

February 1989

SURFACE MINING

Office of Surface Mining Response to Management Review Recommendations



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The new c
efforts to



United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-226046.5

February 22, 1989

The Honorable Morris K. Udall
Chairman, Committee on Interior
and Insular Affairs
House of Representatives

Dear Mr. Chairman:

In July 1985, the House Committee on Interior and Insular Affairs issued a report identifying the major management problems and issues facing the Department of the Interior's Office of Surface Mining Reclamation and Enforcement (OSMRE). You requested that we determine the status of OSMRE's actions to implement the recommendations for corrective action outlined in the report. This fact sheet presents the current status, as of February 13, 1989, of OSMRE's actions to implement those recommendations.

On August 3, 1977, the Congress enacted the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to regulate future surface coal mining activities and to reclaim mined lands left without adequate reclamation prior to the act's passage. Under Title II, OSMRE was established, within the Department of the Interior, to administer the act. Almost from the beginning, OSMRE's efforts to implement the act has been criticized by the states, Indian tribes, environmental groups, and other affected parties. As a result, the House Committee on Interior and Insular Affairs and the Department of the Interior established a joint task force to review OSMRE's management of the surface mining program. The joint Congressional/Interior task force report identified numerous management weaknesses and made 70 recommendations to correct the problems identified in 5 areas--overall management control and direction, state program oversight and evaluation, the abandoned mine land program, direct federal regulation, and automatic data processing.

As agreed with your office, we are not reporting on the status of one task force recommendation addressing OSMRE's applicant violator system and four others dealing with OSMRE's penalty assessment and collection processes that are the subjects of separate ongoing GAO reviews. This fact sheet summarizes the problems identified by the task force in five major program areas, the recommendations made, and

the status of OSMRE's actions to correct the identified problems.

In summary, we found that for the remaining 65 task force recommendations, OSMRE has

- taken the recommended action in 41 cases,
- taken alternative corrective action in response to 8 recommendations,
- taken action to implement portions of 3 recommendations,
- begun, but not completed, action on 3 recommendations, and
- taken no action to implement 10 recommendations.

Although OSMRE may have taken the specific action recommended by the task force, we did not determine if these actions corrected the major management problems and issues facing OSMRE. For example, the issuance of new guidance does not ensure that it will be implemented in a manner that will correct the underlying problems.

In addition to specific recommendations, the task force suggested that the Secretary of the Interior establish a committee composed of representatives from OSMRE field and headquarters organizations, other federal agencies, environmental and mining industry associations, state regulatory authorities, and the Interior Department to monitor OSMRE's implementation of the recommendations. According to OSMRE's Deputy Director, its Permanent Management Committee has been assigned responsibility for implementing the task force's recommendations.¹ However, no formal mechanism is in place to monitor OSMRE's implementation efforts.

¹This committee is composed of OSMRE's Director, Deputy Director, Assistant Directors, staff directors reporting to the Director, and the special assistants of the Director and Deputy Director. It was created to deal with agencywide issues, resource allocation, and major program issues.

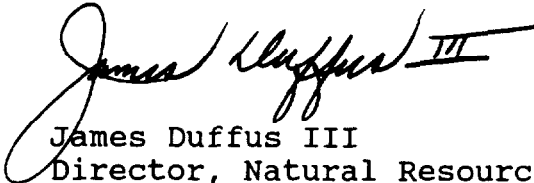
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Our work was performed between June 1988 and October 1988 in accordance with generally accepted government auditing standards. To determine the status of OSMRE's actions, we interviewed agency officials in Washington, D.C., and obtained and reviewed copies of pertinent OSMRE policies and procedures. In conducting our review, we also discussed the task force recommendations and the appropriateness of OSMRE's corrective actions with two members of the joint task force.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 30 days from the date of this letter. At that time, we will send copies to interested parties and make copies available to others upon request.

If you have any additional questions or if we can be of further assistance, please contact me at (202) 275-7756. Major contributors to this fact sheet are listed in appendix I.

Sincerely yours,



James Duffus III
Director, Natural Resources
Management Issues

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ABBREVIATIONS

AML	Abandoned mine land
GAO	General Accounting Office
OSMRE	Office of Surface Mining Reclamation and Enforcement
RCED	Resources, Community and Economic Development
SMCRA	Surface Mining Control and Reclamation Act

SECTION 1

MANAGEMENT CONTROL AND DIRECTION

Since OSMRE was established in 1977, it has experienced several changes in leadership, made a number of major policy shifts, and undertaken several reorganizations. This organizational turmoil has contributed to widespread criticism by the states, industry, environmental groups, and others concerning OSMRE's implementation of SMCRA. As a result, the House Committee on Interior and Insular Affairs and the Department of the Interior established a joint task force to review OSMRE's management of the surface mining program. In its July 1985 report, the task force identified the following four areas where OSMRE could provide better overall management control and direction of its program.

- policy guidance and communications,
- long-range planning system,
- OSMRE manager accountability, and
- working relationships with external organizations.

The task force made 15 recommendations designed to improve the management control and direction at OSMRE.

OSMRE has completed action on eight of the task force recommendations and has initiated, but not completed, action on two others. In one additional case, OSMRE did not take the action recommended by the task force, but took alternative action to correct the identified deficiency. OSMRE has taken no action on three of the remaining four recommendations but has taken action to partially implement one of these recommendations.

The following material, organized around the problem area categories presented in the task force's report, identifies the task force recommendations and the status of OSMRE actions to implement them.

POLICY GUIDANCE AND COMMUNICATIONS

The task force reported the following as a problem area:

"Policy guidance and communication within OSMRE is insufficient to ensure consistent application of SMCRA and to provide a clear understanding of OSMRE's policy and mission."

Task Force Recommendation:

"The Department and [OSMRE] need to make clear [OSMRE's] role and how SMCRA is to be implemented. The Secretary needs to communicate his intent to comply fully with the Act to [OSMRE] employees, industry, environmentalists, and other affected parties. The Secretary should also make clear that the Act will be implemented consistently and that in-house conflicts will be resolved fairly and expeditiously."

Status: No action taken

OSMRE officials could not provide copies of any communication with staff and others showing the Secretary's intent to comply fully with the act or that conflicts will be resolved fairly and expeditiously. However, these officials pointed out that OSMRE's Director and Deputy Director meet with the Assistant Secretary for Land and Minerals Management on a biweekly basis to discuss the initiatives contained in OSMRE's Management-by-Objective system. In addition, OSMRE's Director and the Assistant Secretary meet with the Secretary of the Interior on a quarterly basis to discuss high priority issues. OSMRE officials also noted that in 1985 the Assistant Secretary was involved in developing OSMRE's Management Action Plan, a 5-year strategic plan that was never finalized.

Task Force Recommendation:

"[OSMRE] and the Department have begun a thorough legislative review. The results of this legislative review and comparison with its implementing regulations (SMCRA crosswalk) should be incorporated into the agency's 5-year planning and budget processes to make sure the Act is being fully implemented."

Status: Action in process

OSMRE completed its legislative review and comparison in 1985. As a result of this comparison, 27 new or revised regulations have either been issued or are currently in the rulemaking process. OSMRE is now developing a 5-year strategic plan that is based, according to OSMRE officials, on this review and comparison and an informational needs assessment conducted by Mitre Corporation in 1986.

Task Force Recommendation:

"[OSMRE], in consultation with the Secretary and the Solicitor's Office, should review all court remanded and other challenged regulations to determine which should be eliminated or amended to be consistent with the legislative requirements and court decisions. Also, [OSMRE], in consultation with the Solicitor's Office, should promulgate new regulations to replace any remanded regulations as soon as possible."

Status: Action taken

The Department of the Interior and OSMRE have put in place a system to track regulations through their revision process. Once the Solicitor's Office notifies OSMRE's Regulatory Development and Issues Management staff of a needed revision, the regulation is added to the staff's tracking system. An author is assigned and a schedule for completion is developed. A biweekly report on the status of all outstanding regulations is provided to the Director, the Deputy Director, and the Assistant Directors.

Task Force Recommendation:

"[OSMRE] should review its communication processes to determine how they could be improved to promote more consistent implementation of SMCRA. We believe, for example, that management could improve the flow of information by routing communications to all appropriate employees and by holding meetings and teleconferences on key issues and decisions.

"All employees should be kept informed of current priorities, [OSMRE's] role, and the mechanics of establishing priorities. We believe that such communication would promote more consistent compliance and would surface many potential problems before they reach the crisis level."

Status: Alternative action taken

Although OSMRE did not conduct an independent assessment of its communication processes, its Human Resources Task Force did address OSMRE's communication processes as part of its assessment. The Human Resources Management Plan developed by this task force suggested 18 ways to improve communications. OSMRE accepted all the suggestions and all are in some phase of implementation.

OSMRE now issues a biweekly memo to all employees which includes the title and date of all recently published directives and regulations. A calendar of events which lists all known meetings, the lead person, and the purpose of the meeting is also provided to each employee. OSMRE is also preparing a directive on communication which places the responsibility on the supervisor to keep his staff informed of current events. The directive is expected to be finalized by mid-February 1989.

Task Force Recommendation:

"[OSMRE] should form a review committee consisting of Title IV [abandoned mine land reclamation] and Title V [regulatory] program personnel to identify ways their activities could be better coordinated. Among other possibilities, the committee should consider the following: (1) assigning an [OSMRE] permit number to all mining operations that would permit establishing a common ADP [automatic data processing] data base as well as provide for better coordination of inspection and fee collection activities, (2)

ensuring all active mine permit holders with active mines are paying their reclamation fees, (3) having inspectors verify coal production, and (4) denying new mining permits to companies with delinquent payments."

Status: Action partially complete

OSMRE did not form a review committee to identify ways to coordinate Title IV and Title V activities. However, OSMRE is taking some action to implement the suggestions of the task force. For example, as part of the development of a fee billing and collection system, OSMRE is looking at ways to assign an "OSMRE permit number" to applicants. OSMRE's Division of Compliance Management is responsible for ensuring that all active mine permit holders are paying their reclamation fees through fee compliance audits. OSMRE is also considering having its inspectors verify that coal mining is occurring when performing an inspection. Finally, one of the purposes of OSMRE's Applicant Violator System is to deny permits to companies with delinquent payments.

Task Force Recommendation:

"Responsibility for final approval and distribution of all directives should be retained by the Director or Deputy Director and these directives should be distributed throughout [OSMRE]. These steps not only would ensure that directives are uniform and consistent but also would provide for more cross fertilization."

Status: Action taken

In 1986, OSMRE issued a directive that provided guidance to OSMRE employees in the preparation, clearance, and issuance of permanent and temporary directives. The directive clearly assigns the responsibility for signing OSMRE's permanent and temporary directives to the Director or the Deputy Director. The guidance also includes instructions for the review of the directives and list of individuals/offices for distribution and retention of directives. In August 1988, OSMRE revised this directive to require the directive originator, among other things, to recommend a more extensive distribution of draft directives for comment if there is a need for state regulatory authority comments and include a summary of comments received and the disposition of those comments in the review package.

LONG-RANGE PLANNING SYSTEM

The task force reported the following as a problem area:

"[OSMRE] has not had a long-range planning system to identify potential future issues and priorities, or established milestones to measure project status and progress."

Task Force Recommendation:

"[OSMRE] and the Department should continue their review of SMCRA to identify [OSMRE's] responsibilities and to prepare a plan that would ensure those responsibilities are met. In addition, this effort should be expanded to include identifying the resources needed to meet the commitments [OSMRE] has made and implement provisions identified as a result of the SMCRA crosswalk, establishing project milestones, and developing alternative implementation strategies. Such actions should provide for increased accountability throughout [OSMRE]."

Status: Action in process

OSMRE developed a draft Management Action Plan in 1985 that was to be its 5-year long-range plan. However, the plan was never finalized. Recently, OSMRE began the drafting of a 5-year strategic plan that is expected to be completed by spring 1989.

Task Force Recommendation:

"[OSMRE] should establish a steering committee of senior managers to identify current priorities, potential future issues, and the resources needed to properly manage them. This is not an executive secretariat function, but rather an extension of the on-going 5-year planning process."

Status: Action taken

OSMRE established the permanent management committee in September 1985. Composed of OSMRE's Director, Deputy Director, the Assistant Directors, staff directors reporting to the Director and the special assistants of the Director and Deputy Director, the committee meets at least quarterly. The committee deals with such issues as agencywide priorities, resource allocation, and major program issues. The permanent management committee is responsible for implementing the task force's recommendations and developing OSMRE's long-range plan.

Task Force Recommendation:

"The [OSMRE] Director should continue to use his Deputy Director as chief operating officer with principal responsibility for identifying and developing policy options and for ensuring uniform policy communication and program implementation."

Status: Action taken

The October 1985 realignment structured OSMRE's work under two Deputy Directors. The Deputy Director for Administration and Finance was responsible for building an integrated financial management process, using computer technology, and providing a full range of administrative and budget services to the agency and its employees. The Deputy Director for Operations and

Technical Services was responsible for all day-to-day programmatic operations and technical services functions of the agency. Currently, OSMRE has only one Deputy Director who has assumed all these responsibilities and functions as the chief operating officer.

Task Force Recommendation:

"To promote program stability and to provide the assistant directors with sufficient time to focus on broader policy and organizational issues, we recommend that each assistant director identify at least one individual who could carry out his daily activities and operations. The assistant directors should then delegate to this individual sufficient authority to act in his or her behalf."

Status: Action taken

Each Assistant Director has either a special assistant or deputy. However, the Assistant Director for Budget and Administration, citing differences in management style, maintains that each Assistant Director must choose how to use his/her assistant.

OSMRE MANAGER ACCOUNTABILITY

The task force reported the following as a problem area:

"[OSMRE] does not have a system to ensure that managers are held accountable for their operations and completion of assignments as well as for products of consistently high quality."

Task Force Recommendation:

"[OSMRE] should design a central system that would identify and track:

- status of the issue;
- parties responsible for implementation;
- required resources;
- completion dates; and
- reporting requirements."

Status: No action taken

OSMRE has not developed a central system to identify and track an issue. According to the Chief of the Regulatory Development and Issues Management staff, the Management-by-Objectives system is the primary tool used by OSMRE to track issues. However, the Deputy Director also has a system for which his secretary has responsibility that tracks issues of interest to him. These issues are generally short-term or division-specific.

Task Force Recommendation:

"The Director should enforce document accountability by charging the executive secretariat with responsibility for ensuring that all documents are completed in a timely manner and are consistent with regulations, stated policies, and the departmental manual. The executive secretariat should report directly to the Director; be cognizant of departmental policy, [OSMRE's] mission, issues, and priorities; and must be involved in regular meetings with top management and have access to senior management."

Status: Action taken

OSMRE's Regulatory Development and Issues Management staff which has responsibility for tracking all documents that require time sensitive responses uses the Correspondence and Rule Tracking System to maintain the information on the status of such documents. The staff provides biweekly status reports to the Director and Assistant Directors. Further, the Chief of the Regulatory Development and Issues Management staff reports to OSMRE's Director and participates in the quarterly permanent management committee meetings.

Task Force Recommendation:

"[OSMRE] should establish an MBO [Management-by-Objectives] system that identifies program milestones, dates for completion, and the responsible person. Also, headquarters and field activities should identify performance evaluation criteria and evaluate progress."

Status: Action taken

OSMRE has developed a Management-by-Objective system that identifies the program milestones, dates for completion, and the responsible unit. Biweekly status reports are provided to the Director, Deputy Director, and the Assistant Directors. In addition, in January 1986, the Director issued a memo to all Senior Executive Service members, managers, and supervisors to incorporate specific tasks and milestones into the performance standards of their staff.

WORKING RELATIONSHIPS WITH EXTERNAL ORGANIZATIONS

The task force reported the following as a problem area:

"[OSMRE] has not had effective working relationships with external organizations."

Task Force Recommendation:

"A thorough review should be performed of [OSMRE's] working relationship with external organizations. This review should include, but not be limited to, an analysis of what [OSMRE] needs from such organizations, and what external organizations need from

[OSMRE]. Particular attention should be given to the relationship between [OSMRE] and the Solicitor's Office."

Status: No action taken

Although the Office of External Affairs has instituted certain programs, such as the Excellence in Surface Mining Award and mine tours, we could find no written evidence of a review of OSMRE's relationship with external organizations.

Task Force Recommendation:

"[OSMRE] should create an external relations/public affairs manager who would report to the Director. This manager should be involved in planning future [OSMRE] actions and should ensure that external organizations are given the opportunity to provide their comments on such plans."

Status: Action taken

OSMRE created the Office of External Affairs in October 1985. The office is currently staffed by the chief who reports to the Director. He is assisted part-time by a member of the Public Affairs staff. The external affairs staff coordinates with the Assistant Directorates for Field Operations all efforts to advise, inform, and seek responses from external organizations regarding OSMRE's programmatic and regulatory activities.

SECTION 2

STATE PROGRAM OVERSIGHT AND EVALUATION

Under SMCRA, the states are encouraged to assume primary regulatory responsibility for surface mining and reclamation operations within their borders. To receive program responsibility, a state must submit a program to OSMRE that demonstrates the state's capability to carry out the act's provisions. Once a state's program is approved, OSMRE is responsible for performing oversight reviews of the approved state program and providing assistance where needed. As part of its oversight responsibilities, OSMRE conducts annual evaluations to assure that the states are carrying out their programs in compliance with their approved programs.

In reviewing OSMRE's oversight and evaluation processes, the task force reported that

- annual state reports do not reflect programs' status;
- oversight and inspection processes do not provide adequate information;
- positive measures to promote state compliance have not been developed;
- effectiveness of enforcement measures are unknown; and
- research needs, project priorities, and results dissemination have not been developed.

To correct these deficiencies, the task force made 24 recommendations.

OSMRE has taken the action recommended by the task force in 17 cases and has taken alternative action to address 3 other identified problems. The action taken to address most of these recommendations was the issuance in July 1988 of new oversight guidance. However, we are unable to determine at this time whether the guidelines will ultimately be implemented in such a way as to correct the problems identified. OSMRE took no action to implement four recommendations. The following material, organized around the problem area categories presented in the task force's report, identifies the task force recommendations and the status of OSMRE's actions to implement them.

ANNUAL STATE REPORTS DO NOT REFLECT PROGRAMS' STATUS

The task force reported the following as a problem area:

"State annual evaluation reports do not always accurately reflect the status of state program activities."

Task Force Recommendation:

"[OSMRE] should initiate a detailed study to specifically identify the annual state evaluation report objectives and content. The study should first identify the report objectives and then determine the specific data needed to meet those objectives. We recommend that the results of this study be used to develop a prototype report that could be tested during the next evaluation cycle. Because these reports are used by many different groups, we also recommend that, during the study, [OSMRE] contact representatives of these groups to determine their individual information needs. We believe that to the extent their views could be incorporated into the evaluation report design, the perceived value and use of the evaluation reports by its various audiences would be improved."

Status: Action taken

OSMRE has twice established groups to study its oversight process and make recommendations to improve it. In late 1986, OSMRE established a task group composed of representatives of industry, states, and citizen groups to study aspects of its oversight process. However, the group was unable to reach a consensus on oversight issues because many were the subject of litigation. In March 1988, OSMRE created a task force consisting of OSMRE regional and headquarters representatives to revise and redefine the way OSMRE conducts oversight and to shorten and clarify the format for the annual state evaluation report. On the basis of its review of other federal agencies' oversight guidance, OSMRE's oversight task force divided the regulatory program into 11 elements and the Abandoned Mine Land (AML) program into 5 elements. For each element, the oversight task force identified the specific requirements for acceptable performance using SMCRA and federal regulations. Oversight techniques were also identified for each program element. On July 15, 1988, OSMRE issued its revised oversight guidance that included a shortened report format for use during the evaluation period ending June 30, 1989. Prior to the issuance of the revised oversight guidance, the states were asked to comment on the guidance and the report format.

Task Force Recommendation:

"[OSMRE] should review the inferences about state programs included in its annual state evaluations to make sure that they are based on appropriate statistical techniques. Where current inferences are found to be inappropriate, data requirements, statistical procedures, and data presentation should be examined and modified."

Status: Action taken

OSMRE reviewed its statistical techniques in 1986 and 1987 and found limited value or validity in the criteria it uses to measure state performance. Partially as a result of our recommendations in our 1987 report Interior Department and States Could Improve Inspection Programs (GAO/RCED-87-40), OSMRE shifted its primary oversight emphasis from indirect and questionably valid statistical inferences to a measurement of whether the state is taking enforcement action where required based on direct results of random sample inspections.

Task Force Recommendation:

"[OSMRE] should provide in annual state evaluation reports its assessment of the identified problems' importance so that priority attention will be given to the most critical areas. [OSMRE] should identify those areas that will be given priority attention in all states with certain identified problems, but should also allow sufficient flexibility for problems identified in a particular state to be given priority depending on its individual conditions."

Status: No action taken

OSMRE's revised report format specifies a one-page summary description of the state's performance for each of the 11 regulatory program elements and the 5 Abandoned Mine Land Program elements. No ranking or priority is given to any one element or the problems identified. Rather, the oversight task force stated that the language of the finding should convey its importance.

Task Force Recommendation:

"The nature of the identified deficiencies contained in the annual state evaluation reports needs to be better described so that state and mining industry progress is properly acknowledged."

Status: Action taken

OSMRE's revised oversight guidance requires that the one-page summaries focus on the state's performance in implementing its approved program and achieving the objectives of SMCRA for each program element, reporting both problems and accomplishments. In addition, the guidance emphasizes that feedback is a necessary component of a successful oversight program. While no particular format for providing positive feedback to the states was specified, the guidance states that a state should be commended for a positive effort.

Task Force Recommendation:

"[OSMRE] should incorporate an historical perspective and trend analyses as appropriate into the annual state evaluation reports. This information and analyses for selected variables and problems areas would provide the report reader with information to determine, for example, whether a situation had developed rapidly or gradually

or whether it is improving although still deficient. Such a perspective also could help [OSMRE] and states set priorities and target specific areas that will be provided additional resources to overcome identified deficiencies."

Status: Action taken

In July 1988 OSMRE issued revised oversight guidance which calls for continuous evaluation of states' performance and emphasizes the prevention, detection, and prompt correction of problems. Data collected on random sample and other routine inspections are to be analyzed frequently to identify any trends in program implementation.

OSMRE also revised its annual state evaluation report format. The new format calls for a one-page summary for each of the program elements covered and directs that the report discuss efforts to resolve ongoing issues and concerns from the preceding evaluation period as well as those that are identified during the period covered by the report. The state/tribal performance during the current year should be compared with that of previous years.

Task Force Recommendation:

"[OSMRE] should review options for scheduling the state evaluation reports. We believe that [OSMRE] should continue to collect data over a 12-month period, but it needs to develop ways to summarize and update the state's progress in solving individual problems identified during the review so that information is not outdated when the report is issued."

Status: Action taken

OSMRE has established a standard evaluation period (July 1 through June 30) for all states. To ensure that the data contained in the annual reports is not outdated, OSMRE has included in its revised oversight guidance requirements that the annual reports be forwarded to the Assistant Directors for Field Operations within 30 days of the close of the evaluation period. Following the receipt of the report by the cognizant Assistant Director, a 50-day comment and revision period is allotted for the Assistant Director and the state to comment before the final report is submitted to the Assistant Director for Program Policy and the Deputy Director.

OVERSIGHT AND INSPECTION PROCESSES
DO NOT PROVIDE ADEQUATE INFORMATION

The task force reported the following as a problem area:

"[OSMRE's] state oversight and mine inspection processes do not provide all the information needed to fully assess states' compliance with SMCRA."

Task Force Recommendation:

". . . [OSMRE] needs to examine its entire state oversight and evaluation process. This review should include both the regulatory program (Title V) and the AML [abandoned mine land] program (Title IV) and should be based on the SMCRA crosswalk . . . The study should identify the specific kinds of data and methodology for collecting the data that would provide a statistically sound basis for making inferences about individual state program implementation. It may also help, in carrying out the study, to examine oversight models developed by other federal agencies . . . having programs that must be implemented through the states.

"To establish a consensus on its oversight process, we recommend that the [OSMRE] Director include representatives from [OSMRE] headquarters and field offices, state regulatory authorities, environmental and mining industry associations, the current surface mining management task force, and other affected organizations in its examination of the methods used to conduct state evaluations. In addition, because the nature of mining and its potential impact on the environment differs substantially in the East and West, it should include representatives from all geographical areas.

". . . [OSMRE] should continue developing the concept of on-the-ground performance measures and incorporate whatever outside assistance may be necessary to further develop, refine, and test such measures. In addition, [OSMRE] should link any on-the-ground performance measures developed with the key procedural measures so that problems can be identified as soon as possible. [OSMRE's] federal regulatory program in Tennessee could be used to test some of these new measures. The results of this effort should then be used by [OSMRE] to develop, in consultation with statistical and program design experts, a comprehensive state oversight and evaluation program."

Status: Action taken

In late 1986, OSMRE established a task group to study aspects of OSMRE's oversight function and develop proposals for improving existing processes and procedures. This group consisted of 12 members with equal representation from industry, states, and citizen groups. However, the group was unable to reach a consensus on oversight issues because many of the issues that the group was addressing were the subject of litigation.

OSMRE created another task force in March of 1988 consisting of OSMRE regional and headquarter representatives to revise and redefine the way OSMRE conducts oversight. As part of its effort, the task force studied oversight guidelines and criteria from federal agencies with oversight responsibilities similar to OSMRE's. On the basis of its evaluation, OSMRE's oversight guidance and report format were revised. On July 15, 1988, OSMRE issued its revised oversight guidance which specifies three basic oversight activities to be used in evaluating a state's performance--remote review (review of state

documents provided to OSMRE), onsite remote review (examination of state files), and onsite field review (random sample and other routine inspections).

Task Force Recommendation:

"[OSMRE] should determine whether specific data and statistical techniques could be used to help identify correlations among various state mining program activities. If possible, specific data collection and analysis requirements should be developed and incorporated into [OSMRE's] state oversight and evaluation process."

Status: Action taken

The task force reported that the statistical techniques OSMRE used did not permit establishing cause and effect relationships among program activities. OSMRE had evaluated state permitting and bonding activities through an annual review of a sample of permitting documents processed by the state. In the 1988 evaluation year, this requirement was discontinued, and OSMRE's guidance called for the oversight activities in this area to be tied to OSMRE's inspection findings.

OSMRE also requires that a minesite evaluation inspection report and its supplement be completed for each random sample inspection and be maintained for tabulation by the field office. In completing this report, the inspector must record the impact and cause of any violation noted during the site inspection.

Task Force Recommendation:

"[OSMRE] should review and determine whether the technical center staff's skills and knowledge could be better used by modifying or expanding their oversight role so that more meaningful information would be provided to the states and field offices."

Status: Action taken

Prior to the October 1985 realignment, OSMRE's technical center staff reported to the Assistant Director for Technical Services and Research while the field office staff reported to the Assistant Director for Program Operations and Inspection. As part of its 1985 realignment, OSMRE combined the field office and technical center staff under the Assistant Directors for Eastern and Western Field Operations offices, removing the unclear lines of authorities and responsibilities that existed.

Task Force Recommendation:

"[OSMRE] should explore how it could seek comments from states, environmentalists, and others to minimize factual inaccuracies, build consensus on the process, and at the same time, maintain its independence in the evaluation process."

Status: Action taken

OSMRE's revised oversight guidance requires that prior to the issuance of the state's annual evaluation report, the state be given 15 days to comment. In addition, the field office directors are to solicit the concerns of industry and environmentalists prior to the development of their annual work plan.

Task Force Recommendation:

"[OSMRE] should determine how data in annual state evaluation reports should be summarized and analyzed to discern program trends and weaknesses on a regional or national basis. Such information should then be used as a basis to improve [OSMRE's] annual report and to develop research, training, or other specific assistance measures that would address identified program weaknesses."

Status: Action taken

According to the Assistant Director for Program Policy, no formalized paperwork process is in place to identify regional/national trends. However, because problems that appear during oversight inspections are discussed at the annual national meetings with the state regulatory people and at meetings between OSMRE's Eastern and Western Field Office staff and the Assistant Directors and the Field Office Directors, OSMRE's field office staff are aware of similar problems being identified during oversight activities. Further, OSMRE's technical training directive issued in August 1988 calls for the annual update of OSMRE's training needs assessment to reflect the findings of the annual evaluations of state regulatory programs.

Task Force Recommendation:

"[OSMRE] should analyze and clarify the field office and technical center oversight roles and functions to make sure they are consistent and coordinated. This analysis should include a review of the technical center staff knowledge, skills, and abilities to determine how they can be best utilized. This analysis should also make sure that those who have responsibility for preparing and following up on the annual state evaluations have the ability to obtain all the information they need."

Status: Action taken

At the time of the task force report the technical center staff reported to the Assistant Director for Technical Services and Research whereas the field office staff reported to the Assistant Director for Program Operations and Inspection. The task force reported that the field office staff complained that technical center staff did not always provide them with the support they needed to adequately identify problems in the state program. As part of the October 1985 realignment, OSMRE combined the field office and technical center staff under the Assistant Directors for Eastern and Western

Field Operations offices, removing the unclear lines of authorities and responsibilities that existed.

Task Force Recommendation:

"[OSMRE] should review its oversight inspection strategy to determine whether a better methodology for assessing state mining inspection programs can be developed. [OSMRE's] determination of what violations a state inspector cited or missed might be improved, for example, if [OSMRE] selected its sample of mines to be inspected from those mines having just undergone a complete state inspection. Such a random follow-up of state inspections could itself produce a higher level of state inspection quality and accountability because state inspectors would not know which of their full inspections might be followed by an [OSMRE] inspection."

Status: Action taken

OSMRE's July 1988 minesite evaluation inspection report supplement guidance instructs the field offices to continue efforts to schedule OSMRE's random sample inspections as soon as possible after the last state complete inspection only if it does not pose an administrative burden or interfere with other sampling or inspection policy requirements.

Task Force Recommendation:

"[OSMRE] should determine the extent to which actual and potential environmental impacts can be determined by its inspectors and modify the mine site inspection forms to record and collect this information."

Status: Action taken

OSMRE's minesite evaluation inspection report requires that the inspectors record the seriousness of the violation by indicating the probability of the event occurring and the environmental damage that could occur if the violation is not corrected.

Task Force Recommendation:

"[OSMRE] and the Solicitor's Office need to review [OSMRE] inspection practices to determine if [OSMRE] could use any alternative inspection practices such as giving warning violations or having the mine operator correct minor problems while the inspector is there. Another possibility might be to use point scores so that less severe violations are not used to compute fines."

Status: No action taken

OSMRE's inspection and enforcement policy, dated April 11, 1983, directs the elimination of the issuance of a notice of violation where no useful

enforcement purpose is served with respect to violations that do not constitute significant, imminent environmental harm or public danger.

POSITIVE MEASURES TO PROMOTE
STATE COMPLIANCE NOT DEVELOPED

The task force reported the following as a problem area:

"[OSMRE] has neither developed nor consistently used an array of positive measures to promote state compliance with SMCRA."

Task Force Recommendation:

"[OSMRE] should review what its assistance posture is and what it should be. After [OSMRE] has defined its role, it should set priorities. ADP assistance is likely to be a key area where [OSMRE] should offer assistance to the states."

Status: Alternative action taken

OSMRE did not review its assistance posture. However, according to OSMRE's Assistant Director for Program Policy, OSMRE has placed more emphasis on increasing assistance to the states, citing OSMRE's use of interagency personnel agreements, state participation in OSMRE's training program, and state involvement in the development of OSMRE information systems, such as the Technical Information Processing and Applicant Violator Systems.

Task Force Recommendation:

"[OSMRE] should study how grants can be used to create incentives for the states to correct deficiencies in their programs. The analysis should consider strategies such as the kinds of conditions that might be appropriate to include in a regulatory grant."

Status: No action taken

OSMRE does not believe that attaching conditions to grants to encourage states to take corrective action is appropriate. OSMRE prefers the use of action plans which require the field office directors to negotiate with and receive agreement from the states on the corrective action needed and the time frames for completion.

Task Force Recommendation:

"[OSMRE] should continue to explore ways to make field office directors responsible for problem solution as well as problem identification. This should be incorporated into their performance appraisals."

Status: Action taken

Field office directors are responsible for developing an action plan to address significant programmatic or recurrent program implementation problems in a state's program identified during OSMRE's oversight. The action plan, developed in cooperation with the state, is to contain a description of the problem, criteria for determining when complete resolution of the problem has been achieved, and a detailed schedule of specific measures to be taken to correct the problem. The field office directors' performance standards have been rewritten to make them more accountable for problem resolution.

Task Force Recommendation:

"[OSMRE] should develop training programs in response to the needs identified by its analysis of the state evaluation reports. [OSMRE] should be careful not to define its training mission too narrowly. Instead, [OSMRE] should use the needs identified by management analyses as the basis for deciding what training is needed. In addition, [OSMRE] should consider relocating the training function in an organization with broader organizational responsibility."

Status: Action taken

Approximately 300 OSMRE supervisors and state and tribal managers and supervisors attended a series of seminars held by OSMRE in 1986. These supervisors identified competencies necessary for technical, inspection, and enforcement staff as well as managers and supervisors to perform their duties. From these competencies, a team of OSMRE and state managers and supervisors developed OSMRE's technical training plan which was completed in January 1987.

On August 30, 1988, OSMRE issued a directive providing guidance for the development and implementation of the technical training program. This directive discusses the responsibilities for training and contains operating procedures for identifying technical training needs, managing the development and implementation of technical training activities, and nominating participants to the technical training courses. The directive also establishes the Technical Training Steering Committee to annually update the needs assessment to assure that it reflects the findings of annual evaluations of state regulatory programs and the findings of the evaluations performed by OSMRE units.

EFFECTIVENESS OF ENFORCEMENT MEASURES UNKNOWN

The task force reported the following as a problem area:

"[OSMRE] has neither evaluated effectiveness nor developed a strategy for its use of enforcement measures."

Task Force Recommendation:

"[OSMRE] should conduct a review of field office (FO) practices and other regulatory agencies with similar oversight responsibilities to identify imaginative strategies that could be used for gaining state compliance. A cookbook approach or report card is not the goal; instead [OSMRE] should generate a flexible list of possible actions that FO directors can take. Because FOs have never shared or been invited to expand this base of knowledge, [OSMRE] should provide for a systematic exchange of information on [OSMRE] performance measures. Moreover, [OSMRE] should establish parameters for FOs to follow in determining when certain enforcement actions are appropriate. The review should provide a basis for this kind of direction. The establishment of such parameters would ensure more equal treatment of all states and give them a better idea of what to expect."

Status: Action taken

As part of its effort to revise and redefine the way OSMRE conducts oversight, a task force consisting of OSMRE headquarter and regional staff was established in 1988. The task force identified other federal agencies with similar oversight responsibilities and collected their report guidance and examples of their annual reports. The task force also surveyed OSMRE field offices on the feasibility of conducting ongoing oversight. On July 15, 1988, OSMRE issued its revised oversight guidance which calls for the field offices to identify and report issues in a diplomatic manner and cooperate with and assist the states in efforts to resolve problems identified. Under the revised guidance, the field offices will now use "concern" and "issue" letters to bring matters to the state's attention before developing an action plan.

Task Force Recommendation:

"[OSMRE] should require each FO [field office] director to establish a tracking system in conjunction with the state regulatory authorities. The tracking system would include the key problem areas identified in the state evaluation report, the tasks and subtasks necessary to remedy the problems, along with a timeframe for finishing each task and a description of the resources necessary to accomplish each task and subtask. The FO director should then, following the parameters described above, institute enforcement measures to keep the states on track."

Status: Action taken

OSMRE's guidance on action plans requires the field office director to monitor action plan implementation and track all dates. The field office director is also required to prepare and submit an action plan status report to the cognizant Eastern or Western Field Operations Office Assistant Director at least quarterly. However, no standard tracking system is in place. Each field office director has established his/her own system to monitor and track the action plans.

Task Force Recommendation:

"A review of [OSMRE's] procedures for rendering state aid or sanctions should be initiated to determine under what conditions different measures could be used to enlarge [OSMRE's] range of options in dealing with states not in compliance with [OSMRE] and SMCRA requirements. As part of this review, a policy statement should be developed describing the process [OSMRE] will follow in determining when to initiate a review of a state's primacy. We believe that this determination should not rely exclusively on requests and complaints of third parties, but should be based, at least partially, on the results of [OSMRE's] state program oversight."

Status: No action taken

OSMRE has not initiated a review of its procedures for rendering state aid or sanctions. According to OSMRE's Deputy Director, the only policy that describes OSMRE's process for reviewing a state's primacy is the federal rule on "733 proceedings" (30 CFR 733). OSMRE officials reiterate their position that action plans are the preferred means of correcting states' deficiencies and bringing them into compliance with OSMRE and SMCRA requirements. OSMRE initiates a review of the state's primacy as a last resort.

RESEARCH NEEDS, PROJECT PRIORITIES, AND RESULTS DISSEMINATION NOT DEVELOPED

The task force reported the following as a problem area:

"[OSMRE] has not developed effective methods for determining research needs, establishing project priorities, or disseminating results."

Task Force Recommendation:

"A task force of scientists from such organizations as [OSMRE], U.S. Geological Survey, and the Bureau of Mines should conduct a comprehensive review of [OSMRE's] research programs."

Status: Alternative action taken

OSMRE did not establish a task force to review its research program. However, in 1987, OSMRE issued a directive which established the procedures for the conduct and administration of technical studies and applied research. The directive calls for the establishment of priorities annually for technical studies and defines program responsibilities for the Director, Deputy Director, Assistant Directors for Program Policy and Field Operations as well as for the Chief of the Division of Technical Services and the Branch of Research and Technical Standards.

OSMRE no longer has the responsibility for the AML research program. Beginning in fiscal year 1987, that responsibility was transferred to the Bureau of Mines. OSMRE retains responsibility for those projects previously funded (fiscal year 1986 and prior).

Task Force Recommendation:

"[OSMRE] should host annual research conferences at both technical centers and distribute periodic publications of research results. These research results would include work done by others, such as states, industry, and universities. Increased emphasis on research, and in particular, on sharing research results, would aid [OSMRE's] position in technical assistance.

"In addition, [OSMRE] could make full use of Interagency Personnel Agreements to transfer research and other information to states and industry and vice versa."

Status: Alternative action taken

OSMRE disseminates research results through presentations and panel discussions at the National AML Conference and conferences sponsored/cosponsored by OSMRE. In addition, in fiscal year 1988, OSMRE detailed seven of its staff to state/local agencies and accepted four individuals on detail to OSMRE.

SECTION 3

ABANDONED MINE LAND PROGRAM

Section 402(a) of SMCRA requires current mine operators to pay a reclamation fee for each ton of coal produced. OSMRE is responsible for collecting these fees which are deposited into the AML Fund and used for the reclamation and restoration of land and water adversely affected by past coal mining. States with coal mined lands eligible for reclamation may submit an abandoned mine land reclamation plan and annual projects to OSMRE for approval. Once a state's program has been approved, OSMRE is responsible for monitoring and overseeing the progress and quality of that program. In those states without an approved program and on federal and Indian lands, OSMRE administers a federal reclamation program to reclaim abandoned mines.

The task force reported problems in OSMRE's implementation of the AML program in the following categories:

- accuracy of AML payments,
- OSMRE's fee compliance audit program,
- fragmented organizational responsibility,
- use of AML funds,
- OSMRE's grant administration procedures,
- control over field office AML activities, and
- oversight of state AML programs.

The task force made 24 recommendations to correct the problems it reported in the AML program.

OSMRE has taken action on 12 of the 21 task force recommendations that we reviewed and has taken alternative action on 4 others. In addition, OSMRE has taken action on portions of two recommendations. OSMRE took no corrective action on three recommendations. The following material, organized around the problem area categories presented in the task force report, identifies the task force recommendations and the status of OSMRE actions to implement them.

ACCURACY OF AML PAYMENTS

The task force reported the following as a problem area:

"OSMRE has not identified or collected information needed to verify accuracy of industry AML payments."

Task Force Recommendation:

"[OSMRE] should explore obtaining access to coal production and sales records such as those kept by states, utilities, transporters, etc., and begin to build a data base that would allow [OSMRE] to verify operator-reported production figures against third-party records."

Status: Not determined in this review

We are conducting a separate review of OSMRE's efforts to improve its collection procedures. OSMRE's actions to implement this recommendation will be covered in that review.

Task Force Recommendation:

"[OSMRE] should initiate a review of the coal production and sales records kept by companies and determine if they are adequate. If the records are not adequate, OSMRE should determine what measures should be taken."

Status: Not determined in this review

We are conducting a separate review of OSMRE's efforts to improve its collection procedures. OSMRE's actions to implement this recommendation will be covered in that review.

Task Force Recommendation:

"[OSMRE] should establish a working group to examine the extent of nonreporting and underreporting of coal production. Members should include representatives from the Solicitor's Office, the states, industry, environmentalists, and [OSMRE]. The group should survey state regulatory agency officials, field office staff, tipple operators, and others to obtain information on the problem."

Status: Not determined in this review

We are conducting a separate review of OSMRE's efforts to improve its collection procedures. OSMRE's actions to implement this recommendation will be covered in that review.

OSMRE'S FEE COMPLIANCE AUDIT PROGRAM

The task force reported the following as a problem area:

"OSMRE's fee compliance audit program effectiveness is questionable."

Task Force Recommendation:

"OSMRE should establish a sophisticated audit priority system that targets those companies (1) most likely to yield the greatest financial return on the audits and (2) whose audits have the greatest deterrent value for future underreporting. To maximize the recoveries, [OSMRE] should review its original contract proposal, make any changes deemed necessary, and let a contract to develop an audit priority system as soon as possible."

Status: Action taken

OSMRE developed its first national audit plan in 1986. On the basis of meetings with experienced field auditors, OSMRE's Division of Compliance Management developed audit categories and designated a percentage of direct audit time to be devoted to each category, with the largest percentage of time devoted to headquarters requests and those companies failing to report coal production. Using information on the average amount an audit in the various categories produced, the division modified the audit time allocations in the 1988/89 audit plan.

Task Force Recommendation:

"The [OSMRE] audit function should be reviewed thoroughly to determine whether compliance audits should be conducted by [OSMRE] or contracted out. The review team should be headed by a person from the Inspector General's Office and include [OSMRE] personnel appointed by the Assistant Director for Finance and Accounting and the Chief of the Division of Abandoned Mine Land Reclamation. The team should review the various sources of information available during a fee compliance audit; assess its adequacy; determine how it can best be used; what additional information would be useful; and how it should be used.

"The team should prepare a report that clearly describes the changes [OSMRE] should make in its audit procedures, how they should be made, who should conduct them, and the resources and timeframe needed to adequately accomplish an audit. It should also develop a tracking system to enable [OSMRE] to monitor the effectiveness of its fee compliance system."

Status: Action taken

OSMRE officials could not provide documentation indicating that its audit function had been reviewed by such a team as specified by the joint Congressional/Interior task force. However, these officials told us that contracting out of audits was attempted and problems were encountered in identifying accounting firms willing to perform the audits that did not have a conflict of interest. Furthermore, the costs associated with contracting out the audits were high. For these reasons, OSMRE decided that increasing OSMRE personnel devoted to fee compliance audits was preferable to contracting out.

OSMRE's Division of Compliance Management developed a fee compliance audit operations manual in 1986. This manual was designed to be the primary tool for planning, conducting, and reviewing fee compliance audits. In addition, the Chief of the Division of Compliance Management has developed a system that tracks the direct audit time charges of the fee compliance officers.

FRAGMENTED ORGANIZATIONAL RESPONSIBILITY

The task force reported the following as a problem area:

"Fragmented organizational responsibility hinders [OSMRE's] fee compliance efforts."

Task Force Recommendation:

"[OSMRE] should transfer not only the billing and collection but all of the fee compliance activities to the Assistant Director for Finance and Accounting taking care to separate accounting and auditing activities.

. . . Locating all fee compliance activities in Finance and Accounting would provide centralized control that should avert future difficulties.

"[OSMRE] also should review the possibility of requiring federal or state mining permit applicants to acquire an [OSMRE] permit number, thus having tonnage produced reported by permit number rather than by MSHA [Mine Safety and Health Administration] number."

Status: Partial action taken

OSMRE's Division of Compliance Management has responsibility for all fee compliance functions. However, in addition to performing the fee compliance audits, the division performs the billings and collection notice functions for these audits and refers the debt to the Division of Debt Collection only after its attempts have failed.

OSMRE is considering the possibility of requiring applicants to acquire an OSMRE permit number and is establishing a work group to discuss such a proposal.

Task Force Recommendation:

"The Secretary should direct [OSMRE] and the Solicitor's Office to give priority to the resolution of the delinquent AML fee backlog."

Status: Action taken

The Internal Revenue Service made this same recommendation in its 1985

report on OSMRE's collection activities.¹ OSMRE has taken several steps to reduce the delinquent AML fee backlog. In addition to identifying cases in which debtors are involved in bankruptcy proceedings, OSMRE requires that the Division of Debt Management take certain actions, including referral to a private debt contractor, before referring the case to the Solicitor.

USE OF AML FUNDS

The task force reported the following as a problem area:

"[OSMRE] does not have a strategy for maximizing the use of AML funds."

Task Force Recommendation:

"[OSMRE], with state representatives, should review the entire AML inventory update process, review the current form and make recommendations for changes, if changes are needed."

Status: No action taken

According to the Assistant Director for Program Policy, OSMRE has made no changes to its inventory update process since October 1984--almost one year before the task force report was issued. OSMRE updated the AML inventory in 1987. In July 1988, we reported that most state and OSMRE officials did not believe the inventory presented an accurate picture of the relative needs of one state versus another.² As a result, the Congress directed OSMRE to conduct a thorough review and revision, as appropriate, of the existing inventory in fiscal year 1989.

Task Force Recommendation:

"[OSMRE] should appoint a task force comprised of representatives from [OSMRE], the U.S. Geological Survey, and the states to identify and develop options for apportionment of the Secretarial share of AML funds."

Status: Alternative action taken

In lieu of establishing a task force to identify and develop options for the apportionment of the Secretarial share, OSMRE decided to apportion the Secretary's share based on the AML inventory and historical coal production (50/50) in fiscal year 1986. OSMRE has continued use of this formula with

¹At the request of the Department of the Interior, the IRS reviewed the management of the assessment and collection processes and, in its report dated February 6, 1985, made recommendations to the Department to improve the processes.

²SURFACE MINING: Information on the Updated Abandoned Mine Land Inventory, (GAO/RCED-88-196ER, July 22, 1988).

modifications for fiscal years 1987 and 1988. However, because of inconsistencies in the updated AML inventory which makes it an inaccurate picture of the relative reclamation needs of one state versus another, the apportionment of the Secretarial share will be based only on historical coal production in fiscal year 1989.

OSMRE also polled the AML states in 1988 to determine which of four apportionment options was preferred. No one option was preferred by a majority of the states.

Task Force Recommendation:

"[OSMRE] should review its priority system for selecting AML projects. OSMRE should include the states, environmental groups, the scientific community, and industry in this effort."

Status: No action taken

OSMRE has not reviewed its priority system for choosing AML projects for reclamation. OSMRE's Assistant Director for Program Policy pointed out that the law is very specific in its definitions of the six priorities and its guidance does not prohibit states from including lower priority projects with a proposal for a higher priority (1 or 2) project.

Task Force Recommendation:

"[OSMRE], with assistance from the states and others, should explore how it can assist the states in developing the capacity to operate emergency programs and assuming responsibility after the immediate emergency has been abated. This effort should include examining options such as (1) initiating cooperative arrangements between states, (2) pooling information on contractors excelling in emergency work, (3) arranging with the states for the cost-efficient take over of emergency reclamation projects after the federal government abates the immediate problem, and (4) surveying states to identify other possible assistance measures."

Status: Alternative action taken

At the time of the task force report, OSMRE's emergency expenditures were quite large. OSMRE issued a directive in March 1987 which provided guidance and delineated the responsibilities for the investigation and conduct of emergency and high priority reclamation projects. Under this new guidance, OSMRE will abate the immediate emergency and the states will be responsible for any additional reclamation that may be needed. OSMRE has also begun apportioning the funding for emergency projects against the Secretary's share of AML funds allocated to the states.

Five states have already assumed full responsibility for the management of emergency programs and three other states and three tribes are currently developing programs. Although no documentation could be provided, the

Assistant Director for Program Policy stated that OSMRE will continue to encourage the remaining states to develop emergency programs.

Task Force Recommendation:

"[OSMRE] should explore how it can maximize the use of AML funds to promote the greatest reclamation. This effort should consider such options as (1) giving states AML 'seed money' for developing subsidence insurance programs; (2) exempting companies given permission to remain an area from the full reclamation cost and using AML funds to complete the reclamation; and (3) implementing the lien provisions of the Act to recover costs of improvements to private land due to AML reclamation. The recommendations should be circulated to outside parties--states, industry, and environmental groups--to generate discussion and identify other viable options."

Status: Action taken

OSMRE has instituted the measures recommended by the task force in this area. For example, OSMRE has provided "seed money" to six states to develop subsidence insurance programs. OSMRE has also recently proposed remaining legislation that would exempt companies from the full reclamation fee. Finally, OSMRE is drafting a directive on the lien provisions of SMCRA. The directive is scheduled to be final in late spring 1989.

OSMRE'S GRANT ADMINISTRATION PROCEDURES

The task force reported the following as a problem area:

"Grant administration procedures are often redundant and not adequately controlled."

Task Force Recommendation:

"[OSMRE] should clearly describe what should be included in a grant review and develop a training program for those conducting such reviews. [OSMRE] should also clarify the review responsibilities of the AML and Technical Services personnel."

Status: Action taken

OSMRE conducted a review of its grant training and developed several courses for reviewers and supervisors involved in grant reviews. In addition, field office grants personnel attend periodic training courses.

The grant review function has been decentralized. Four people in each field operations office and two in each field office will be responsible for conducting the grant reviews.

Task Force Recommendation:

"[OSMRE] should consider developing a procedure whereby headquarters personnel randomly review grants approved by field personnel and review intensively only those that field personnel indicate are problematic or unusually complex."

Status: Alternative action taken

Headquarters responsibility has shifted from one of technical review of grant applications to providing technical and administrative oversight and policy. The Assistant Directors, Eastern/Western Field Operations Offices, now have oversight responsibility for the grant review and approval process. Both offices have established grants sections to review and approve grants.

Task Force Recommendation:

"[OSMRE] should review its policy of requiring three site visits for each project to determine if resources might be better used on problematic projects or on evaluations of completed reclamation projects."

Status: Action taken

On December 14, 1987, OSMRE issued guidance to field office personnel for conducting formal AML reclamation site inspections. This guidance gives the field office director responsibility for establishing the number and timing of formal site visits. No minimum number of visits is required. Rather the guidance states that the field office director must consider the need for information, complexity of the work being conducted during various project phases, and the need to review program accomplishments and management control systems when establishing the inspection schedule.

Task Force Recommendation:

"[OSMRE] should review carefully the methods used in approving individual state grants and determine what effect approval of grant applications in excess of funds has had on state programs."

Status: Action taken

OSMRE has a policy now that state grants for any fiscal year are not made until appropriations are made by the Congress. The state share and the discretionary share are calculated after the appropriation level is known. Since the field offices are now responsible for approving the grant applications, OSMRE headquarters provides the field offices the amount of funding available.

Task Force Recommendation:

"[OSMRE] should consider proposing a rule stipulating that states

apply for a 1-year planning grant before applying for a 3-year construction grant."

Status: No action taken

According to the Assistant Director for Program Policy, OSMRE has not proposed such a rule because the current procedures allow OSMRE to review the entire scope of the project and the proposed reclamation method prior to approval of the project. The Assistant Director also told us the states are opposed to such a rule.

Task Force Recommendation:

"[OSMRE] should continue to improve its methods of tracking state obligation and expenditure rates. In each year, it should track quarterly how much of each AML grant was obligated and expended; and then compare those figures to what the states predicted they would obligate and expend to determine which states are having trouble and which are doing well. This comparison will enable [OSMRE] to develop trend analyses and communicate successful approaches used by one state to others.

"Furthermore, [OSMRE] should consider using obligation rates as a criterion in awarding AML grants and reallocating the secretarial share of the funds not obligated within the 3-year grant period."

Status: Partial action taken

OSMRE monitors state obligation rates quarterly and reports to the Congress on a state-by-state basis. However, OSMRE does not use obligation rates as criterion in awarding individual state AML grants. OSMRE considers the obligation rates in determining the total level of funding for state AML grants and for fiscal year 1989 reduced its budget request by \$30 million because of high unobligated balances in the states.

CONTROL OVER FIELD OFFICE AML ACTIVITIES

The task force reported the following as a problem area:

"[OSMRE] headquarters does not have adequate control over field office AML activities."

Task Force Recommendation:

"The new Deputy Assistant Directors, jointly with DAML [Division of Abandoned Mine Land Reclamation] and Finance and Accounting officials, should consider ways to introduce greater quality control and accountability into field office AML operations."

Status: Action taken

All AML program policy functions have been placed in the AML Division reporting to the Assistant Director for Program Policy. All AML program and grant administration functions have been organized into a single branch in the field offices.

The Assistant Directors of the Eastern and Western Field Operations Offices are responsible for ensuring that programmatic and technical policies and procedures are communicated, coordinated, and implemented by state regulatory authorities and for implementing all the requirements of SMCRA where OSMRE is the regulatory authority.

The fee compliance officers now report to Chief of the Division of Compliance Management instead of the field office directors.

Task Force Recommendation:

"[OSMRE] should review closely the results of the current evaluation test to make certain that the process adequately covers the AML program in the field offices (FOs) before implementing it throughout [OSMRE]. The evaluation process must cover both policy implementation and recordkeeping to make certain SMCRA is being properly implemented. In addition, it should be evaluated to make certain it is consistent with the assessment of other FO functions and to determine whether technical services personnel are properly involved in the process."

Status: Alternative action taken

No information was available on the results of the evaluation test. However, the Assistant Directors of the Eastern and Western Field Operations Offices are responsible for ensuring that programmatic and technical policies and procedures are communicated, coordinated, and implemented by state regulatory authorities and for implementing all the requirements of SMCRA where OSMRE is the regulatory authority.

The fee compliance officers now report to Chief of the Division of Compliance Management instead of the field office directors.

Task Force Recommendation:

"In addition to considering the merger of the Abandoned Mine Land Reclamation and Federal Reclamation Programs offices to improve the coordination and management of the AML program, [OSMRE] should also take steps to improve the day-to-day operations of offices with AML responsibilities. Such actions might include, for example, scheduling periodic meeting among those responsible for AML activities to surface and resolve mutual operational problems."

Status: Action taken

All AML program policy functions have been placed in the AML Division reporting to the Assistant Director for Program Policy. All AML program and grant administration functions have been organized into a single branch in the field offices.

OVERSIGHT OF STATE AML PROGRAMS

The task force reported the following as a problem area:

"[OSMRE] has not developed comprehensive state oversight and evaluation report procedures for the AML program."

Task Force Recommendation:

"Now that a formal process exists for requiring program amendments, [OSMRE], in cooperation with the states, should devise a system for identifying strong and weak elements for each individual state program. This review would be equivalent to the Title V review [OSMRE's annual oversight review of the regulatory program] designed to identify problematic trends and assistance required by the states."

Status: Action taken

OSMRE's revised oversight guidance issued in July 1988 contains five AML elements to be evaluated annually. As with the regulatory elements, the field offices are to prepare a one-page summary of the state's performance in these AML elements describing both deficiencies and progress made. OSMRE's guidance requires action plans to be prepared when significant problems are encountered during oversight.

Task Force Recommendation:

"The group established to review the state evaluation reports should carefully consider Title IV evaluation needs to determine if the data being collected is sufficient for [OSMRE] to adequately evaluate and report on the status of the state programs."

Status: Action taken

In revising OSMRE's oversight guidance the task force created by OSMRE in 1988 divided the AML program into five stand-alone elements. Using the requirements of SMCRA, the federal regulations, and existing OSMRE oversight guidance, the task force developed specific performance requirements for each element. Oversight techniques were identified for each program element. In addition, the task force shortened and clarified the format for the annual state evaluation report. OSMRE issued its revised oversight guidance including a shortened report format on July 15, 1988, for use during the evaluation year ending June 30, 1989.

Task Force Recommendation:

"[OSMRE], in conjunction with the states and other affected parties, should develop a plan and methodology for evaluating the long-term effectiveness of AML projects taking into account the National Academy of Sciences study."³

Status: Action taken

According to OSMRE's Assistant Director for Program Policy, the National Academy of Sciences study did not offer specific information on evaluating the effectiveness of AML projects. However, included in OSMRE's revised oversight guidance is an AML element dealing with construction management and post-construction activity. The guidance calls for evaluation and oversight of these activities to be evidenced by the state/tribe performing ongoing post-construction monitoring and analysis of reclaimed project sites to determine maintenance needs and the long-term success and effectiveness of various reclamation techniques and design alternatives.

OSMRE issued a directive in October 1987 outlining the plan and procedure for evaluating AML reclamation projects performed by OSMRE to assess the effectiveness of the reclamation techniques the agency used to abate or control the mining related problem. Beginning in fiscal year 1988, OSMRE evaluated 3 percent of all projects completed through fiscal year 1985. Thereafter, a minimum of 5 percent of the eligible projects (projects completed in the fiscal year 3 years prior to the study year) will be evaluated each year. The evaluation team will submit a report to the AML Division within 30 days of the end of the fiscal year in which the evaluation is performed. The report will contain the technical/environmental accomplishments and problems identified in each evaluation as well as the effectiveness of each project.

³In July 1984, OSMRE asked the National Academy of Sciences to examine whether the AML Fund is being used in a manner that provides maximum public benefit. In the summer of 1986, the Academy completed its work and submitted to OSMRE its report entitled Abandoned Mine Lands: A Mid-Course Review of the National Reclamation Program for Coal.

SECTION 4

DIRECT FEDERAL REGULATION

OSMRE has direct responsibility for enforcing surface mining laws on Indian lands, in states that choose not to develop regulatory programs, and on federal lands. The task force reported problems in OSMRE's regulatory program in the following categories:

- obtaining federal mining permits and
- assessing and collecting penalties.

Three recommendations for improvement were made.

OSMRE took action on two of the three task force recommendations. We did not determine the status of OSMRE's actions to implement the third recommendation because they are being evaluated in a separate GAO review. The following material, organized around the problem area categories presented in the task force's report, identifies the task force recommendations and the status of OSMRE actions to implement them.

FEDERAL MINING PERMIT PROCESS

The task force reported the following as a problem area:

"Process to obtain federal mining permits is more complex than [OSMRE] requirements for obtaining mining permits from states."

Task Force Recommendation:

"[OSMRE] should broaden the scope of the permit review process to look at not only how to streamline the federal process, but also how to make it less burdensome in general. One option is to allow permit data from one permit to be used in a later permit application, perhaps from a different company."

Status: Action taken

OSMRE evaluated the federal surface coal mining permitting process in late 1985 and early 1986. On the basis of the results of its study, OSMRE took six actions to improve its process, including the development of a standard permit application format and the implementation of tracking systems for permit processing in all OSMRE offices with responsibility for permit processing.

ASSESSING AND COLLECTING PENALTIES

The task force reported the following as a problem area:

"Process and accountability for penalty assessments and collections are not clear."

Task Force Recommendation:

"[OSMRE] should evaluate and implement quickly those IRS [Internal Revenue Service] report recommendations that will improve the penalty assessment and collection processes."

Status: Not determined in this review

We are conducting a separate review of OSMRE's efforts to improve its collection procedures and will obtain information on the status of OSMRE's actions to implement the Internal Revenue Service report recommendations as part of that review.

Task Force Recommendation:

"We recommend that [OSMRE] make assessments at the field level. Consistency in assessments can be achieved better through objective criteria, monitoring of performance, and training, than through centralization. Assessments and collections are two very different activities which do not need to be performed by the same organization. To the contrary, assessing the amount of a penalty is a program function calling for technical knowledge of SMCRA while collecting an account receivable is a standard accounting activity applicable to any governmental unit.

"To obtain better accountability in the assessment and collection processes, [OSMRE] should consider placing full authority for civil penalties under the applicable field office director up until the point that the proposed penalty enters into a formal administrative appeal process. This authority would include issuance of notices of violations and cessation orders, making assessments and notifications for each violation, and conducting informal conferences with the operator. After a final civil penalty is established through these procedures, or, if the proposed penalty is formally appealed, responsibility for further processing, including collection, should be with another organization."

Status: Action taken

OSMRE's assessment function was transferred to the Knoxville, Tennessee, and Denver, Colorado, field locations on January 1, 1988. The authority to assess civil penalties, including conducting informal conferences, remains with these offices up to the point that the proposed penalty enters into a formal administrative appeal process. However, these offices are responsible for issuing the final order and two billing notices, if required and refer the debt to the Division of Debt Management only if their efforts fail.

SECTION 5

AUTOMATIC DATA PROCESSING

To fulfill its mission, OSMRE must have an integrated system to collect and analyze information. The task force reported that OSMRE's efforts to achieve such integration had suffered from the lack of an orderly, systematic development process and top-level management oversight. The task force recommended four actions to correct these deficiencies.

OSMRE has taken action on two task force recommendations and has initiated action on a third. The fourth recommendation, which deals with OSMRE's efforts to comply with a January 1985 order issued by the United States District Court for the District of Columbia, is included in a separate GAO review.¹ The following material, organized around the problem area categories presented in the task force's report, identifies the task force recommendations and the status of OSMRE actions to implement them.

ADP SYSTEMS

The task force reported the following as a problem area:

"[OSMRE's] ADP systems have not had the benefit of an orderly and systematic development process or top-level management oversight."

Task Force Recommendation:

"In developing and implementing a system to satisfy the requirements of the Parker-Gasch amended order, the Department should make certain that the requirements of the amended order are met and the resulting system is sufficiently flexible to permit future expansion to fully address the total information and management requirements of the Department, [OSMRE], and other system users."

Status: Not determined in this review

We are conducting a separate review of OSMRE's efforts to comply with the Parker-Gasch amended order.

Task Force Recommendation:

"The Deputy Director's recent initiative to reactivate the ADP steering committee is a step in the right direction. However, we

¹This order, commonly referred to as the Parker-Gasch amended order, required OSMRE to develop and implement a system to assist federal and state permitting agencies in determining whether mining permits should or should not be issued to applicants.

recommend that a full-time, high-level ADP director be hired because the Deputy Director is unable to give the ADP development and operations effort the attention it needs and because more technical ADP expertise is needed."

Status: Action in process

OSMRE created the Information Systems Management directorate in November 1986 to manage OSMRE's ADP efforts. Although OSMRE requested and received approval from the Department of the Interior in 1987 for an assistant director at the Senior Executive Service level to head this directorate, the position has been filled by an acting assistant director since its creation. The vacancy announcement closed on December 5, 1988, but OSMRE, as of February 13, 1989, has not selected anyone to fill this position.

Task Force Recommendation:

"The Secretary of the Interior should ensure a greater degree of departmental oversight over [OSMRE's] ADP systems to make certain that an orderly, systematic development process is adhered to throughout the development cycle. Perhaps this could be accomplished through the Department of the Interior Information Resources Management Review Council."

Status: Action taken

The Department of the Interior's Information Resources Management Review Council, chaired by the Director of Office Resources Management, must approve OSMRE's procurement of systems costing more than \$5 million. Smaller systems, costing between \$1 million and \$5 million are approved by Interior's Office of Information Resource Management. Systems costing less than \$1 million are not subject to review by the Department of the Interior.

Task Force Recommendation:

"[OSMRE] should follow the orderly, systematic process in developing information and management systems during both its short- and long-range efforts. This process should include such steps as need assessments through evaluations of system alternatives, cost-benefit analyses, general and detailed system designs, pilot testing, documentation preparation, user training, and implementation. Following system implementation, [OSMRE] should continually evaluate the system to make certain that it is satisfying the needs of the various users and is working effectively and efficiently.

"Perhaps the single most important step in this process is the assessment of need. This step should be given high priority and should include meetings with representatives of the states, Indian Tribes, and other potential users, apprising them of [OSMRE's] willingness to work with them in establishing a computerized mining data base based on [OSMRE's] and their information needs."

Status: Action taken

OSMRE created the Assistant Directorate for Information Systems Management in 1986. This directorate has overall responsibility for the operational and planning activities for OSMRE's automated information systems. The directorate consists of three divisions

- Division of Systems Development and Implementation which has responsibility for the conceptualization, integration, development and life-cycle management of OSMRE's automated systems.
- Division of Resource Management which is responsible for user support, contract management, and office automation.
- Division of Program Information and Statistics which is responsible for developing and maintaining a process for collecting and analyzing data and statistics necessary to support OSMRE's regulatory functions.

In 1986, OSMRE contracted with the Mitre Corporation for the development of a systems integration plan. Mitre developed the plan, which is a long-range information system management plan for OSMRE, by analyzing SMCRA and identifying points of information--from the submission of a permit request to the release of a bond including who provided and received the information. This plan laid out system alternatives for OSMRE and is the blueprint for the information system--the Coal Data Management Information System (CDMIS)--that is planned to replace all existing OSMRE systems. System design plans for CDMIS were scheduled to be finished by January 1989. However, as of February 13, 1989, only one of the two plans was complete and awaiting approval.

OSMRE has also made the Technical Information Processing System available to state regulatory agencies as part of OSMRE's continuing program to provide technical assistance and service to the states.

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