their plans in the time frame allowed under Interior's permanent regulations.

STATES' CONCERN OVER TIME FRAMES

Nevertheless, all the States are still concerned about Interior's timetable for a number of reasons. First, and most importantly, several States are afraid after the August 3rd deadline passed they would have little bargaining power as to how to achieve certain environmental goals in their States. They believe Interior has the authority at any time after this date and before June 3, 1980, to initiate steps to convert the ongoing interim Federal program in a State to the status of a permanent Federal program. States indicate that reasons for such a Federal takeover could be based on Interior's belief that the States are not complying with the Federal regulations or that the States are simply not acting in good faith with Interior--stalling tactics, unreasonableness, etc.

However, Interior officials stated that they do not have authority to impose a Federal program unless a State program has been finally disapproved or a State refuses to submit a program of any type. If Interior does decide that a Federal program will be implemented, they said it will require a Federal rulemaking exercise (i.e., public hearings, etc.) during which the States will have ample opportunity to introduce any variations they feel would be appropriate.

Second, some States expressed concern that because they did not have an approved program by August 3, 1979, citizens or environmental interest groups would initiate litigation to force Interior to take over the program. However, Office of Surface Mining officials told us such litigation against Interior is unlikely and would not compel it to institute a Federal permanent program before June 3, 1980.

Third, if a proposed State program is not reviewed and approved in a timely manner and Interior declares it inadequate at the end of its review, the affected State would be without an approved program. As a result, States believe Interior may have to institute a federally run program in some States after June 3, 1980, before a reasonable review period has taken place. However, Office of Surface Mining officials said that this is an unjustified concern since it is Interior's intention to begin reviewing the State program submissions as early as August 1979 with public reviews and formal hearings taking place according to the schedule in the regulations. Where necessary, they stated that the procedures will allow time for State resubmissions and reconsideration by Interior before June 3, 1980.

Fourth, many State officials said that the federally missed deadlines are jeopardizing the success of the national surface coal mining program and the States' attempts to take over the program. They point out that it is ironic that Interior and the Office of Surface Mining have missed their deadlines in issuing Federal interim and permanent regulations for setting up the nationwide program, while the States may still be forced to meet their statutory deadlines. They believe that it would not be within the spirit of the act to implement a Federal program due to the lack of sufficient time to develop and receive approval for a State permanent program.

In rebuttal to this concern, Office of Surface Mining officials originally stated that any slippage in the act's deadlines for State program approval would remove much of the incentive for States to work diligently toward qualifying their regulatory programs for primacy under the act. Also, they indicated that drafts of State programs are now being reviewed as quickly as they are received in its regional offices.

SOME GROUPS ARE OPPOSED TO THE NEW TIME FRAMES

Several environmental, citizens, and agricultural groups strongly object to any proposal to formally amend or vary the time schedule depicted in the act. Even with Interior's delayed publication of its final regulations, they believe

the act has established reasonable time frames for the States. They believe Interior has helped the States by distributing draft guidelines on State law requirements and actually reviewing and consulting with most States on their laws since this spring. They note that Interior's regulations initially in preproposed draft form (which changed substantially) have been available to the States since July 1978. And finally, without such time frames being adhered to and which were construed to be reasonable by the Congress in the past, various conservation and environmental interest groups believe that the coal-producing States will continue to be reluctant to adequately regulate coal mine operators and make them responsible for the various environmental and social costs involved with mining.

STAFFING AND ORGANIZATION PROBLEMS

The State lead concept requires the full and early involvement of the participating States and a close working relationship with Interior to be successful. Projected through 1980, the Office of Surface Mining, which is under the Assistant Interior Secretary for Energy and Minerals, will employ over 900 employees in the Washington, D.C. headquarters office, 5 regional offices, and 14 district offices. (See App. II.)

Because the Office of Surface Mining's program implementation effort was substantially delayed from August 1977, when the act was signed into law, until March 1978, when the first appropriations were made available, it was slow in organizing and initially had limited resources available for assisting the States to take over the program.

Federal staffing problems

The Office of Surface Mining established full-time employment goals of 730 and 913 for fiscal years 1978 and 1979, respectively. In January 1979, only 689 of the 913 positions were filled. However, most of the key headquarters positions have now been filled and all five regional directors have been named. But, as of June 1979, none of the regional offices we contacted nor the Washington headquarters office had reached their full complement of staff, as shown below.

Office of Surface Mining	June 1979 staff onboard	Total complement
HQ	221	232
Region I	179	208
Region II	174	192
Region III	101	104
Region IV	74	83
Region V	61	94
Total	810	913

We were informed that the lack of staff (over 24 percent in January 1979) was caused partially by the delay of funding and partially by the lengthy processing time involved in hiring new Government officials. This situation was further compounded by a temporary freeze on hiring which the Office of Management and Budget lifted in January 1979.

Because the Office of Surface Mining's regional offices were late in opening, they were unable to provide early technical and financial assistance to the States. For example, none of the five regional offices primarily responsible for working with the major coal-producing States was officially opened until March 1978, 9 months after the act's enactment.

Office of Surface Mining officials minimize the adverse impact of the staffing delays and late office openings since its headquarters staff has attempted to provide technical and financial assistance to States for developing their programs. Further, as of March 1979, all of it regional, district, and field offices were staffed.

Federal funding problems

Some of the State officials contacted indicated that they had experienced delays in getting their initial interim enforcement grants from Interior. The grants were authorized under section 502(e) of the act to cover all of the State's incremental costs to administer and enforce the initial Federal regulatory program. Several State officials, particularly outside Office of Surface Mining region I, commented that when the Federal program first started there was no one available at the Office of Surface Mining to talk to about grant assistance.

Office of Surface Mining officials said that a number of factors contributed to the initial delays in processing and issuing interim grants. Besides the problems of late appropriations and lack of staff for processing the States' grant applications, they told us that the longest delay was

caused by the need for State legislature action. Nineteen States had to make legislative changes to their laws to bring them into compliance with Interior's interim regulations and the act before Federal grant money could be released.

The problems have since been remedied and all of the States which applied for interim grants during fiscal year 1978 have received them. In addition, Interior is awarding grants to States under the statutory Federal matching formula (section 705(a) of the act) to defray a portion of the States cost for developing their permanent programs. As of October 1, 1978, grants of over $6 million to 21 States and of $3 million to 8 States have been awarded to cover initial efforts to implement interim regulations and to develop permanent regulations, respectively.

State staffing problems

Some State officials are concerned because the Office of Surface Mining has hired personnel from the various State regulatory agencies to perform its own federally mandated responsibilities. Four of the major coal-producing States claimed that they have lost a total of 24 State inspectors to the Office of Surface Mining. These officials fear that once they provide the needed training and experience to their employees in areas such as inspections and enforcement, the Office of Surface Mining will entice these individuals into the Federal ranks. There can be up to a $8,000 salary differential between State and Federal pay levels.

Office of Surface Mining officials told us that it has adopted a policy of not recruiting inspectors from State agencies. However, under Office of Personnel Management rules, it cannot refuse to consider an applicant who was a State inspector. According to these officials, one of the reasons some State enforcement has been poor is that the States have not paid enough to hold competent personnel. Moreover, in several instances the Office of Surface Mining said it has offered to increase grants to help State regulatory authorities raise their salary levels in order to attract and keep qualified staff. Also, they believe the ongoing practice of the mining companies in hiring competent State personnel is a more significant problem for the States than the threat imposed by the Office of Surface Mining.

OVER-RESTRICTIVE REGULATIONS

State and industry officials complain that Interior's permanent regulations are designed to take regulatory responsibility from the States, ignoring the congressional intent. They believe Interior has developed its permanent regulations to be more stringent than necessary. The Congress passed the act in part to eliminate State and local differences in surface mining control and reclamation activities to offset any competitive advantages or disadvantages caused by possible coal production savings due to inadequate environmental protection standards. The Congress also recognized the need for comprehensive environmental protection standards to assure that surface coal mining operations are so conducted as to protect the society and the environment in light of the pending increases in coal production to meet national energy needs.

Office of Surface Mining officials said that they attempted to develop permanent regulations that are fair and workable for all the coal-producing States while insuring that as America develops its coal resources to meet our energy needs, it will do so in an environmentally sound fashion. Therefore, the Office of Surface Mining included in the regulations the "State window" feature which it believes provides the States with the flexibility to regulate surface mining activities on a regional basis. The feature allows States to propose alternative provisions, provided (1) they are no less stringent than the requirements of the act and Federal regulations and (2) the State can demonstrate that the alternatives are necessary. Alternatives are expected to take into account local requirements and environmental and agricultural conditions.

States believe Interior has overextended its authority

However, many of the States that we talked to have criticized the Office of Surface Mining's development of the regulations and its implementation practices. Many believe the regulations go beyond the intent of the act and lack proper statutory authority. Also, they believe the States were offered a limited role in the development of the regulations.

Several States said that the Office of Surface Mining has attempted to regulate the States, rather than establish procedures for them to obtain exclusive jurisdiction over the permanent program. To illustrate, one State official said the regulations were an effort by the Federal Government to standardize methods for obtaining regulatory results,

which he believed was against the congressional intent. In his opinion, Interior should concentrate on meeting the program's objective criteria rather than focus on the means for achieving these specified objectives.

In March 1979 hearings before the Congress, Wyoming's Governor stated that Interior's inclination toward total national uniformity is a major source of tension between the Office of Surface Mining and the States. Likewise, during the hearings, Kentucky's Governor recently stated that his State thus far has not been--by any stretch of the imagination--afforded the primary role envisioned by the act in the development of permanent programs under the act.

Many State agencies are convinced that a near verbatim copy of the Federal rules as they apply to performance standards--regardless of the State window concept--will be required to gain Interior's approval, erasing the importance of each State writing design criteria to meet local needs. For example, we were told that Montana, North Dakota, and Wyoming are required to promulgate prime farmland and alluvial valley floor regulations exactly like those developed by Interior with little consideration given to differences in terrain and ways to condense the Federal explanatory language. A State official summed this up by stating that:

> "The Office of Surface Mining continues to assert that these regulations are to be 'minimum' regulations for the State to include in their State program. In essence, the Office of Surface Mining is telling the States [to] promulgate these same or very similar regulations or your State program will be disapproved."

Several States said that the Office of Surface Mining's inflexible policy in developing the permanent regulations is best demonstrated with section 730.5--the definition of "consistent with"--and section 731.13--alternative procedures and performance standards. They believe the definition of "consistent with" (i.e., State programs must be no less stringent and meet the minimum requirements of the Federal regulations) in the proposed regulations is a significant deviation from the common definition of the word consistent (i.e., the absence of contradiction, disagreement, discord, or mutual interference). They feel if the Congress wanted State regulations to be "the same as or similar to" the Interior regulations, the Congress could have selected these words.

On the other hand, environmental groups feel that there is already a tremendous amount of flexibility in the general standards for approval. They told us that under the State

window provision a State can choose any method or alternative approach it wants, and if it can show that the approach is at least as stringent as and meets the minimum requirements of the act and regulations it will be approved. Nowhere in the regulations is a State prevented from proposing any alternative it wishes. Therefore, they believe the States and industry intend to use the State window as a loophole for approval of programs that will not meet minimum standards of the act or regulations.

One environmental group suggests that Interior should require each State when it submits a program to set out each Federal regulatory and statutory requirement, and place beside it the applicable State provision with an explanation with supporting data showing why the State provision is at least as stringent and meets the minimum requirements of the Federal standard or requirement. In its opinion, this will provide the flexibility advocated by the States without creating either confusion or a gaping loophole. Interior officials indicated that this comparison is required in the State program submission.

Some States claim the recently published permanent regulations (407 pages of preamble and 151 pages of rules) further demonstrate what they consider to be Interior's overextension of authority. These States, as well as the industry, think this to be in contrast to the act's intent that the regulations "be concise and written in plain, understandable language." They believe the principle of State primacy is lost with "volumes of specific design criteria and comprehensive standards to be applied to nationwide mining operations." They believe the regulations have been drafted in such detail that they preclude State management flexibility in prescribing the practices or means by which the underlying environmental objectives of the act are to be achieved.

Several State officials stated that they have been successful in the past by keeping their regulations simple while correspondingly enforcing a tough but "streamlined" surface mining law. One State official cited that for years his State did a good job with 17 pages of law and 11 pages of regulations. In his opinion,

> "the proposed final regulations are so restrictive and inclusive that the regulatory authority might just as well be running the draglines and bulldozers itself."

However, Office of Surface Mining officials believe its permanent regulations are not unduly long because they (1) cover more than just operations standards, (2) have to account for all types of complexities on a national basis that

may not exist in an individual State, (3) reflect Interior's desire to allow each type of operator, i.e., surface and underground, to have a separately usable part. The size of the preamble indicates the careful consideration Interior gave to the large volume of comments it received prior to promulgation. Interior also notes that if the pre-existing, streamlined State processes had been adequate, the Congress would not have had any reason to pass the Federal act.

Many State officials were concerned about the lack of adequate time to properly review and comment on the proposed regulations. For example, State regulatory officials in the Office of Surface Mining's region I received over 400 pages of draft regulations about 10 days before Interior held its initial meetings for soliciting public opinion regarding the regulations. As a result, the States were unable to prepare detailed analyses for the meetings. Surface mining associations had the same problems. Likewise, State regulatory officials did not believe that they received enough time to prepare adequate comments on the proposed final regulations. A top State regulatory official suggested that since Interior was going to give the States a 6-month extention to submit their State programs, the comment period should also have been extended.

However, the Office of Surface Mining believes that the steps it took regarding public participation in developing regulations, standards, or programs under the act and the volume of comments received, refute the assertion that there was a lack of adequate time to properly review and comment on the proposed regulations. On the draft regulations published in September 1978, it received over 15,000 pages of comments and recorded 2,500 pages of hearings transcripts from 589 sources during a 70-day comment period. In addition, the Office of Surface Mining stated that any attempt by Interior to extend the comment period on the final rules would have further delayed promulgation of the national rules beyond August 1978 and would have made it even harder for States to make timely submissions of their programs.

Similarly, Interior officials believe the real basis for the criticism raised by the States originates from the requirements of the Administrative Procedures Act related to ex-parte communications. States would have preferred joint development of the regulations. Instead Interior had to refuse to discuss regulations with them from the close of the comment period until the rules were final. To counter this dilemma, Interior believes it made exhaustive attempts, such as holding public meetings and hearings and proposing drafts, to acquire public participation as it developed the permanent regulations.

Concern that some requirements may be too stringent

Furthermore, while State and industry officials are unhappy with the length of the regulations and with their lack of flexibility, they singled out some specific technical areas, many of which are specific requirements in the act, as being too stringent. They cited the following parts of the Federal regulations where the Office of Surface Mining has a degree of discretion.

--Designating prime farmlands and alluvial valley floor areas. They stated the current language gives rulemakers too much arbitrary authority to define what is prime farmland and alluvial floor areas. Regarding alluvial valley floors, industry asserts that the regulations state that any valley floors with a stream in an arid or semiarid region must conform to the regulations. They fear the potential misuse of this authority by persons opposed to expanded surface mining could lead to the unnecessary condemnation of valuable coal reserves. Office of Surface Mining officials state that the interpretation that any valley with a stream in an arid or semiarid region must conform to the alluvial valley requirements is incorrect. The regulations actually require the review of any such area with a stream to determine first if it is an alluvial valley floor.

--Blasting standards. The States and industry believe the proposed blasting requirements will prove burdensome and costly and exceed the act's authority. Section 522(e) (5) precludes mining within 300 feet from any occupied dwelling or any public building, school, church, community, institutional building, or public park. However, the Office of Surface Mining expanded the regulations to preclude blasting within 1,000 feet. According to the industry, the Office of Surface Mining has also ignored the accepted explosive industry standard for threshold of damage of 2 inches per second peak particle velocity, by requiring 1 inch per second. Office of Surface Mining officials told us that the regulations allow the appropriate regulatory authority to reduce the distance limitation if blasting can be done safely. Also, they noted that the peak particle velocity regulations are necessary to prevent any damage as required by the act and were upheld by the U.S. District Court.

--Performance Bonds. State regulatory officials criticized the length of time that bonds had to be held before release as well as the dollar amounts involved. However, the time period of the bonds is established by subsection 515(b)(20) of the act and the minimum amount and the basis for computing the amount are set by subsection 509(a).

--Sediment control for reclaimed areas. The States and industry commented that the requirements are too stringent, more restrictive than the Environmental Protection Agency's limits under the Clear Water Act, and impossible to meet even in natural runoff from undisturbed areas. Additionally, they believe the Office of Surface Mining had drafted design criteria that is more stringent than necessary to meet the standards of the act. Section 515(b) permits the use of water impoundments for sediment control and allows the regulatory authority to dictate the size and type structure. But they said the Office of Surface Mining's rules mandate that ponds be used to handle all drainage and even specifies pond volume requirements. They stated that by limiting the operator to the use of ponds, the Office of Surface Mining has eliminated the possible use of other means of proven technology, such as treatment with chemicals capable of successfully controlling sedimentation. Office of Surface Mining officials said the sediment requirements extend beyond the Environmental Protection Agency standards but only because they apply through revegetation, not just regrading as the Agency standards cover. In addition, the Office of Surface Mining states that the regulations do not limit the operations solely to the use of ponds for controlling sedimentation, other technology is encouraged to reduce pond size to a minimum. However, they say that all drainage must be controlled because any drainage from a disturbed area may contain sediment.

--Surface effects of underground mining operations. Many Appalachian and Midwestern States and coal operators expressed concern over the standards introduced in the regulations for controlling surface effects of deep mining as not being very different from those promulgated for regulating surface coal mining operations. States are concerned that problems associated with pre-existing underground mines will simply not meet the new requirements and no special consideration is being given to them by Interior as directed by the act in section 516. Also, industry states that the new standards do not take into account the

overall distinct differences between deep and surface mining operations as evidenced in the regulations permitting procedures and environmental standards. Office of Surface Mining officials told us that the different characteristics of underground mines were considered in developing the underground mine regulations. They stated examples where differences are recognized including no requirements for public notice of underground blasting and no requirements for underground mining comparable to the surface mining regulatory requirements on protection of ground water recharge capacity. Finally, they indicated some standards such as those relating to subsidence are unique to underground mines.

They also cited several regulations which are basically specific statutory requirements:

--Designating areas unsuitable for mining. States, but more so industry, have serious questions about the constitutionality of this provision (section 522 of the act) since it may result in the loss of property rights without compensation. They indicate this is what happens whenever mineral coal reserves underlying surface lands are determined to be unsuitable for mining. Office of Surface Mining officials told us that section 522 is not unconstitutional since it is a device to protect environment and since it would operate to allow for deep mining or can allow alternative types of surface mining where other types of surface mining are prohibited. Moreover, section 522 does not apply to coal mining which was started before the act or in which "substantial legal and financial commitments" were made before January 4, 1977.

--Mountaintop removal and variances from approximate original contour. According to several State officials, this section of the act has created a great deal of controversy. They stated that returning mined land to its approximate original contour could leave the land useless. They added that in many cases landowners would prefer that their land be left flat with benches so it could be developed. Various State officials assert that West Virginia, Virginia, and eastern Kentucky need useable flat lands. This was one of the most hotly debated issues before the Congress when it considered the act. Office of Surface Mining officials believe that the congressional decision to allow no general variances was specific and that the variance in section 515(e) of the act was specifically intended to meet the so-called flatland need under very controlled circumstances.

--Permits. Several State and industry representatives are concerned about the requirements for operators to file permit applications 2 months after the effective date of the permanent regulations for lands they expect to be mining 8 months thereafter. Many operators believe that a more gradual compliance schedule should be introduced to offset the additional time needed for collecting the necessary environmental data for processing the permit. Also, many States indicated that the present time schedule of 6 months for them to approve or disapprove the operators' permit applications is not enough. Again, the Office of Surface Mining emphasizes that these requirements arise from specific language in section 502(d) of the act.

--Mine site planning and certification by a professional engineer. Currently, in most States, mine site planning and certification is done by registered land surveyors instead of professional engineers. Since there are not many certified professional engineers available, the States and industry felt that the practice of using registered land surveyors as well as professional engineers should continue. The act requires mine site planning and certification by a professional engineer for certain functions, such as spoil disposal. Except where the act expressly requires a professional engineer, such as in the provision on sedimentation ponds, spoil disposal, and maps and cross sections, the Office of Surface Mining's regulations allow for surveyors.

INTERIOR'S POSITION

In addition to their specific comments cited above, Interior officials believe that Interior's permanent program regulations allow the States and coal operators flexibility where there are different methods of achieving the standards of the act while assuring that the standards are uniformly achieved and maintained in all coal regions. They said design criteria and comprehensive standards are basically statutory standards established by the Congress--where the act is specific, the regulations are specific. Further, the Congress intended more than "minimum national environmental protection standards" and more than just "eliminating State and local differences." In many instances, the Congress itself established statutory standards in terms of practices for achieving the specified objectives.

In sum, Interior believes its proposed regulations balance congressional concern for uniform performance standards and design criteria to protect society and the environment

against the States' desire for flexibility. As a result, the Office of Surface Mining said it has proposed a variety of regulatory mechanisms for State lead programs, ranging from explicit design criteria or alternative control measures to general performance standards, in relation to the seriousness of the potential environmental damage and the desire for State and operator flexibility. Furthermore, they state that Interior will not be developing State programs and that each coal-producing State has the option of adopting the portions of the program which are applicable within its borders. They are working with the States in accordance with congressional wishes as stated in the act.

PENDING COURT CASES

Indiana and Texas have sued Interior, testing the constitutional issue of State sovereignty. Each case challenges several provisions of the act which are alleged to deny the States the right to enforce their own programs. Texas has voluntarily withdrawn its suit to the satisfaction of both parties; Indiana's case is pending.

In Virginia, a Federal district judge issued a preliminary injunction prohibiting the Office of Surface Mining from enforcing the act until he could rule on several questions concerning whether certain portions of the act are unconstitutional. The preliminary injunction was recently dissolved on appeal. However, the judge still must rule on the constitutional issues and determine whether to issue a permanent injunction.

Also, in May, the States of Illinois and Virginia separately filed suit in the United States District Court, District of Columbia, against Interior for a judicial review of Interior's permanent regulations. Virginia petitioned for a general review of the regulations, requesting that they be set aside or modified. Illinois complained about specific parts of the regulations in addition to alleging that the regulations in general do not provide it the opportunity to obtain primacy or exclusive jurisdiction over the coal mining operations performed in that State. Court proceedings have been scheduled for these cases, which were consolidated, starting this October and are expected to continue through the end of the year. In the interim, in response to motions for a preliminary injunction filed by Virginia and Illinois in this consolidated action, the Court on July 25, 1979, granted the States an extension from August 3, 1979, to March 3, 1980, to submit their programs to Interior.

CONCERN ABOUT THE OFFICE OF SURFACE MINING'S FUTURE ROLE

Although the Office of Surface Mining's overall relationship with the States is improving and we were advised by the States that they have either adopted or were complying with the interim Federal regulations, States are still concerned about the Office's future role of overseer and monitor. Most State officials we talked to are not only concerned about the Office of Surface Mining's role under approved State programs but they were also skeptical about its anticipated composition and size--currently projected for over 900 Federal employees, many of which will be in the regulatory enforcement area. Consequently, the States are concerned that the Office of Surface Mining will become a large bureaucracy which will not allow States to fully manage their regulatory programs. The States expressed such concerns as the Office of Surface Mining will

--end up competing with them,

--interfere with the management of their programs,

--be more involved in their programs than necessary, and

--duplicate their efforts which may lead to duplicative bureaucracies.

As a result, most States would like to see the Office of Surface Mining minimally involved under the approved State program format. One State official summarized the States' concerns by saying that he would like to see the Office of Surface Mining functioning as a "bare bones operation."

On the other hand, Interior believes it is not useful to take seriously State officials' fears and speculations about how the Office of Surface Mining will perform its oversight function. It believes 900 employees are not too many to carry out the act adequately, which includes not only the oversight of 26 to 28 State programs but also the abandoned mine land program. (See chapter 4.) Interior notes that only 225 of its employees are inspectors which is equivalent to 1 inspector for every 80 mines or other regulated facility. Finally, Interior indicates that long-term inspection staffing requirements for the Office of Surface Mining will depend largely on the number of States accepting responsibility for the permanent program and after adequate justification to the Office of Management and Budget and the Congress.

CONCLUSIONS

The Congress passed the Surface Mining Control and Reclamation Act to protect society and the environment from the adverse effects of surface coal mining operations and to eliminate local differences in surface mining control and reclamation activities. However, it also instructed Interior to introduce regulations that would provide some flexibility to States to regulate surface mining on a regional basis to solve regional problems. The act intended that after the States properly submitted their permanent programs and received the Secretary's approval they would be responsible for applying the requirements of the act and the regulations to the coal mining industry. The act did not intend for the States to become merely agents of the Department of the Interior with their regulations conforming completely to national standards.

As a result, Interior and its Office of Surface Mining should continue doing its job fairly and in a cooperative manner while helping the States develop adequate permanent programs. Similarly, as the Office of Surface Mining progresses from its present role of enforcing the Federal interim program to its future role as overseer of the State permanent programs, it should avoid creating a dual layer of Federal and State bureaucracies.

Interior issued its permanent surface coal mining regulations on March 13, 1979. That was 7 months after the deadline date of August 3, 1978, set forth in the act. The regulations were late primarily because of a 7-month congressional appropriation delay. Because of this delay, and despite the 6 month deadline extension granted by the Secretary of the Interior, some States were concerned that they would not have enough time to develop their programs and submit them for review by August 3, 1979. They also questioned whether the delay would allow Interior sufficient time to review and approve their initial program and any revisions by June 3, 1980. The States believe that it would not be within the spirit of the act to implement a Federal program due to the lack of sufficient time to develop and receive approval for a State permanent program.

In April 1979, we suggested that the Secretary of the Interior ask the Congress to amend sections 503(a) and 504(a) of the act to extend the August 3, 1979, and the June 3, 1980, statutory deadlines by at least 7 months each if it becomes necessary during its review process to allow the States sufficient time to develop their programs and for Interior to review and approve them. In light of this suggestion and after a long and deliberate analysis of the

time requirement in the act, the Secretary of the Interior on June 26, 1979, asked the Senate Committee on Energy and Natural Resources to allow an additional 7 months for submission and approval of State programs. If approved, coal-producing States would have until March 3, 1980, (rather than the present August 3, 1979, deadline) to finalize their applications to take responsibility for enforcing the act. And the June 3, 1980, deadline for Federal approval of the States' proposed programs would be extended to January 3, 1981. A U.S. District Court decision recently enjoined the secretary of the Interior on July 25, 1979, to extend the August 3rd deadline to March 3, 1980, but letting the June 3rd 1980, deadline stand.

CHAPTER 3

OTHER CONCERNS ABOUT SURFACE MINING REGULATIONS

The States and the coal industry have continually expressed concern with how Interior and its Office of Surface Mining are carrying out their congressional mandate in administering programs for controlling surface coal mining operations which are required by the act. They are especially concerned with the:

--Differences in State and Federal enforcement philosophy.

--Potential for duplication between the Office of Surface Mining and other Federal agencies' coal programs.

--Impact on the small coal operator.

--Inflationary impact attributable to Interior's stringent standards.

DIFFERENCES IN STATE AND FEDERAL ENFORCEMENT PHILOSOPHY

State officials told us that a major problem has surfaced during the interim Federal regulatory program that may affect the State regulatory agencies' ability to work with the coal operators in their States. The problem is enforcement philosophy--Federal versus State implementation.

According to State officials, the Office of Surface Mining's enforcement philosophy is one of immediate enforcement using fines and cessation orders to close mines. For example, as of December 31, 1978, Federal inspectors in Office of Surface Mining regions I and II conducted a total of 2,136 inspections, resulting in 420 notices of violations and 157 cessation orders. During the first 7 months of enforcement under the Federal interim program, the Government levied $2 million in fines and issued a total of 193 cessation orders.

Office of Surface Mining officials told us that the majority of these cessation orders were in effect for only a short time and usually did not prevent continued mine operation. Moreover, they stated that the majority of cessation orders were issued where operators had failed to abate a violation after notice.

In contrast, the State regulatory's approach has been to work with the operators, notify them of violations, make suggestions as to methods of corrections, and impose fines

or closing mines only when the operator has clearly demonstrated intent not to comply with the regulations. Consequently, several State regulatory officials believe that the Office of Surface Mining's enforcement practices are unreasonable and conflict with the States' approach of working with the operators to correct the identifiable violations.

In addition, even though the Office of Surface Mining states that the coal industry has had plenty of leadtime between enactment and enforcement, many State regulators from the major coal-producing States in the Appalachian area view the Federal Government's hard-line inspection and enforcement approach as detrimental to establishing good working relationships with the coal operators, which many view as being necessary in developing a new national surface coal mining program. For example, one State official told us that it took the coal industry in his State over 10 years to change their operations to meet State regulations. He further stated that it is impossible to expect the industry to change their operations overnight to meet the new Federal regulations--a more gradual approach is needed.

Office of Surface Mining officials attribute the concerns expressed above as generally not being differences between State and Federal philosophy, but differences resulting from specific statutory requirements and detailed enforcement obligations imposed on the Office of Surface Mining in the act. Also, they point out that in the past State enforcement has often fallen short of the requirement to assure adequate protection of the environment. They said that if the States had been doing a more effective job, the Federal legislation would not have been necessary. As a result of past problems, the Congress made the Office of Surface Mining's inspection and enforcement role during the interim Federal program mandatory. Moreover, the issuance of orders of cessation or notices of violations where violations are observed is mandatory. Likewise, civil penalties are required by the act.

Office of Surface Mining officials added that until February 1979, it acted under a policy limiting enforcement to the more serious violations. They told us that the frequency of Federal inspections which has been hindered by the Office's progress in hiring inspectors was substantially below the statutory inspection level and is only now approaching the required minimum of at least two inspections each year for any surface coal mining and reclamation operation.

In addressing the States and coal industry claims of hard line and often overzealous enforcement of the interim program, Office of Surface Mining officials cited without

agreeing or disagreeing with the points made, an analysis performed by the Center for Law and Social Policy of the Office's enforcement and inspections activities. The findings provided a different perception of the Office of Surface Mining's enforcement and inspection activities, i.e., inspectors were not citing major violations, key performance standards were being ignored, and few inspections were being conducted, with little, if any, overall impact on environmental protection or coal production.

ROLES OF OTHER FEDERAL AGENCIES

Several States as well as the coal industry view many of the various Federal agencies' roles and responsibilities in administering surface mining and reclamation activities as duplicative. For example, they think that having Interior and the Environmental Protection Agency requiring coal mining operations to comply with certain permit requirements relating to water quality is duplicative. Office of Surface Mining officials told us that it has agreed in principle with the Agency that the Office of Surface Mining or the States in the permanent program will functionally assume the role of running the National Pollutant Discharge Elimination System Program for the Agency under the Clean Water Act as it relates to coal mining.

To prevent unnecessary duplication, the Congress mandated Interior, in addition to its overall responsibility of administering the act's program, to cooperate with other Federal agencies to minimize duplication of inspections, enforcement, and administration of the act. Interior has identified at least 15 Federal agencies that are responsible for proposing and implementing substantive coal-related environmental and energy-related legislation. (See app. III.)

In contrast to the Office of Surface Mining, many agencies have functions that are not always identified with concern for environmental regulation. In fact, their principal missions may sometimes be in direct conflict with environmental quality, such as the Department of Energy's goal in promoting the use of more coal.

As a result, the Office of Surface Mining is trying to resolve conflicts among agencies and attempting to harness the collective power of the Federal agencies involved to work for common ends while taking into consideration other national objectives, such as energy self-sufficiency and protecting the environment. Several coordinating committees have been established which have resulted in agreements clarifying the various agencies' roles.

IMPACT ON THE SMALL COAL OPERATOR

Throughout the congressional hearings on the surface mining legislation, the Congress expressed concern over the small coal operators' ability to comply with the act's requirements. This concern was reflected in the act by extending small coal operators time for compliance and by including the small operator assistance program. The provision allows the appropriate regulatory authority to assume the operators costs for determining the probable hydrologic consequences of coal mine operations and a statement of the results of test borings on core samplings as required by the act. This provision will take effect as the permanent regulatory programs are implemented since the information is required in the operator's permanent program permit application.

Small coal mine operators, those whose total annual coal production from surface and underground mining does not exceed 100,000 tons, were granted an extension until January 1, 1979, to comply with all but one of the act's environmental protection performance standards. Coal industry officials believe small coal mine operators still will not be able to cope with the massive and highly technical requirements--particularly the bonding and permitting requirements--set forth in Interior's permanent program surface mining regulations. To support this, a top mining official in a major coal-producing State stated that since February 3, 1978, over three-fifths of the small coal mine operators in his State have gone out of business as independent operators. Further, in March 1979, the President of the Mining and Reclamation Council of America, testified before the Congress that over 1,000 of the 1,750 active small coal mine operators will be out of business by the end of 1979.

As a result, industry and several State regulatory officials foresee the small coal mine operators as being forced out of the market or as being absorbed as subcontractors to larger coal operators. This could result in larger coal operators than now in the market controlling the price of coal. However, Office of Surface Mining officials state there are many other factors besides the alleged stringency of its regulations that are far more likely to be the cause of shutdowns by small operators including adverse market conditions and high transportation costs.

Also, many State officials believe that the small coal mine operators should not be expected to adhere to the same standards--mainly referring to permit application requirements--imposed on large coal mine operators such as those western operators which produce 8 million tons a year.

However, there is no authority in the act, other than the small operator financial assistance program, for Interior or the States to differentiate between large and small operators. Also, Office of Surface Mining officials said that the damage caused by coal production is the same for both large and small operators and accordingly all operators should be expected to adhere to the same standards.

INFLATIONARY IMPACT ATTRIBUTABLE TO STRINGENT STANDARDS

The White House Council on Wage and Price Stability, issued in November 1978, a cost analysis of Interior's proposed rules suggesting that Interior's rules "appear more stringent" than the Congress had intended and are inflationary. Specific examples included Interior's treatment of air quality regulations, procedures for defining farmlands, rules for dirt disposal, requirements for permitting and bonding, and rules governing water pollution.

Coal industry representatives also claim that the costs associated with several sections of the permanent regulations are unjustified and inflationary, including those governing road construction criteria, definition of prime farmlands, restoration of pre-existing structures, and revegetation. In addition, the coal industry declares that additional costs associated with other sections of the regulations will be incurred by the industry and the public due to the interruption in coal production (inspection, permitting procedures, etc.) and the loss of coal deposits that can not be mined (designation of lands unsuitable for mining).

Interior officials have had meetings with industry and administration officials to assure them that when the regulations become fully implemented they will cause very little economic disruption. In addition, the Council of Economic Advisors to the President chose to review the status of issues reviewed earlier by the Council on Wage and Price Stability and concluded in January 1979 that the then proposed permanent regulations are consistent with the act. Interior officials also note that the unsuitable designation procedures often will result only in precluding certain types of mining to protect other resource values. For example, for a given area, an unsuitable designation may preclude only one type of surface mining, but permit other surface mining techniques to be used.

CONCLUSIONS

To date, the States and industry have expressed and experienced several major concerns with the surface mining

program. Unless these concerns are resolved, the chances of implementing a nationwide surface coal mining program to protect the people, land, and environment from the adverse effects of surface coal mining operations are diminished. Interior and the Office of Surface Mining need a good working relationship with the States, coal mine operators, and the people; otherwise, they could be perceived as another Federal bureaucracy imposing unnecessary rules and regulations on the States and coal industry.

Interior's regulations may be inflationary, as argued by the coal industry, but it is too early to tell.

CHAPTER 4

REHABILITATION OF ABANDONED MINED LANDS

Over $200 million has been collected to date in reclamation fee payments from coal operators. Half of these funds are earmarked by the act for State reclamation programs and are currently idle because under the act, States may not have reclamation programs approved and implemented before approval of their regulatory programs. Interior is developing reclamation guidelines for future State use and a comprehensive inventory of abandoned mined lands for State and Federal use in determining reclamation project priorities. These projects are scheduled for completion in 1980 and 1982, respectively. The results of these efforts are needed for long-term Federal and State reclamation plans. Although a number of Federal reclamation projects have been initiated, Interior is experiencing some problems in starting up the Abandoned Mine Reclamation (AMR) Fund Program.

STATUS OF THE ABANDONED MINE RECLAMATION FUND AND PROGRAM ACTIVITIES

Historically, the adverse environmental effects resulting from mining coal have been neglected after the mining has been completed. To help correct abuses to our land, water resources, and environment from past coal mining, the Congress under title IV of the act enacted an AMR program. Interior is to administer the program. Under the program, Interior and the States will reclaim those lands which (1) have been mined before enactment (August 3, 1977), (2) have been abandoned in either an unreclaimed or inadequately reclaimed condition, and (3) the coal operator is not responsible for reclaiming under existing State or other Federal laws.

This program is funded principally from fees collected from active coal mine operators after October 1, 1977. Collections are currently at the rate of approximately $45 million a quarter. Over $200 million has been collected to date.

The money is in a trust fund called the Abandoned Mine Reclamation Fund within the U.S. Treasury. The reclamation fee is to be 35 cents per ton on surface coal and 15 cents a ton on coal produced by underground mining or 10 percent of the value of the coal at the mine, whichever is less. Reclamation fees for lignite are set at 2 percent of the value of the coal at the mine or 10 cents a ton, whichever is less.

Fifty percent of the fees collected from operating mines in a State are reserved for that State's approved reclamation program and accompanying annual reclamation project plan subject to annual appropriation by the Congress. (For purposes of this section of the act, Indian tribes shall be treated like State governments and the reclamation fees collected from Indian lands within a State shall not be included in the calculation of amounts to be allocated to a State but shall be put in a separate fund established by an Indian tribe.) But according to section 405(c) of the act, no State reclamation plan or projects can be approved until a State has also secured approval from Interior for its permanent regulatory program. And, to date, no regulatory programs have been approved. Accordingly, these collected fees are accumulating in the trust fund and will not be expended by any State until at least the middle of 1980 when the first State regulatory AMR programs are likely to be approved by Interior.

Office of Surface Mining officials told us that the accumulation of the States' share of funds is based on a deliberate decision by the Congress to use the withholding of AMR funds as an incentive to get the States to develop their own permanent regulatory programs.

They said that a strong economic incentive was needed to induce States to complete the tedious process of gaining Interior's approval of their State regulatory programs.

The act requires that the amounts collected and allocated to States be reserved for them for a minimum of 3 years to allow them time to develop their programs. After the 3-year limit expires, the funds are available for the overall reclamation program but not necessarily to the State where the funds were collected.

The remaining 50 percent of the fees collected are available through annual appropriations by the Congress to abandoned lands reclamation projects administered by the Office of Surface Mining, and the Department of Agriculture and to the Small Operator Assistance Program. Interior's Office of Surface Mining program currently corrects immediate hazards to public health and safety from past mining practices. Interior's Bureau of Mines also participates by repairing impoundments, correcting subsidence problems, extinguishing waste bank fires, and sealing shafts and tunnels. Although the majority of the Bureau of Mines work continues to be funded by direct general fund appropriations, they also manage some AMR fund projects as requested by the Office of Surface Mining. The Office of Surface Mining also collects fees, conducts inventories, and assists States in developing

their reclamation programs. The Soil Conservation Service will use AMR funds to reclaim about 3,000 acres of rural land by the end of 1980.

The Office of Surface Mining and the other Federal agencies are beginning to use money from the AMR fund primarily to rehabilitate private lands already damaged by past mining. The AMR program is presently a Federal program and is currently limited to projects in the emergency category and to projects that can be considered high priority, under sections 410 and 403 of the act, respectively. Starting in late 1977, after canvassing the States, Federal agencies, and citizens' groups for the identification of hazardous abandoned coal mines sites, Interior compiled a list of more than 400 sites. By the end of 1978, it selected from this list about 42 high-priority candidates for land rehabilitation. As of April 1979, Interior had selected a total of 61 projects and committed funds totaling about $14 million.

Although the States do not have their own AMR funds yet, Interior officials told us that except for emergencies, most projects are being carried out through cooperative agreements with the States. They said Interior is working closely with States and utilizing their capabilities in investigation, design, and specific project activities. They believe this cooperation will provide a great deal of experience for the States when they begin their own programs.

POTENTIAL PROBLEMS

After discussions with various Federal and State reclamation officials, we identified several potential problem areas with the AMR program and fund that could hurt Interior's efforts to protect the environment. They included

- --identifying coal mines that are active to assure proper fee collections and compliance from coal operators,
- --conducting a comprehensive inventory of abandoned mined lands to determine reclamation project priorities,
- --developing AMR standards to provide States with better guidance during their plan development phase, and
- --reviewing the geographic allocation formula to assure an equitable distribution of funds.

Need for a better system identifying active coal mines to assure proper fee collections

Starting on October 1, 1977, Interior mailed notices for filing and fee reclamation to roughly 9,000 operators. The operators were identified on the basis of the Department of Labor, Mining and Safety and Health Administration's (MSHA's), listing of coal and coal-related operations requiring a MSHA inspection. The MSHA mine identification system was the only national system that related to a geographic location, was computerized, and was constantly being updated by Federal personnel in the field. However, Interior's initial quarterly report on fee collections indicated that only about 58 percent of the addresses on the MSHA file paid the fees. This figure tends to indicate a significant noncompliance problem with the small coal operators. These problems have continued throughout the program's first year.

Interior officials said that the major problems associated with the fee collection process center around the MSHA's identification number system (used by MSHA to identify potential health and safety problems on permitted mining sites) and Interior's delayed efforts to follow up on questionable noncompliance cases. Interior believes that MSHA's listing is the best available data base for identifying active coal operations. But it is also aware of the system's weaknesses, including the fact that many of the coal operations listed are inactive, closed down, or involve other nonproduction aspects of coal mining.

Office of Surface Mining officials told us that they intentionally mailed forms to all the facilities on MSHA's list to insure the greatest coverage of potential operators. They knew that the MSHA file was not an accurate file for its purposes; however, a 1-percent error could result in a possible annual loss of $2 million in revenues to the AMR fund. Accordingly, the entire MSHA file was used. Also, they said that the 58 percent compliance figure is based on MSHA's list and is not an accurate indication of the compliance rate. The Office of Surface Mining reports the compliance rate in tonnage terms as 94 to 97 percent. This is based on a comparison of estimates of coal tonnage as reported by the Bureau of Mines and the Department of Energy with the tonnage on which fees have been paid. For example, the end of the fiscal year 1978 quarterly report still showed a 34-percent nonresponse rate attributable to the problems cited above, even though, in dollars, the actual reclamation fee collections closely approximated early Interior revenue estimates which were based on coal production data supplied by the other agencies.

As a result, Interior is attempting to correct the MSHA list for its purposes by identifying only the active coal mining operations and actual coal producers. However, it is still experiencing a mixture of problems with proper identification and noncompliance by coal operators. In addition, Interior's onsite inspections for verifying possible noncompliance have lagged. The Congress did not appropriate any funds for the fee collection program until after the first fees were due. Consequently, Office of Surface Mining officials indicated that they had no alternative except to use existing data and systems and that fee compliance staffing was delayed to November 1978, 10 months after Interior began collecting the reclamation fees. However, Interior is now beginning to hire fee compliance officers and is performing actual onsite inspections to verify the list's authenticity. In doing so, it has also begun filing criminal charges against those coal companies failing to pay the reclamation fee.

Delay in completing a comprehensive inventory of abandoned mined lands may cause project selection problems

If the AMR comprehensive national inventory project proposed by Interior is not completed in a timely manner, it may hurt the quality of State reclamation programs because the States would be unable to accurately determine the full scope of their program requirements.

The Office of Surface Mining proposed in its 1978 budget request to provide an inventory of areas needing reclamation comprehensive enough to provide a basis for nationwide planning and for implementing the overall reclamation program. Specifically, the inventory will be to (1) locate the areas, (2) define the types of problems found, and (3) rank the projects selected. Because of the magnitude of the various inventory elements, the Office of Surface Mining has stated that the inventory project cannot be completed until sometime in 1982.

However, Office of Surface Mining officials told us they have sufficient data available so that they could, with the help of the States, select the projects needing reclamation funds first. And they said the lack of a complete inventory will not be overly critical to project selection and ranking during the first few years. However, Interior and the States have started planning the inventory work so that the most critical data elements (criteria) are identified early for proper ranking of future projects.

Thus, on March 19, 1979, the Office of Surface Mining entered into a cooperative agreement with the Department of Energy to begin a multiphased program aimed at creating an initial inventory based on existing data, and for the design of the complete national inventory.

In addition to Interior's efforts to compile a national inventory of abandoned mined lands, the individual States are required, as part of their reclamation plan submissions, to have an inventory.

At the present time, the Office of Surface Mining is instructing the States to use current available inventories until more accurate inventories can be developed. Officials said the interim inventories are a combination of available inventories from both Federal and State sources and are sufficient for program development purposes as well as project selections through at least fiscal year 1981. After our discussions with Interior officials, it was suggested that it may be more advantageous for a State to provide the existing inventory information to Interior at the time of its reclamation program submission and wait for Interior to develop the national inventory. When they received the national inventory, States could then amend their program plans.

This approach should eliminate duplication between the States and Interior in compiling inventory information. Further, the States would then have access to all their allocable funds for site specific planning purposes.

Need for Interior to develop reclamation guidelines

During our review, Interior published a set of rules (dated October 25, 1978) establishing procedures and requirements for the preparation, submission, and approval of State reclamation plans and annual projects plans. (The AMR program plan is to provide general policies for the program and criteria for ranking projects; the annual project plan is a schedule of specific projects to be undertaken in a particular year.) But to date, there have been no accompanying guidelines on how to properly reclaim abandoned mined lands and which, if later introduced, may affect future State project designs.

Office of Surface Mining officials told us reclamation guidelines are considered desirable but they are not required by the act or current AMR program regulations in order for projects to proceed using either Federal or State funds.

The Office of Surface Mining is developing them in conjunction with the State agencies to enhance program management. Interior's schedule calls for completion of the guidelines in February 1980. Furthermore, Interior officials told us that Interior expects to establish them as general guidelines for the AMR program, which may be supplemented by "how to" publications as technology develops.

In the meantime, Interior officials contend that the present lack of reclamation guidelines will not affect the initial State reclamation plan submission or approval. They maintain present reclamation techniques are such that initial project designs should have little inconsistency with whatever guidelines are promulgated. All project designs will be aimed at eliminating the problems associated with particular sites, which is the main objective of the program.

Possible geographical imbalance in the allocation of revenues between the States

The current system established under the act for distributing funds for reclaiming lands damaged by mining appears to favor the East in terms of the return of the funds to the area where they were collected. This is particularly true of the Appalachian area, which has a large amount of abandoned coal lands. Interior officials told us that the total anticipated funds over the program's life (15 years) will not even eliminate all the coal mining related problems in the East alone.

The West has had less damage to existing lands from coal mining. For instance, some Western States may be able to correct damage to their lands caused by coal mining within 2 to 3 years. The State's share of fund resources in the West may also be used for reclamation of other areas damaged by other types of mining if the damages could endanger life and property, consititute a hazard to public health and safety, or degrade the environment. Some Western State officials said that the damage to lands caused by other mining such as sand and gravel pit operations may be more of a problem than coal mining related damage. However, the Western States will probably not receive a proportionate share of Interior's or Agriculture's discretionary Federal project funds since the first priority must be for coal mining related problems. As a result, the current allocation formula limits States with few coal mining related problems to their 50 percent-allocation. The remaining 50 percent collected from these States will support coal reclamation activity in other regions of the country.

CONCLUSIONS

The Office of Surface Mining and other Federal agencies are beginning to use the AMR fund, now being generated from reclamation fees imposed on coal operators, to rehabilitate lands damaged by past mining. And except for emergencies, projects are being carried out now through cooperative agreements with the States.

However, since the States need to have both an approved permanent regulatory (title V) program as well as an approved AMR (title IV) program and annual reclamation project plans to participate in the program and to receive their 50-percent escrow portion of the fund, it will not be until at least the middle of 1980 before most States can qualify for such funding. In the meantime, as mandated by the act, the funds due to the States are sitting idle in the U.S. Treasury.

Since the AMR program is separate from the surface mining regulatory program, we believe that an AMR plan submitted by the State to Interior as well as the funds due that State under the program could be approved or disapproved on its own merits. This could result in a more timely release of funds due the States and would permit the qualified States to start reclaiming abandoned mained lands which in their present unclaimed condition continue to degrade the environment.

Another possibility that exists would be to provide "seed" money for preliminary engineering design work of the initial projects that the States plan to undertake. As a result, the initial reclamation projects would not be delayed anymore than they have to be while waiting for State regulatory program approval.

Interior officials maintain that even though the States do not have their own AMR funds yet, they are participating in the program. They believe that the Congress specifically built into the act the inducement to get the States to develop their own programs by the withholding of the AMR funds until the permanent regulatory programs were implemented. To cancel this inducement, in Interior's view, might have an opposite effect than what the act envisioned, i.e., the Federal Government having to take the lead in the regulatory program.

Other potential problems facing Interior include identifying all active coal mine operations so that proper fee collections can be made to the AMR fund, completing the comprehensive national inventory of abandoned mined lands

before determining long-term reclamation project priorities, and establishing reclamation guidelines so the States can insure that their methods to reclaim damaged land are consistent with Federal requirements.

Interior is currently working with other Federal agencies and the States to resolve these problems.

ALTERNATIVES FOR CONSIDERATION BY THE CONGRESS

Over $200 million has been collected to date in reclamation fee payments from coal operators. Half of these funds are earmarked by the act for State reclamation programs and are currently idle, waiting for State programs to be developed and approved by Interior. Under the act, States may not have reclamation programs approved and implemented before approval of their surface mining regulatory programs. Congressional intent is to provide a strong economic incentive to induce the States to complete the tedious process of gaining Interior's approval of their State regulatory programs.

Because of the delays in setting up the national program and considering the amount of funds accumulating and sitting idle for State reclamation programs, the Congress should review section 405(c) of the Surface Mining Control and Reclamation Act which withholds abandoned mine reclamation funds from the States. We identified three alternatives that the Congress should consider.

--Continue the present policy to encourage the States to achieve primacy by providing a strong economic incentive to induce the States to complete the process of gaining Interior's approval of their State regulatory programs. However, this prevents the States from using any of the funds accumulated to date and earmarked for State reclamation programs which are necessary for the restoration of the abandoned mined lands.

--Amend section 405(c) of the act to grant the Department of the Interior the authority to approve a State's abandoned mine reclamation program whether or not that State has an approved State regulatory program pursuant to section 503 of the act so that the States can start reclaiming and restoring land and water resources adversely affected by past coal mining. However, this alternative many reduce the incentive for the States to take the lead in the regulatory program.

--Amend section 405(c) of the act to allow the Department of the Interior to provide seed money from the reclamation fund for preliminary engineering design work on projects that the States plan to undertake. This would permit early design of reclamation projects while waiting for State surface mining regulatory program approval. Any project designs developed would be available to the Office of Surface Mining for its use in the event a State program is not approved. We believe that project design work would ordinarily be an integral part of a reclamation project and require amending the act. However, Interior believes it may use reclamation funds for this purpose without amending the act and is developing procedures to provide this money.

Even if Interior were to develop a technically legal means to release State reclamation funds before regulatory program approval, doing so would circumvent Congress' intent to tie these programs together and might diminish a State's incentive to implement a satisfactory regulatory program. Accordingly, we believe the Congress, not Interior, should decide whether to permit the early release of reclamation funds for design work.

APPENDIX I

PRIOR GAO REPORTS COMMENTING ON SURFACE MINING ACTIVITIES

"Alternatives To Protect Property Owners From Damages Caused by Mine Subsidence" (CED-79-25 (Feb. 14, 1979)). We identified five alternatives to protect property owners from severe financial hardship by preventing or correcting subsidence damage, and made several recommendations to the Secretary of the Interior to help reduce future subsidence damage.

"U.S. Coal Development--Promises, Uncertainties" (EMD-77-43 (Dec. 20, 1977)). In this report, we indicated that with the passage of Public Law 95-87, reclamation and restoration requirements would increase the cost of mining coal. The impact would vary from one location to the next as terrain, technological, geologic, and economic conditions differ.

"Actions Needed to Improve the Safety of Coal Mine Waste Disposal Sites" (CED-77-82 (Sept. 21, 1977)). We believe that the Surface Mining Control and Reclamation Act of 1977 gives the Department of Interior the authority to inspect abandoned coal waste disposal sites in connection with its reclamation responsibilities under the act.

"Evaluation of the Analysis Supporting President Ford's Veto of H.R. 25--The Surface Mining Control and Reclamation Act of 1975" (EMD-77-37 (April 15, 1977)). This report indicated that if H.R. 25 was passed, an increase in employment could result from increased reclamation activities. Also, the addition of reclamation jobs in those specific areas being reclaimed could help offset any local employment losses due to reduced coal production.

"Role of Federal Coal Resources In Meeting National Energy Goals Needs to be Determined and the Leasing Process Improved" (RED-76-79 (April 1, 1976)). This report indicated that the lack of site data for reclamation and revegetation potential, reserve estimates, or conflicts with other land uses could undermine the effectiveness of the leasing system.

"Administration of Regulations for Surface Exploration, Mining, and Reclamation of Public and Indian Coal Lands" (B-148623 (Aug. 10, 1972)). We found that required technical examinations were not conducted to determine the effects that proposed exploration or mining would have on the environment and to serve as a basis for formulating appropriate reclamation requirements. Also, the amounts of some performance bonds that had been obtained were not sufficient to cover the estimated cost of reclamation.

ORGANIZATION OF THE OFFICE OF SURFACE MINING

The agency is divided into four major program areas, each headed by an Assistant Director, as well as a separate unit (Management and Budget) led by another Assistant Director for administrative matters (see organizational chart). Their functions are:

--Technical Services and Research stipulates technical requirements for permits, reclamation plans, and performance standards. It also gives grants to institutions for further study on mining and reclamation practices, and reports on their progress. It is largely responsible for developing an inspector training program.

--State and Federal Programs develop criteria for State regulatory programs, reviews State programs, implements Federal programs in those States which elect not to regulate surface coal mining; monitors approved State programs, coordinates regulation on Federal and Indian lands, establishes criteria for designating lands unsuitable for coal mining; manages a program to aid small mine operators, and conducts a study of how Indian tribes might assume regulatory authority for surface coal mining on Indian lands.

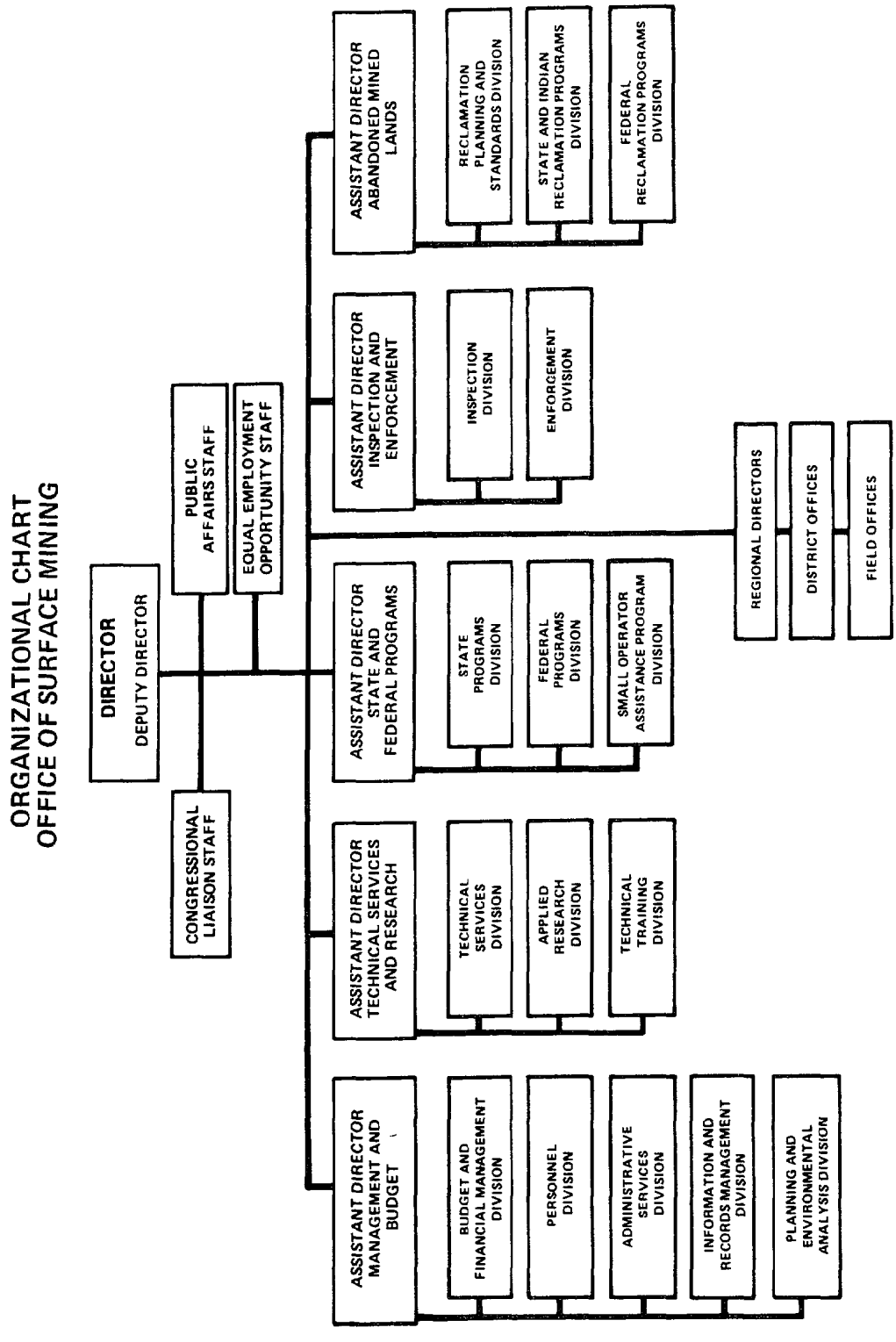
--Inspection and Enforcement conducts inspections on surface coal mining operations to insure compliance with Federal regulations, takes enforcement action in cases of violations, assesses penalties on violations, assists and monitors State inspection programs, and protects coal mine employees from discrimination because of actions taken under this law.

--Abandoned Mined Lands manages the Abandoned Mine Reclamation Fund. It also sets up criteria and awards contracts for Federal reclamation projects, and provides guidelines to States and Indian tribes in their reclamation programs.

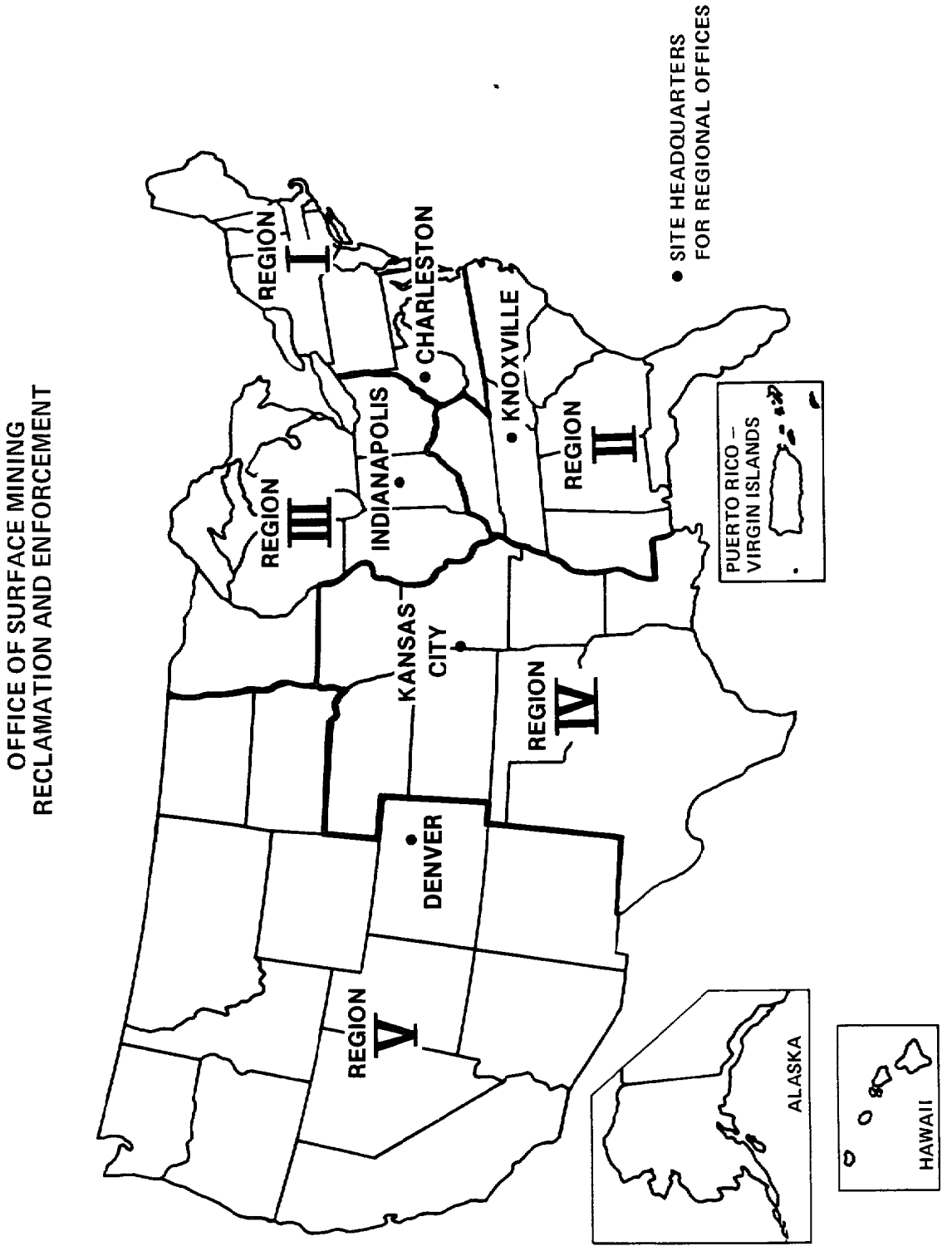
APPENDIX II

ORGANIZATIONAL CHART

OFFICE OF SURFACE MINING



APPENDIX II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RECLAMATION AND ENFORCEMENT
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INDIANAPOLIS
KNOXVILLE
REGION II
REGION III
KANSAS CITY
REGION IV
DENVER
REGION V
PUERTO RICO – VIRGIN ISLANDS
ALASKA
HAWAII
• SITE HEADQUARTERS FOR REGIONAL OFFICES

LOCATION OF OFFICE OF SURFACE MINING REGIONAL AND DISTRICT OFFICES

Region I (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, and Virginia)

Regional office:	Charleston, West Virginia
District offices:	Wilkes-Barre, Pennsylvania Johnstown, Pennsylvania Charleston, West Virginia Lebanon, Virginia

Region II (Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi)

Regional office:	Knoxville, Tennessee
District offices:	London, Kentucky Madisonville, Kentucky Knoxville, Tennessee Birmingham, Alabama

Region III (Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota)

Regional office:	Indianapolis, Indiana
District offices:	Zanesville, Ohio Evansville, Indiana Springfield, Illinois

Region IV (Iowa, Missouri, Nebraska, Kansas, Oklahoma, Arkansas, Louisiana, and Texas)

Regional office:	Kansas City, Missouri
District offices:	Kansas City, Missouri Tulsa, Oklahoma

Region V (North Dakota, South Dakota, Montana, Wyoming, Colorado, Utah, Arizona, Nevada, California, Idaho, Oregon, Washington, Alaska, Hawaii, and New Mexico)

Regional office:	Denver, Colorado
District office:	Denver, Colorado

FEDERAL ENTITIES INVOLVED IN VARIOUS ASPECTS OF SURFACE COAL MINING AND RECLAMATION ACTIVITIES

Department of Agriculture

--National Park Service
--Soil Conservation Service
--U.S. Forest Service

Department of Energy

Department of Interior

--Bureau of Land Management
--Bureau of Mines
--Bureau of Indian Affairs
--Bureau of Reclamation
--Office of Surface Mining Reclamation & Enforcement
--Office of Water Research and Technology
--U.S. Geological Survey
--U.S. Fish and Wildlife Service

Department of Labor

--Mining Safety & Health Administration

Corps of Engineers

Environmental Protection Agency

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