

	U S DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT <b>DIRECTIVES          SYSTEM</b>	<b>Subject Number:</b> <b>REG-8</b>
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<b>Subject:</b> Oversight of State and Tribal Regulatory Programs		
<b>Approval:</b> Joseph G. Pizarchik		<b>Title:</b> Director

1. **Purpose.** This Directive and its appendices establish policies, procedures and responsibilities for conducting oversight of state and tribal regulatory programs. This Directive applies to all Office of Surface Mining Reclamation and Enforcement (OSM) organizational units and personnel involved in oversight of state and tribal regulatory programs starting with Evaluation Year 2011.

2. **Summary of Changes.** Extensive changes have been made to update information, clarify policy and procedures, and improve the readability and format of the Directive. Significant substantive changes include:

- a. Underscoring the fundamental purpose of oversight;
- b. Specifically addressing corrective action of issues and problems identified during oversight;
- c. Specifying that the Oversight Steering Committee will be convened as needed by the Director/Deputy Director to exchange views and information to the implementation and results of oversight policies, standards and procedures and/or discuss national oversight review topics;
- d. Clarifying that state permitting procedures and state-issued permits could be reviewed as part of oversight;
- e. Clarifying inspection types and site selection and specifying independent inspections;
- f. Enhancing outreach for both planning oversight and reporting results, including use of the Internet for information availability, dissemination, and notifications;
- g. Adding a new hydrologic reclamation measurement to Reclamation Success to indicate how well streams are restored or replaced by mining and reclamation and specifying that contemporaneous reclamation and stream protection measures should be periodically evaluated as part of the Reclamation Success National Measurement Elements;
- h. Enhancing Performance Agreement/Evaluation Plan format and content guidelines and establishing a schedule for preparation;

- i. Establishing the database system, Regulatory Program Data for States and Tribes (DST) as the official repository of “REG-8 data” ;
- j. Establishing a schedule for preparation of Annual Evaluation Reports;
- k. Enhancing Annual Evaluation Report format and content guidelines;
- l. Extensively revising the format of some Annual Evaluation Report Core Data tables, and the instructions and definitions for the data elements to clarify the data elements and adding Historical Trend Charts and Tables for Data Elements;
- m. Clarifying that bond forfeiture sites that are not fully reclaimed are still inspectable units and offsite impacts from those units are counted in our GPRM measurements.
- n. Adding new data elements to some Annual Evaluation Report Core Data tables:
  - (1) Number of permits in temporary cessation and number of permits in temporary cessation for more than 3 years,
  - (2) Number of permits terminated during the Evaluation Year for failure to initiate operations,
  - (3) Number of notices of temporary cessation received during the Evaluation Year and number of permits where temporary cessation was terminated (i.e., mining resumed or final reclamation began),
  - (4) Number of permanent program permits released under Phase III bond release and Initial program sites with jurisdiction terminated,
  - (5) Approximate number of complete and partial inspections required to be conducted during the Evaluation Year, and
  - (6) Number of decisions terminating lands unsuitable designations and associated acreages;
- o. Reporting the number of permits allowing special categories of mining in a new data table in the Annual Evaluation Report;
- p. Reporting OSM Oversight Activity in a new data table in the Annual Evaluation Report;
- q. Adding historical trend charts to the tables. Charts are shown as examples and are not intended to require retroactive data gathering except for charts related to Table 13. Table 13 represents readily available historic OSM information.
- r. Listing “Regulatory Program Problems” that require corrective action in a new data table in the Annual Evaluation Report.

### 3. **Definitions.**

- a. **Oversight.** The process of evaluating and assisting states and tribes in the administration, implementation, enforcement, and maintenance of their approved regulatory programs.
- b. **State.** As provided under 710 (j) SMCRA, for purposes of this Directive and the implementation and administration of a tribal program under Title V of the Surface Mining

Control and Reclamation Act of 1977 (SMCRA), any reference to a “state” in SMCRA, 30 CFR Chapter VII, and this Directive shall also be considered to be a reference to a “tribe”.

c. State program. A state-administered program, approved by the Secretary under section 503 of SMCRA, to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within a state. When a cooperative agreement governing mining on Federal lands has been approved under section 523 of SMCRA, that agreement is considered part of the state program.

d. Tribal program. A tribe-administered program, approved by the Secretary under section 503 of SMCRA, to regulate coal exploration and surface coal mining and reclamation operations on reservation lands under the jurisdiction of the tribe.

e. Annual Evaluation Report. The state or tribal program-specific report prepared annually by OSM on the evaluation of a state’s or tribe’s implementation, administration, maintenance, and enforcement of the state or tribal program.

f. OSM Annual Report. The report prepared annually by OSM and submitted by the Secretary of the Interior to the President and the Congress on the activities conducted by the Secretary, OSM, and the states pursuant to SMCRA as required by SMCRA Section 706.

g. Topic-specific Oversight Reports. Individual reports (by topic, by program) prepared annually by OSM as part of the oversight of each state and tribe that contain the findings and details regarding the evaluation of specific elements of state or tribal programs. Summaries of the topic-specific oversight reports are contained in the Annual Evaluation Report for the state or tribe. Topics to be evaluated are specified in each Performance Agreement/Evaluation Plan for a state or tribe. Topic-specific oversight reports, at a minimum, must include the reports on the National Measurement Elements, specifically:

(1) Off-site Impacts Oversight Report. The report that contains the findings and details regarding the evaluation of the Off-site Impacts National Measurement Element.

(2) Reclamation Success Oversight Report(s). Individual report(s) that contain the findings and details regarding the evaluation of each Reclamation Success National Measurement Element.

(3) Customer Service Oversight Report(s). Individual report(s) that contain the findings and details regarding the evaluation of each Customer Service National Measurement Element.

h. Performance Agreement/Evaluation Plan. A written plan for conducting oversight activities in a state or on tribal lands during one or more Evaluation Years. Performance Agreement/Evaluation Plans are developed by OSM in collaboration with the state or tribe to the extent possible with consideration of input provided by the public. OSM and the state or tribe are encouraged to sign the Performance Agreement/Evaluation Plan as mutually

agreeing to the content. However, signatures and/or agreement are not mandatory for OSM to proceed to conduct oversight as specified in the Performance Agreement/Evaluation Plan.

i. Regulatory Program Problem. An issue identified during OSM’s oversight of a state or tribal regulatory program that could result in a failure by the state or tribe relating to effectively implement, administer, enforce or maintain all or any portion of its regulatory program, including a state’s or tribe’s failure to adopt and implement program amendments that are required under 30 CFR Part 732 or 30 CFR Subchapter T. Regulatory Program Problems are defined and addressed in Directive REG-23, “Corrective Actions for Regulatory Program Problems and Action Plans.”

j. Action Plan. A plan for resolving a Regulatory Program Problem, which is identified, developed, and implemented in accordance with Directive REG-23, “Corrective Actions for Regulatory Program Problems and Action Plans.” The term ‘Action Plan’ is defined and addressed in Directive REG-23.

4. Policy. The fundamental purpose of oversight is to ensure that states and tribes are effectively administering, implementing, maintaining, and enforcing their approved regulatory programs. To achieve that purpose, OSM will evaluate the administration of each state and tribal program at least annually in accordance with 30 CFR 733.12(a). OSM also will conduct inspections of surface coal mining and reclamation operations as necessary to monitor and evaluate the administration of approved state or tribal programs in accordance with 30 CFR 842.11(a)(1). OSM will prepare an Annual Evaluation Report for each state and tribe in accordance with this Directive. In exercising its oversight responsibilities, OSM will work with the states and tribes to seek consensus on its oversight activities, while considering public input and clearly maintaining its independence and objectivity to carry out its duties under SMCRA and 30 CFR Chapter VII, Subchapter C and Part 842.

5. Responsibilities.

a. Director/Deputy Director.

(1) Establish national priority review topics and standardized nationwide evaluation methodologies for specific topics when desired.

(2) When appropriate, appoint an Oversight Steering Committee, consisting of OSM and state or tribal members, to exchange views and information to the implementation and results of OSM’s oversight policies, standards and procedures and to discuss potential national oversight review topics to ensure that the objectives of SMCRA are achieved. The Director/Deputy Director shall appoint one OSM member from each of the OSM Regions and the Program Support Directorate. In addition, the Director/Deputy Director, in consultation with national organizations representing state regulatory authorities, will appoint three state members to represent state regulatory authorities in each of the OSM regions and one state member at large.

b. Assistant Director Program Support (ADPS).

(1) Develop, clarify and revise national oversight policies, standards and procedures in consultation with the Director and Regional Directors.

(2) Coordinate with Regional Directors on oversight issues and activities affecting their areas of expertise and responsibilities.

(3) Consistent with national policy, procedures and standards, provide supplemental guidance to Regional Directors to address issues arising from implementation of the national guidance. This will not be construed as authorizing waivers of any national guidance provisions.

(4) Establish the national oversight database policy and maintain the database of Regulatory Program Data for States and Tribes (DST).

c. Regional Directors (RDs).

(1) Assist ADPS in developing, clarifying and revising national oversight policies, standards and procedures.

(2) Coordinate with Assistant Director and other RDs on oversight issues and activities affecting their Regions.

(3) Ensure that oversight activities are planned, conducted, monitored and reported in accordance with national and regional policies, procedures and guidance. Develop supplemental standards and procedures for the Region, as needed, in consultation with the Field Office Directors.

(4) Provide the technical assistance necessary to support oversight activities in the Region.

(5) Post the Evaluation Files, including the Annual Evaluation Reports and Performance Agreements/Evaluation Plans, to OSM's website.

d. Field Office Directors or equivalent (FODs).

(1) Plan and conduct oversight activities, including inspections, independent reviews and technical analyses, and prepare related documents and reports in accordance with the guidelines in this Directive and other national and regional policies and procedures.

(2) Develop day-to-day operational procedures consistent with national and regional oversight policies.

(3) Coordinate technical and other assistance with the RD when necessary to properly conduct oversight activities.

(4) FODs shall actively solicit, evaluate and respond to public participation. At a minimum, each Field Office shall provide an email address, phone number and physical address where the public can easily seek information or provide input. This contact information shall be in a prominent location on the OSM website. The Field Office shall acknowledge receipt and appreciation for public input in a timely manner. Additionally, information and data posted on the OSM website shall include contact information to be utilized by the public. Each Field Office is encouraged to maintain a list of “frequently asked questions,” (FAQ), area on the OSM website that would contain brief answers for questions often asked of the Field Office.

(5) Prepare a Performance Agreement/Evaluation Plan, cooperatively with the state or tribal regulatory authority, to the extent possible.

(6) Assist states and tribes with resolving identified problems by providing technical or other assistance as necessary and available and encourage states and tribes to proactively seek OSM assistance in preventing problems and issues.

(7) Prepare an Annual Evaluation Report for each state and tribe within his or her geographic area of responsibility.

(8) Provide electronic copies of the Evaluation File, including proposed and final Performance Agreement/Evaluation Plans and final Annual Evaluation Reports and supporting documents, for posting on OSM’s website for public access.

e. Oversight Steering Committee (OSC). As directed by the Director/Deputy Director, exchange views and information, in consultation with states and tribes, RDs, FODs and other users or customers of the oversight process, relating to the implementation and results of OSM’s oversight policies, standards and procedures and/or discuss potential national oversight review topics to ensure that the objectives of SMCRA are achieved.

f. Office of Communications (OC). Coordinate with RDs and FODs to incorporate information from Annual Evaluation Reports in the OSM Annual Report as appropriate.

6. **Procedures**. Oversight activities will be planned, conducted, and reported in accordance with OSM’s applicable regulations, this Directive and its appendices and all other relevant directives and supplemental guidance.

7. **Reporting Requirements**. Each FOD will compile the data needed for all core data tables and prepare an Annual Evaluation Report for each state and tribe within his or her area of responsibility. OC, in concert with RDs and FODs, will incorporate information from the Annual Evaluation Reports into the OSM Annual Report.

8. **Effect on Other Documents**. Supersedes Directive REG-8, “Oversight of State Regulatory Programs,” dated December 21, 2006, Transmittal number 921, “Change Notice” REG-8-1, dated July 1, 2008, Transmittal Number 932, and “Change Notice” REG-8-2, dated October 6, 2008, Transmittal Number 943.

9. **References.**

- a. Directive AML-22, "Evaluation of State and Tribal Abandoned Mine Land Programs."
- b. Directive INF-1, "OSM Records Management."
- c. Directive INF-2, "Administrative Records Systems."
- d. Directive INF-3, "Freedom of Information Act (FOIA)."
- f. Directive REG-23, "Corrective Actions for Regulatory Program Problems and Action Plans."

10. **Effective Date.** Upon issuance.

11. **Distribution.** Electronically.

12. **Appendices.**

- a. Appendix 1 – "Procedures and Guidelines for Oversight and Reporting."
- b. Appendix 2 – "Annual Evaluation Report Preparation Guidance."

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**APPENDIX 1**  
**PROCEDURES AND GUIDELINES FOR OVERSIGHT AND REPORTING**

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## I. BACKGROUND AND PURPOSE

These procedures and guidelines provide guidance for the development of Performance Agreements/Evaluation Plans, the conduct of oversight activities, the preparation of Annual Evaluation Reports, public outreach, and the maintenance and availability of oversight documents.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires that programs be developed and implemented to regulate surface coal mining and reclamation operations. Section 201 of SMCRA established the Office of Surface Mining Reclamation and Enforcement (OSM) to administer and implement SMCRA. Among its responsibilities, OSM is charged with reviewing and approving state and tribal programs for regulating surface coal mining and reclamation operations and making those investigations and inspections necessary to insure compliance with SMCRA as well as promoting the achievement of program goals and objectives, ensuring adherence to Federal and state statutory and regulatory requirements and maintaining minimum nationwide mining and reclamation standards.

SMCRA encourages states and tribes to assume the primary responsibility for regulating coal mining and reclamation activities (primacy). Once states and tribes are granted primacy, the role of achieving many of the purposes of SMCRA lies primarily with them. Among other things, states and tribes that have been granted primacy must protect society and the environment from the adverse affects of coal mining, assuring that mining is not conducted where reclamation is not feasible and assure that lands are reclaimed in a contemporaneous manner. OSM's primary role when a state or tribe has primacy is to:

- monitor the state or tribe and conduct inspections of surface coal mining and reclamation operations to ensure that the state or tribe is effectively implementing, administering, maintaining, and enforcing its state or tribal program,
- ensure the state or tribe maintains its capability to fulfill SMCRA responsibilities,
- assist the state or tribe in implementing its responsibilities,
- report on the evaluation of the state or tribal program,
- work with states and tribes to resolve, in a reasonable and timely manner, program and implementation issues identified through oversight, and
- pursue corrective actions provided by SMCRA, Federal rules, and OSM policy if states or tribes are not meeting program requirements.

This Directive fosters these purposes by establishing procedures and general criteria for evaluating states' and tribes' administration of their regulatory programs. In addition, it clarifies the respective roles and responsibilities of OSM offices and establishes the procedures for OSM's annual evaluations and format and content of the Annual Evaluation Reports on the status of program administration by the states and tribes.

## II. PROCEDURES

### A. General Approach

OSM's Field Offices and Regions, in consultation and, to the extent possible, collaboration with each state and tribe, will develop a state- or tribe-specific Performance Agreement/Evaluation Plan tailored to the unique conditions of each state or tribal program. Each Performance Agreement/Evaluation Plan must incorporate the three required National Measurement Elements: off-site impacts, reclamation success and customer service. The required review of these three National Measurement Elements will be supplemented with other oversight activities that OSM may conduct in a state or on tribal lands, including inspections, national priority topic reviews, and other topic-specific oversight reviews that may be developed in the Performance Agreement/Evaluation Plan. The Performance Agreement/Evaluation Plan will identify these activities.

Oversight reviews may include review of state- or tribe-issued permits and associated documents (e.g., permit applications, monitoring reports) and the permitting process, including associated documents (e.g., findings, documentation supporting findings such as cumulative hydrologic impact assessments) and procedural policies and guidelines. Such reviews may be associated with evaluation of customer service (e.g., public participation and availability of documents to the public), actual or potential on-the-ground or permitting problems (e.g., cumulative hydrologic impacts), and end results (e.g., timely reclamation).

Two primary objectives of OSM's oversight of state and tribal programs are to identify potential problems and their root cause and to assist states and tribes in resolving any problems or other issues that are identified. OSM, in cooperation with states and tribes, will focus resources on resolving such problems and issues. The Performance Agreement/Evaluation Plans will include any Action Plans directed at resolving Regulatory Program Problems.

OSM's oversight role will not duplicate the state's or tribe's program implementation responsibilities. Oversight will not be process-driven. Instead, OSM's oversight will focus on the end-result success of the state or tribal program in achieving the purposes of SMCRA. Also, it will focus on identifying the need for and providing financial, technical, or other program assistance to state and tribes to strengthen their programs.

While OSM is committed to working with states and tribes and other interested parties to seek consensus on oversight methods and evaluations, OSM will maintain its independence and objectivity in implementing its oversight responsibilities under SMCRA. OSM will take appropriate actions to resolve issues or Regulatory Program Problems identified in oversight in accordance with Directive REG-23, "Corrective Actions for Regulatory Program Problems and Action Plans."

## B. Outreach

FODs are to interact on a routine, periodic basis with the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and other Federal, state, and tribal agencies, state and local coal associations, citizens, environmental organizations and other groups to actively seek out and determine their areas of concern and suggestions, as well as to provide timely information about OSM activities that may interest such groups. To further this interaction, each Field Office will develop and conduct an outreach program within the states and tribes to solicit comments from the public and interested groups regarding the oversight process, views on additional review topics for the Evaluation Year and suggestions for improvements of future annual evaluation reports. FODs are encouraged to work with their respective states and tribes in developing such programs and in conducting such outreach jointly with the state or tribe whenever possible. Outreach efforts may be described in Performance Agreement/Evaluation Plans.

### 1. Public Participation and Outreach

FODs shall actively seek out, evaluate and respond to public participation. At a minimum, each Field Office shall provide an email address, phone number and physical address where the public can provide input or seek information. This contact information shall be in a highly visible location on the OSM website. The Field Office shall acknowledge receipt and appreciation for public input in a timely manner. Additionally, information and data posted on the OSM website shall include contact information to be utilized by the public. Each Field Office is encouraged to maintain a “frequently asked questions,” or FAQ, on the OSM website. The FAQ should contain brief answers for questions often asked of the Field Office.

### 2. Information Accessibility

Each Field Office shall, at a minimum, annually review all public information requests to identify which information and data are of interest to outside organizations. Every possible consideration shall be given to placing frequently requested information, documentation and data on the appropriate OSM website. At a minimum, Field Offices shall provide the Evaluation Files for posting on the OSM website (see section II.J., Evaluation Files, below). Proactively providing information via outlets such as the Internet serves to not only keep OSM transparent but also reduces the resources expended responding to requests for documents under FOIA concerning routine information.

All information placed on the Internet shall be reviewed to ensure that it is understandable by a layman, free of technical jargon, and complies with all Privacy Act and other legal (e.g., confidentiality) requirements. Where technical data and information require precise terminology, the terminology must be fully defined and explained so that the public understands its meaning. Documents involving state or tribal input will be provided to the state or tribe for review prior to posting on the OSM website. All appropriate documents (specifically excluding the proposed Performance

Agreement/Evaluation Plan) will be posted within 14 days after the document is finalized. Internal working documents will not be posted.

### 3. Outreach for Development of a Performance Agreement/Evaluation Plan

Each Field Office will conduct an outreach program within each state or on tribal lands to solicit comments from the public and interested parties regarding the oversight process, views on review topics for the Evaluation Year, and suggestions for improvements to future Annual Evaluation Reports. These comments will be considered in determining where OSM will focus its oversight resources and what aspects of the state or tribal program will be reviewed. The following elements must be included in the Field Office outreach effort consistent with the “Schedule for Outreach on the Performance Agreement/Evaluation Plan” in section II.E., Performance Agreements/Evaluation Plans, below.

- Announcement of the opportunity to provide comments, views or suggestions prior to the development of the Performance Agreement/Evaluation Plan;
- Announcement of the opportunity to provide comments on the proposed Performance Agreement/Evaluation Plan after its development;
- Field Office acknowledgement of receipt and appreciation for public input received;
- Posting proposed and final Performance Agreement/Evaluation Plan on OSM’s website.

Announcements will be made using OSM’s website and by email. The Field Office is responsible for maintaining a current list of email addresses for all parties interested in a state’s or tribe’s regulatory program. The Field Office may choose to use other appropriate outreach methods for a particular state or tribe. Selection of other outreach methods, such as letters and newspaper announcements, should be based on the experiences of the Field Office in communicating effectively with the public and interested parties for the particular states or tribes. To ensure that OSM is reaching all public stakeholders, in areas where the public may not have access to the Internet, OSM will notify the public using other methods.

Announcements must include a description of how interested parties may discuss specific ideas and concerns with the Field Office.

### C. Oversight Inspections

Inspections and site visits are an integral part of OSM’s oversight activities. The Performance Agreement/Evaluation Plan should clearly describe what is expected to be accomplished through OSM inspections and site visits, so that both the state or tribe and OSM staff understand the purposes of the inspections and site visits. Inspections and site visits should be planned and designed to meet the overall objectives of the Field Office’s oversight plan. Identifying the objectives of OSM oversight inspections and an inspection

plan in the Performance Agreement/Evaluation Plan does not alter any of OSM's enforcement responsibilities under SMCRA or the Federal regulations.

While the Performance Agreement/Evaluation Plan must be developed in cooperation with the state or tribal regulatory authority to the extent possible, the following guidelines regarding the types and numbers of inspections to be performed during the Evaluation Year must be followed in developing the inspection plan in the Performance Agreement/Evaluation Plan. OSM is responsible for selection of inspection sites and establishing the timing prior to inviting participation by states and tribes in the oversight inspections. The Performance Agreement/Evaluation Plans should not identify specific sites to be inspected. As appropriate, the Performance Agreement/Evaluation Plan should make use of the various types of oversight inspections available which include complete inspections, partial inspections, random inspections, focused inspections, independent inspections, bond release inspections, bond forfeiture site inspections, and special study inspections.

1. Determining the number of oversight inspections for each state or tribe

The numbers of Inspectable Units (IUs) vary greatly in each state and on tribal lands, from as few as one IU to more than 1,800 IUs. Therefore, a three-tier method will be used to determine the minimum number of annual oversight inspections. For states and tribes that have less than five IUs, at least one IU will be inspected annually. For states and tribes with five to 1,000 IUs, a minimum of 25 percent of the IUs will be inspected annually. For states with more than 1,000 IUs, OSM will use a sampling formula designed to give a high level of statistical confidence in the data with the understanding that the statistical validity of the results will vary from year to year depending on the stratification of the sites selected and types of studies conducted. The formula to be used to determine the minimum number of inspectable units inspected in States with more than 1,000 IUs is:  $n = 384 / (1 + 383/N)$ , where "n" is the sample size and "N" is the total number of IUs.

Because the purpose of an oversight inspection is to evaluate the effectiveness of a state or tribal program, inspections that do not specifically address this purpose, such as inspections conducted in response to a request for inspection (i.e., a citizen complaint) and Federal enforcement inspections, will not be counted in meeting the targeted number of inspections in the Performance Agreement/Evaluation Plan. These inspections are additional to the targeted number of oversight inspections and will be tracked separately.

Oversight bond release inspections can be counted in achieving the targeted number of IUs to be inspected; however, they cannot represent more than 25% of the targeted number of IUs to be inspected. For example, if a Field office conducted oversight bond release inspections on 12 IUs and the targeted number of IUs to be inspected in the state is 28 IUs, then only seven of the IUs where bond release inspections were conducted would be counted toward achieving the targeted number.

The number of oversight inspections will be identified and described in the Performance Agreement/Evaluation Plan, and any deviations from the above guidelines will also be identified and explained. The RDs or FODs can increase the number of oversight inspections at any time if needed to address issues or conditions in a state or on tribal lands.

2. Establishing the ratio of complete to partial inspections

Complete inspections are one of the most comprehensive tools that OSM has to effectively evaluate and monitor an individual state's or tribe's regulatory program. Partial inspections are an efficient tool for conducting oversight inspections on a large number of sites for a given period of time compared to time-consuming complete inspections. Both types of inspections are very important and have great attributes as oversight evaluation tools.

At a minimum, complete oversight inspections will be conducted on 33 percent of the IUs selected for oversight inspections in each state or on tribal lands. The maximum number of complete oversight inspections will be determined by the FOD and be delineated in the Performance Agreement/Evaluation Plan. The IUs where complete oversight inspections will be conducted will be determined by the FOD, but will not be identified in the Performance Agreement/Evaluation Plan. The RDs or FODs can increase the number of complete inspections at any time if needed to address issues or conditions in a state or on tribal lands.

3. Selecting random and focused inspections

Focused inspections have historically been a better use of OSM's limited inspection resources. OSM can direct oversight activities to areas where there may be high levels of activity, public concern, or problems. Conversely, a random sample of IUs for oversight inspections provides a means to validate the effectiveness of the state or tribal program in a readily apparent, unbiased manner. However, random selection of IUs for oversight inspections is reasonable only for states that have a larger number of IUs (i.e. more than 1,000 IUs). For states and tribes with less than 1,000 IUs, the Performance Agreement/Evaluation Plan will specify focused inspections. However, in states with 1,000 or more IUs, the Performance Agreement/Evaluation Plan should identify a combination of focused and random oversight inspections. The final decision on the types of inspections to be used for evaluation of any state or tribal program will be at the discretion of the FOD.

4. Conducting and selecting independent inspections

The vast majority of oversight inspections will be joint inspections, in which the state or tribe accompanies OSM on the inspection. However, OSM will also conduct independent, unannounced oversight inspections, which will validate and enhance the credibility of both state and tribal regulatory programs and OSM's oversight.

Generally, independent inspections will be conducted on 10 percent of the IUs selected for oversight inspections. However, the number of independent inspections may be greater or less than the 10% guideline, if the FOD determines it is appropriate. The total number of independent inspections will be identified in the Performance Agreement/Evaluation Plan, and any deviations from the 10% guideline will be explained. The FOD may adjust this number to address issues or concerns as necessary.

Independent inspections may be partial or complete and focused or random inspections. For IUs to be inspected independently by OSM, OSM will select which site to inspect and will schedule when the inspection will take place. The state or tribe normally will be given the opportunity to accompany OSM on the independent inspections with short notice (generally less than 24 hours). If the state or tribe cannot accompany OSM on the inspection, OSM will conduct the oversight inspection without rescheduling. In addition, the Field Office may conduct independent inspections without providing the state or tribe the opportunity to be present during the inspection if it determines such inspections are necessary. Where the state does not accompany OSM on its inspection, OSM will notify the State of the results prior to completing the inspection report.

#### D. National Measurement Elements and Reporting of End Results

To further the concept of reporting end-results and on-the-ground success, the Field Offices, using the guidance set forth below, will prepare findings from evaluations of the following National Measurement Elements, which OSM will report nationally in the OSM Annual Report. These evaluations will report the number and degree of off-site impacts; the number and percentage of inspectable units free of off-site impacts; the number of acres that meet the bond release requirements and have been released by the state or tribe for the various phases of reclamation; and the effectiveness of customer service provided by the state or tribe. Topic-specific Oversight Report(s) will be prepared for each National Measurement Element to provide specific information on how the measurements were carried out and reported.

##### 1. Off-Site Impacts

OSM will evaluate and report on the effectiveness of state or tribal programs in protecting the environment and public from off-site impacts resulting from surface coal mining and reclamation operations. The goal is for each inspectable unit to have minimal or no off-site impacts; the oversight objective is that states, tribes, and OSM direct efforts to continually reduce the occurrence of off-site impacts.

##### a. Purpose and Goal

Minimizing the occurrence of off-site impacts is a main premise of SMCRA to protect the public, property, and environment from the adverse impacts of mining outside of areas authorized for mining and reclamation activities. At a minimum, SMCRA and parallel state and tribal program provisions require that impacts to areas outside the area authorized for mining and reclamation activities be minimized. The oversight strategy described here will measure the success in meeting this goal at

each inspectable unit. This measurement is intended to: identify and report, for each inspectable unit, the number and degree of off-site impacts; determine causes of the impacts; and identify where improvements may be made to lessen the number and degree of impacts. If evaluation of data related to off-site impacts indicates program- or implementation-related problems, OSM and the state or tribe will implement changes, where possible, to minimize recurring impacts. Therefore, the objective of this measurement is that the state or tribe and OSM direct efforts to minimize the occurrence of off-site impacts.

b. Definition of Off-Site Impact

*For purposes of this Directive, an off-site impact is defined as anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on resources (people, land, water, structures) where that impact is intended to be minimized or prevented by SMCRA or the applicable State program. The applicable state program must regulate or control the mining or reclamation activity or result of the activity causing an off-site impact. In addition, the impact on the resource must be substantiated as being related to a mining and reclamation activity and must be outside the area authorized by the permit for conducting mining and reclamation activities. Off-site impacts may be identified within the permit boundary, if the impact is outside the area authorized by the permit for mining and reclamation activities.*

For example, a blasting operation that exceeds the state program's limits for vibration or air blast at a structure outside the permit area would be reported as an off-site impact when impacts to a resource (people, land, water, structure) are substantiated. However, a violation may exist that does not result in an off-site impact if damage to the resource cannot be substantiated.

The approved permit identifies the areas to be affected by surface coal mining and reclamation operations on maps and in the plans. Permitted lands may include those where the permit does not anticipate the land to be affected, as when a permit boundary is identified along lease or ownership lines rather than a line identifying the extent of surface coal mining and reclamation operations. Off-site impacts may occur either intentionally or inadvertently on those resources that are not authorized to be affected, but are located inside the permitted area. An example is when a buffer zone within a permit area is disturbed in violation of the state program or a stream or wetland is disturbed without being authorized under section 401, 402, or 404 of the Clean Water Act. In this case, an off-site impact would be recorded. Other examples include mining equipment operating outside the area authorized for disturbance, flyrock damaging a residence or other structure inside the permitted area, or an inadvertent release of sediment from a siltation structure or coal mine waste impoundment that is deposited off the area authorized to be affected. A final example involves state or tribal programs that allow permitted land to be incrementally bonded (i.e., a bond is posted for the initial mining of a permit area and subsequent increments of the permit area are bonded later as mining progresses, but prior to

disturbance). If a mining operation causes a disturbance in the non-bonded portion of an incrementally bonded permit area, an off-site impact would be recorded.

Although the great majority of off-site impacts will be events that constitute violations of the regulatory program and should be cited as such, there may be exceptions to this general rule. For example, a breached diversion ditch may have caused sediment to leave the permit area, causing an off-site impact. However, a violation may not have been cited because the violation may have been corrected prior to the inspection. This example should be identified as an off-site impact even though no violation was cited. Other examples may exist when off-site impacts caused by a regulated activity are documented, but, for whatever reason, a violation was not cited.

Impacts related to planned mine subsidence are not considered off-site impacts if the subsidence occurs within the area authorized for mining. Impacts related to subsidence may be addressed through other oversight processes. Unplanned impacts from underground mining activities should be counted.

c. Impacts Not Prohibited by the State Program

There are many impacts from mining and reclamation that are not regulated or controlled by SMCRA or state and tribal programs (e.g., air quality, noise, or visual impacts). There are also impacts that occur outside the permit even though a mine is in compliance with state or tribal program provisions. One example is a sediment control structure that meets all design standards. A rainfall event that exceeds the design standard causes the sediment control structure to discharge water that does not meet the effluent limits, resulting in off-site impacts. In this example, an off-site water quality impact occurs but, unless the condition is regulated by some aspect of the state or tribal program other than the design standard, an off-site impact would not be recorded because all program requirements were met. Another example may be nuisance impacts such as those related to blasting or dust. Blasting operations may be in full compliance with the program although local residents are impacted by noise or vibrations.

Although the main purpose of OSM oversight is to evaluate a state's or tribe's effectiveness in implementing its approved program, opportunities may exist for a state and OSM to agree to collect information on unregulated off-site impacts in addition to those regulated or controlled by the state program. Such information may be used to identify provisions of state and Federal standards where improvements may be made that would further minimize off-site impacts. Although information on these types of impacts is not required by this Directive and should not be reported in Table 5, Off-site Impacts, OSM is encouraged to work with states to develop acceptable methods for considering this type of information. In cases when such information is collected, the results should be reported in a topic-specific report on off-site impacts and summarized in the annual report.

d. Impacts on Bond Forfeiture Sites

Sites that are not fully reclaimed to program standards (even after all forfeiture funds are expended) must remain on the inspectable units inventory in accordance with INE-29 and be reviewed for offsite impacts. Off-site impacts identified on bond forfeiture sites are reported separately in Table 5, Off-site Impacts, and then added to the total off-site impacts for all inspectable units. The report narrative shall also distinguish between impacts from forfeited sites and bonded sites. Such impacts may be identified either through special oversight studies or through routine measurement of off-site impacts. Table 5 shall include all off-site impacts identified on bond forfeiture sites during the Evaluation Year. Off-site impacts that were identified and reported in prior years shall be discussed in a report narrative so that new impacts can be distinguished from impacts that continue to exist but were reported in prior years. The magnitude of off-site impacts, especially those that continue from year to year, shall be properly characterized. Annual Evaluation Reports shall report off-site impacts identified on bond forfeiture sites.

e. Positive Impacts

Documented positive impacts (e.g., improvement in water quality due to reclamation of bond forfeiture sites) should be considered and reported in section V.A. Off-site Impacts, of the Annual Evaluation Report; however, positive impacts should not be reported in Table 5.

f. Resources and Type and Degree of Impacts

Resources that may be affected during mining and reclamation operations include land, water, people, and structures. Water resources include surface and ground water quality and quantity. Fish and wildlife resources that may be impacted are included as part of water and land resources. The types of impacts that may affect these resources include, but are not limited to, blasting, land stability, and hydrologic impacts; unauthorized encroachments onto protected or non-permitted areas; and other impacts.

The off-site information to be collected, evaluated, and reported is the number of off-site impacts and the degree of impact. Additional information that should be gathered about each impact is the type of impact and the resource affected. Each impact may affect more than one resource, i.e., a blasting impact may affect both land and people.

Degrees of impacts are classified as minor, moderate or major. General guidelines for assessing the degree of impact are:

Minor

- Small amount of disturbance outside of permit or authorized area
- Small amount of sediment, flyrock, erosion outside permit or authorized area

- Low volume or short duration water discharge that marginally exceeds effluent limits and has a marginally negative impact on receiving stream water quality
- Impact does not interfere with land use
- Impact does not jeopardize public safety
- Impact does not cause damage to uncontrolled structures or restricted areas

Moderate

- Anything more than minor but less than major impact

Major

- Large amount of disturbance outside of permit or authorized area
- Large amount of sediment, flyrock, or erosion outside permit or authorized area
- High volume or long duration water discharge of poor quality enters a high quality stream
- Impact interferes with land use
- Impact jeopardizes public safety or causes personal injury
- Impact causes damage to uncontrolled structures or restricted areas
- Any impact caused by mining without a permit
- Stream dewatering that is not repaired or is an unplanned event

g. Sources of Information for Off-Site Impacts

One overall objective of this measurement is to determine, for each inspectable unit, whether off-site impacts occurred. The primary source of information for identifying off-site impacts should be the state inspection process. Existing state inspection procedures should result in the identification of off-site impacts for each inspectable unit. These determinations provide effective data for use by the state or tribe and OSM to determine whether off-site impacts occurred. State enforcement actions, citizen complaint files, civil penalty assessment data, and other information made available to OSM may also be considered.

Performance Agreements/Evaluation Plans should identify how states or tribes will collect and provide information to OSM on all off-site impacts that are identified in the state inspection process. OSM offices shall include some level of independent or joint evaluation with the states and not rely solely on information provided by the states. Such evaluation can consider federal inspections, OSM Ten-Day notices, citizen complaints (alleged impacts must be substantiated), topical studies and information from other state and Federal environmental regulatory agencies. A variety of sources must be considered to provide a credible evaluation of the off-site impacts in each state. The sources of information and the basis used to identify and report the number of off-site impacts must be explained in the narrative description of the topic-specific report on offsite impacts.

## h. Reporting

An Off-site Impact Oversight Report will be prepared for each state and tribe. This report is independent from the Annual Evaluation Report and will be used as supporting documentation for the Annual Evaluation Report. The Off-site Impact Oversight Report will include:

- the number and percentage of inspectable units free of off-site impacts;
- the number, type, and degree of identified off-site impacts and the resources affected;
- detailed information on data collection and analysis;
- a discussion of any conclusion on the effectiveness of the state program in minimizing and/or preventing off-site impacts and where improvements may be made to lessen the number and degree of impacts;
- a general discussion of the root causes of identified off-site impacts (i.e., improper permitting action, improper design, construction and/or maintenance, operator negligence, etc.);
- a discussion of any measures that have been or will be taken to address program or implementation deficiencies identified through a trend analysis with the goal of reducing the number and degree of off-site impacts; and
- a separate discussion addressing off-site impacts at bond forfeiture sites including a review of previously identified off-site impacts that still exist, with special emphasis on the degree of impact of these recurring off-site impacts.

Off-site impacts data are reported in Table 5, Off-site Impacts, in Appendix 1 of the Annual Evaluation Report. The Annual Evaluation Report should also contain a narrative summary of the findings from the overall evaluation with proper reference to the data in Table 5.

In general, Table 5, Off-site Impacts, will be used to report off-site impacts that are identified throughout the Evaluation Year. Table 5 provides a separate section for reporting off-site impacts related to bond forfeiture sites. Information concerning impacts that are not prohibited by the state or tribal program and SMCRA, impacts that are not regulated under the state or tribal program and positive impacts should not be included in Table 5 information. All such impacts, when evaluated, should be described in the narrative description of the off-site impact evaluation. Information reported in Table 5 will not stand alone and must always be fully explained by a supporting narrative.

## 2. Reclamation Success

OSM will evaluate and report on the effectiveness of state programs in ensuring successful reclamation on lands affected by surface coal mining operations. Success will be determined based on the number of acres that meet the bond release standards and have been released by the state. In addition to the nationwide information reported, Field

Offices and states may conduct specific evaluations and report on individual performance standards.

Bond release information will be collected to measure program performance in the following areas:

- Land form/approximate original contour
- Land capability
- Hydrologic reclamation
- Contemporaneous reclamation

Existing bond release systems and forms should be used to the extent possible to evaluate reclamation success. However, states and tribes and OSM will work together to attain procedures over time that will capture bond release data necessary to measure program performance.

After the state or tribe and OSM have agreed, to the extent possible, on interpretations, what to report and how to report it, OSM will make reasonable efforts to verify the accuracy of state or tribal data using tools established in the Performance Agreement/Evaluation Plan or as otherwise negotiated. Data verification tools to be used include but are not limited to OSM oversight inspections, OSM participation in state and tribal bond release inspections (all or sample), special studies or other methods mutually agreed upon by the state or tribe and OSM, which take into account the unique characteristics of the state or tribe and its program. Once the data collection system and verification procedures have been established, the acres released from bond will represent accomplishment of specific on-the-ground reclamation.

An oversight evaluation report will be prepared for each reclamation success evaluation conducted for each state or tribe. This report will include detailed information on the collection and analysis of data, as well as the verification of the data, and will draw a conclusion concerning the effectiveness of the state or tribal program in ensuring successful reclamation of mined lands. Information from the findings report will be summarized in the Annual Evaluation Report for the state or tribe.

In evaluating the effectiveness of state programs in ensuring reclamation success, there are various reviews OSM may conduct in each of the four areas noted below. The Field Office should select one or more of the measurements for review under each of the four reclamation success standards (land form/AOC, land capability, hydrologic reclamation, and contemporaneous reclamation) to determine if each phase of bond release reflects that reclamation required under each phase is being successfully accomplished and within a timely manner as required by the State program. Following is the guidance for each of the areas:

a. Land Form/Approximate Original Contour (AOC)

**MEASUREMENT: AOC achievement will be measured by the acres of Phase I bond released.**

Due to differences in topography, geography, geology and land forms in the coal producing states and tribes, it is necessary that OSM and the state or tribe concur on an accepted interpretation of AOC for purposes of this Directive. When the AOC interpretation is established for a state or tribe, the state or tribe and OSM will document it in a mutually acceptable manner. Acreage disturbed by mining activities that is released from Phase I bond liability will be documented as having achieved AOC.

b. Land Capability

There are several measurements that may be conducted to demonstrate the reestablishment of land capability on mined areas. These measurements and the timing of each measurement are discussed below.

**MEASUREMENT: Proper replacement of soil resources will be measured by acres of Phase II bond release.**

Land capability may be demonstrated by the acres where topsoil, subsoil or other suitable materials have been properly redistributed at the time of Phase II bond release. For those states or tribes where soil replacement is a Phase I reclamation activity, this measurement should be conducted at the time of Phase I bond release. Because it has been established and documented by inspection, the acreage released from the applicable Phase of bond liability can be documented as having achieved soil replacement.

**MEASUREMENT: Vegetation stability will be measured by acres of Phase II bond release.**

Land capability may be demonstrated by the acres for which vegetative cover or other erosion control techniques have adequately stabilized the surface from erosion at the time of Phase II bond release. Because it has been established and documented by inspection, the acreage released from Phase II bond liability can be documented as having achieved erosion stability.

**MEASUREMENT: Achievement of post-mining land uses will be measured by acres of Phase III bond release.**

Land capability may be demonstrated by the acres for which approved post mining land uses have been achieved at the time of Phase III bond release. Achievement of post-mining land uses will be measured by the acreage of each land use type released from Phase III bond liability, i.e., cropland, pasture, forest, water, etc., and the

acreage will be documented and reported. Because it has been established and documented by inspection, the acreage released from Phase III bond liability can be documented as having achieved the approved post-mining land uses.

**MEASUREMENT: Successful revegetation will be measured by acres of Phase III bond release.**

Land capability may be demonstrated by the acres for which revegetation has been successfully demonstrated at the time of Phase III bond release. The bond release will document the ground cover, yields or stems per acre, as appropriate, for the land use.

c. Hydrologic Reclamation

There are several measurements that may be conducted to demonstrate the reestablishment of the hydrologic balance and successful hydrologic reclamation on mined areas. Listed below are some suggested measurements and their timing. Mine subsidence and impacts to water supplies should be periodically evaluated to determine the success of the state or tribal program in achieving timely restoration and repair or replacement of water supplies affected by mining and restoration of other resources impacted by mine subsidence.

**MEASUREMENT: Achievement of surface water impoundment quality and quantity restoration can be measured by acres of Phase III bond release.**

Surface water quality and quantity restoration may be measured in terms of acres of water impoundments released from bond liability. Bond release will document that water quality meets surface water quality standards and water quantity is adequate for its intended use. Because it has been established and documented by inspection, the acreage released from Phase III bond liability can be documented as having achieved restoration of this aspect of surface water quality and quantity.

**MEASUREMENT: Achievement of groundwater recharge capacity and ground water quantity and quality restoration can be measured by acres of Phase III bond release.**

Groundwater recharge, quality and quantity will be measured in terms of acreage released from Phase III bond liability. The state or tribe, in the Phase III bond release documents, determines whether ground water recharge and restoration of the hydrologic balance has been achieved. Provided the state or tribe has determined and documented that groundwater quality, quantity and recharge capacity have been protected, these documents could be used to measure the achievement of this goal.

**MEASUREMENT: Achievement of surface water quality and quantity restoration can be measured by acres of Phase III bond release.**

Surface water quality and quantity restoration may be measured through a comparison of the pre-mining water quality and quantity to the post mining water quality and quantity at the time of Phase III bond release. Bond release will document that the water quality and quantity leaving the mine site meets the applicable standards and is comparable to or better than the pre-mining quality and quantity. Because it has been established and documented by inspection, the acreage released from Phase III bond liability can be considered as having achieved restoration of this aspect of surface water quality and quantity.

**MEASUREMENT: Mitigating the impacts to streams.**

The intent of this measurement is to provide an overall picture on how well fully functional streams are restored or replaced by mining and reclamation in the state or on tribal lands. Standard measurements have not been specified but each office is required to periodically evaluate the implementation of stream protection measures by states and tribes. In order to assess the success of stream protection measures, data may be collected on the length of stream permanently or temporarily disturbed by mining activities and the stream length restored or created within or off of the permit area. This information may be available at the District Corps of Engineers office or a system may need to be developed to collect this information.

d. Contemporaneous Reclamation

Contemporaneous reclamation should be periodically evaluated by determining if on-the-ground reclamation is following the reclamation plan approved in the permits, specifically focusing on applicable performance standards of the state or tribal program, the detailed timetable for the major steps in the reclamation plan (i.e., backfilling and grading, topsoil redistribution, planting and seeding), and the map showing the sequence of reclamation.

Although not reported in Table 6, Surface Coal Mining and Reclamation Activity, contemporaneous reclamation on-the-ground is an important purpose of SMCRA "to assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations." It provides an overall perspective of how successfully reclamation is staying current with mining in the state or on tribal lands.

**MEASUREMENT: Timeliness of reclamation may be measured by evaluating the timeliness of Phase I, Phase II and Phase III bond releases.**

The intent of this measurement is to provide an overall general picture of how successfully reclamation is staying current with mining in the state. It is recognized that some states or tribes may not have the capability to collect data that provides a complete status of the timing of mining and reclamation at this time. In order to collect this data, a system to collect a baseline of the number of acres affected by mining activities and released from bond each year is needed.

However, because not all states or tribes collect disturbed acreage data, such baseline information may not be available, or, if available, may not be complete. Thus, the number of acres that are bonded each year will be used to provide a close approximation of the number of disturbed acres until it can be established that all states and tribes collect disturbed acreage data. However, once a baseline for disturbed acreage data has been established and the state is collecting such information annually, the state or tribe should continue to collect the number of acres bonded each year for comparative purposes.

The state or tribe and OSM, as part of the Performance Agreement/Evaluation Plan, will plan and implement the collection of data to provide some measurement of this program area. Information provided to complete Table 6, Surface Coal Mining and Reclamation Activity, in the Annual Evaluation Reports summarizes mining and reclamation activity and should be considered a source for this measurement.

### 3. Customer Service

To evaluate effectiveness of customer service provided by the state or tribe, OSM will monitor states' and tribes' responses to complaints, requests for inspections, and requests for assistance and services by permittees as well as the public or other agencies. Each Evaluation Year the Field Offices will review a sample of one or more of the state or tribal activities listed below to determine timeliness, accuracy, completeness and appropriateness of the state or tribal action. In addition, the review may address the state's or tribe's analysis of customer satisfaction. State or tribal customer service activities include:

- Citizen complaint process (i.e., processing requests for inspections made directly to the regulatory authority or referred by OSM);
- Program provisions and implementation regarding public participation and coordination with other governmental agencies in the permitting and bond release processes;
- Permitting process including written findings and documentation supporting the findings;
- Availability of documents (e.g., permit applications, decisions of the regulatory authority, evaluation reports);
- Bond release process and associated documents (e.g., notices and decisions);
- Interagency coordination (e.g., coordination with agencies administering the Clean Water Act);
- Responsiveness to permit applicants (e.g., timely processing of applications);
- Lands unsuitable petitions;
- Administrative and judicial review; and
- Applicant/Violator System maintenance and determinations.

A customer service oversight report will be prepared for each customer service review conducted. Reports will include detailed information on the collection and analysis of

data, as well as a description of the steps taken to verify the data, and draw a conclusion on the effectiveness of the state or tribal program in providing customer service. Information from the findings report will be summarized in the Annual Evaluation Report.

#### E. Performance Agreements/Evaluation Plans

OSM's Field Offices and Regions, in collaboration with each state and tribe to the extent possible, will develop a state-/tribe-specific Performance Agreement/Evaluation Plan tailored to the unique conditions of each state or tribal program. OSM and the states and tribes are encouraged to develop Performance Agreement/Evaluation Plans covering more than one Evaluation Year since the process is continuous and not necessarily limited to one year. Detailed plans for national priority reviews and/or topic-specific evaluations to be conducted in specific Evaluation Years can be appended to multi-year Performance Agreement/Evaluation Plans.

The format of each Performance Agreement/Evaluation Plan will be left to the discretion of the individual Field Offices and states and tribes to determine; however, the information contained within the Performance Agreement/Evaluation Plan must include the following:

- Program Evaluation goals and the plans to achieve those goals in order to give all stakeholders a clear understanding of what OSM and the state or tribe plan to do;
- State or tribe involvement in the oversight evaluation process;
- The National Measurement Elements, including details of each review for:
  - Off-site Impacts,
  - Reclamation Success, and
  - Customer Service;
- Other oversight activities that OSM may conduct in a state or on tribal lands, including national priority reviews and focused state-/tribe-specific permitting and enforcement reviews, with a general discussion of each review;
- Inspection plans for the Evaluation Year, including the following information:
  - A description of what OSM expects to accomplish, so that both the state or tribe and OSM staff understand the purpose of the inspections;
  - Identification of the:
    - Number and type (joint, partial, complete, independent etc.) of OSM oversight inspections, and
    - Method of selecting mines to be inspected (random or focused);
- The Field Office's plans to assist the state or tribe in the resolution of any identified problems;
- Methods for resolving Regulatory Program Problems and other issues identified in previous evaluations, including uncompleted Action Plans, which must be appended to the Performance Agreement/Evaluation Plan;
- Statement as to how OSM and the state or tribe plan to address public comments/input and how outreach should be conducted during the year;
- Technical or programmatic assistance to be provided by OSM to the state or tribe, and expected outcomes of the assistance;

- Core program data that the state or tribe will provide to OSM and the mutually-agreed format for this data;
- Planned internal reviews of the state or tribal program that the state or tribe provides to OSM; and
- Any other identified requirements that would promote full program performance.

**Schedule for Outreach on the Performance Agreement/Evaluation Plan**

<b>Date</b>	<b>Outreach Activity</b>
March 1	Announce opening of a 30 day period for interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics, including the opportunity for discussions with the Field Office
March 1 – March 30	Opportunity for interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics
April 15	Draft Performance Agreement/Evaluation Plan developed and sent to the state or tribe for their review and comments
April 30	As appropriate, incorporate state or tribe comments into the draft Performance Agreement/Evaluation Plan
May 1	Announce the opportunity for interested parties to comment on the proposed Performance Agreement/Evaluation Plan, including the opportunity for discussions with the Field Office on proposed oversight plans
May 1 – May 15	Opportunity for interested parties to comment and request discussions with the Field Office
May 15	Close of comment period/last day for public discussions with the Field Office
May 15 – June 30	In conjunction with the state or tribe, finalize Performance Agreements/Evaluation Plans
July 14	Post final Performance Agreement/Evaluation Plans on OSM’s website

**F. Data Collection**

To the extent practical, OSM and the state or tribe, as a part of a Performance Agreement/Evaluation Plan, will establish a joint OSM-State/Tribe database to contain and analyze the applicable core data to characterize the program, and develop procedures for maintenance, updating, and verification of the data by the state or tribe in a timely manner. Such a database would maximize consistency, minimize duplicative efforts, and reduce document review effort. For states and tribes in which databases are not developed or during the time that databases are being developed, OSM and the state or tribe should develop an

understanding identifying the data that will be shared and how such data sharing will be accomplished.

OSM's database, "Regulatory Program Data for States and Tribes" (DST), is the sole repository and the official source of the data reported in Annual Evaluation Reports and in OSM's Annual Report ("REG-8 data"). Likewise, summary data for Federal programs and the Indian Lands program that are reported in OSM's Annual Report derive from the DST. FODs are responsible for ensuring the data in the DST for their states and tribes are timely entered in the DST and are accurate and complete. Field Office staff may work cooperatively with states and tribes to obtain REG-8 data but OSM should take reasonable steps to verify the accuracy of the data. Field Office staff who collect and enter data into the DST, FODs, and RDs must validate and verify the data and, pursuant to Department of the Interior Validation and Verification policy and procedures, certify:

- The data that are being used are appropriate for the outcome that is being pursued (i.e., the data are valid);
- Data collection, analysis and reporting standards and procedures are in place and people are properly trained;
- Data entry methods are established, data are verified, data are available when needed, data entry staff are trained;
- Data security protocols are in place and effective;
- Data accuracy limits are defined;
- Use of externally controlled data is documented;
- Accountability for data accuracy exists in performance standards;
- Responsible officials certify that procedures were followed each reporting period; and
- Responsible officials certify that data accuracy has been checked each reporting period.

#### G. Innovative State or Tribal Actions and Accomplishments

Emphasis will be placed on recognition of innovative state approaches to managerial efficiency, problem resolution, environmental protection, and extraordinary achievements in program implementation.

#### H. Regulatory Program Problems and Issues

Regulatory Program Problems are reported in Section VII of the Annual Evaluation Report. Table 14, Status of Action Plans, in Appendix 1 documents the status of Action Plans developed for resolution of Regulatory Program Problems. Directive REG-23, "Corrective Actions for Regulatory Program Problems and Action Plans," provides guidance for actions that may be taken to correct Regulatory Program Problems and other issues, including the Action Plan process. Resolution of problems or issues, including incremental improvements toward such resolution, should also be reported.

#### I. Topic-Specific Evaluation Reports

A Performance Agreement/Evaluation Plan may identify a specific program area or topic for evaluation and reporting. Whenever the Field Office completes the topical evaluation, it will prepare a Topic-specific Oversight Report independent of the Annual Evaluation Report. Although there is no specified format or style for such reports, the following information should be addressed in the report:

- The program area or topic reviewed and why it was selected;
- The scope and method of review;
- The dates of the oversight activity and the period for which state actions and documents were evaluated;
- All findings, both positive and negative;
- Facts supporting the findings;
- A list of all specific permits, mine sites, or state actions reviewed;
- The actual or potential impact or significance of any deficiencies identified;
- A clear description of any corrective action required or recommended, if problems or potential problems are identified and whether the problem constitutes a Regulatory Program Problem; and
- Whether technical or administrative assistance by OSM is appropriate.

Records of the evaluation will identify all OSM and state or tribal personnel involved in the review. If OSM personnel outside the Field Office participated in the review, they will be afforded an opportunity to review and comment on the report in draft form.

A draft report will be sent to the state or tribe with a request for comments and, if appropriate, will include a schedule of actions to be taken to address any issues or resolve any problems. A final report, developed after consideration of state or tribal comments, will be provided to the state or tribe.

Final reports will be included in the Evaluation File.

#### J. Evaluation Files

The Field Office will maintain a public review file for oversight activities conducted in each Evaluation Year on an ongoing basis in accordance with Directive INF-1 (“evaluation file”). The evaluation file will be maintained independent of any administrative record (see Directive INF-2). It will be kept current and include all documents pertinent to the Evaluation Year regardless of the date of preparation or receipt of documents. In some cases, this may require that a document (e.g., a multi-year Performance Agreement/Evaluation Plan) be duplicated and placed in several evaluation files (a copy in each evaluation file to which the document pertains). The evaluation file for each Evaluation Year must contain the following items:

- National/regional oversight guidance and format documents and revisions and clarifications thereof (e.g., this Directive);
- The Performance Agreement/Evaluation Plan between OSM and the state or tribe;

- A list of the oversight inspections conducted, including the type of inspection, type of facility and its activity status;
- All final topic-specific oversight evaluation reports prepared for the Evaluation Year (i.e., Oversight Reports on Off-site Impacts, Reclamation Success, Customer Service, National Priority Review topics, other state-/tribe-program specific oversight topics reviewed during the Evaluation Year);
- Any data summaries used to prepare the findings in the Annual Evaluation Report;
- Action Plans in effect during the Evaluation Year;
- OSM-state/tribal meeting summaries and substantive correspondence concerning evaluation techniques, topics, schedules and findings;
- The final Annual Evaluation Report provided to the state or tribe and all state or tribe comments thereon;
- Public comments, complaints or observations pertaining to the Performance Agreement/Evaluation Plan, Annual Evaluation Report, or the evaluation process;
- Summaries of public meetings held concerning the oversight process;
- A summary of citizen complaints received by OSM, including the number received, status, and the disposition;
- A list of inspectable units, updated quarterly; and
- An end-of-Evaluation-Year summary of OSM oversight inspections completed during the Evaluation Year, including the date, permit number, permittee, mine name, county, type of facility and activity status.

The evaluation file will not include the following items:

- Working papers;
- State or tribal and Federal inspection reports;
- Raw, unorganized data;
- Protected Privacy Act data;
- Confidential permit application documents, other confidential information, or any other information legally protected from disclosure;
- Grant reports and related documents (although the evaluation file should include a note explaining where and how these documents may be reviewed); or
- Briefing papers for OSM management; or
- Draft reports.

The evaluation file will be available on OSM's website. The evaluation files will be physically available for public review during normal business hours in the same manner as administrative record files (see Directive INF-2). Single copies of the final Annual Evaluation Report and final Topic-specific Oversight Reports will be provided free of charge upon request. Requests for copies of other evaluation file documents may be processed in accordance with Directive INF-3 (Freedom of Information Act procedures) if the FOD determines that the request imposes a significant burden on Field Office resources.

**APPENDIX 2**  
**ANNUAL EVALUATION REPORT PREPARATION GUIDANCE**

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## I. REPORTING REQUIREMENTS FOR ANNUAL REPORTS

The FOD will prepare an Annual Evaluation Report for each state within his or her area of responsibility. The target date for completion of a final report, including all changes as a result of comments from all reviewers, is 60 days after the end of the Evaluation Year. The intent is to have the Annual Evaluation Reports finalized well before the start of the Fiscal Year, so that information can be used for Congressional hearings and to provide information to OC for inclusion in OSM's Annual Report. The following is a suggested timetable for finalizing Annual Evaluation Reports:

1. The draft Annual Evaluation Report should be completed and forwarded within 30 days after the end of the Evaluation Year to the state or tribe for review and comment (i.e., the end of July).
2. The state or tribe will be provided a minimum 15-day comment period, which can be extended upon request (comments due in mid-August).
3. Within 10 days after receipt of the state's or tribe's comments, any necessary revisions to the report should be completed (late August); the state's or tribe's comments, followed by a summary of the FOD's disposition of those comments, will be appended to the report as Appendix 3.
4. If the report is substantively revised, the state or tribe will be allowed up to 5 days to provide additional comments on the revised report (end of August). The state's or tribe's comments on the revised report will be appended to the report in place of the initial comments unless the new comments reference the previous comments.
5. Once the FOD determines that all changes resulting from state comments have been completed, the FOD will brief and consult with the RD on the final report. The FOD will then finalize the report, have a copy of the report posted on OSM's website for public viewing, and notify interested parties, including the Director, Regional Director, Office of Communications, and other OSM units of the availability of the reports on OSM's website (early-September). Hard copies will be made available upon request.
6. To promote dissemination of oversight information, the FOD will contact interested parties by email to notify them of the report posting on the OSM website and/or provide electronic or paper copies of the report to states or tribes and other parties who have requested a copy.

## II. INSTRUCTIONS AND TEMPLATES

The Annual Evaluation Reports will be prepared in accordance with the instructions and templates provided on the following pages. Care must be taken to ensure dates in the text of the report and the tables reflect the proper Evaluation Year. Acronyms should be utilized minimally throughout the report. Photographs, tables and graphs should be utilized in the report to illustrate and supplement the report's content and findings.

The Annual Evaluation Report required under this Directive for regulatory programs may be combined with the Annual Evaluation Report on a state's or tribe's abandoned mine land

(AML) program prepared in accordance with Directive AML-22, “Evaluation of State and Tribal Abandoned Mine Land Programs.” If the reports are combined, the applicable guidelines for preparation of both reports should be followed to the extent possible.

A. Cover

If a photograph is utilized on the cover of the Annual Evaluation Report, any text in the Cover should be visible and easily read. The text should include the full names of OSM (i.e., Office of Surface Mining Reclamation and Enforcement) and the state or tribal regulatory authority along with the Evaluation Year and the Field Office responsible for the review.

B. Title Page

The title page of the report should follow the template on next page.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Report

for the

Regulatory [and Abandoned Mine Land] Program[s]

Administered by [State/Tribal Regulatory Authority(s)]

of

[STATE or TRIBE (ALL CAPS)]

for

Evaluation Year [YYYY]

July 1, [YYYY] to June 30, [YYYY]

Prepared by

[Name of Field Office conducting evaluation]

[Month YYYY (when final)]

### C. Evaluation Year Executive Summary

Instructions: Under a page heading, “**Executive Summary,**” insert topics of interest to the reader for the state or tribal program during the Evaluation Year – this should summarize the data and narrative that is contained in later sections of this report. This section should read as a “story” and all technical jargon should be omitted. Acronyms should be kept to a minimum, only utilizing acronyms for OSM or the state agency(s). The following information can be used in this section:

- Indicate the Evaluation Year being reviewed and list state agency(s) being evaluated.
- Describe outreach efforts and other opportunities for public input such as review of draft evaluations
- Top stories from the Evaluation Year: describe accomplishments and/or advancements made by OSM or the state. Include AML accomplishments as well as regulatory program efforts if the AML evaluation report is combined with the regulatory program Annual Evaluation Report.
- Summarize the outcome of reviews of the National Measurement Elements, Off-site Impacts, Reclamation Success, and Customer Service, and any National Priority Topics for the Evaluation Year.
- Summarize the outcome of other topic-specific reviews selected by the Field Office for the Evaluation Year. Include AML as well as regulatory program reviews if the AML evaluation report is combined with the regulatory program Annual Evaluation Report.
- Summarize the resolution of Regulatory Program Problems and issues and the status of problems pending at the end of the Evaluation Year.
- Summarize OSM grants and significant technical assistance provided by OSM during the Evaluation Year. Include AML as well as regulatory program grants and significant technical assistance if the AML evaluation report is combined with the regulatory program Annual Evaluation Report.

### D. Table of Contents

Use the following template for preparing the table of Contents of the Annual Evaluation Report.

CONTENTS (Contents may be adjusted to report AML activities at the FOD’s discretion.)

- I. Introduction
- II. Overview of the Coal Mining Industry [“in the State” or “on Tribal Lands”]
- III. Overview of Public Participation and Outreach Efforts
- IV. Major Accomplishments and Innovations
- V. Success in Achieving the Purposes of SMCRA
  - A. Off-site Impacts
  - B. Reclamation Success
  - C. Customer Service
- VI. National Priority and General Oversight Topic Reviews
- VII. Regulatory Program Problems and Issues
- VIII. OSM Assistance
- Appendix 1 Summary of Core Data to Characterize the Program
- Appendix 2 [“State’s” or “Tribe’s”] Comments on the Report

## E. Report Sections

### I. Introduction

Instructions: Insert the following text into this section of the report, substituting state- or tribe-specific information where so indicated.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for the state and tribal regulatory programs that have been approved by the Secretary of the Interior as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the [state or tribal] program and the effectiveness of the [state or tribal] program in meeting the applicable purposes of SMCRA as specified in section 102. This report covers the period of July 1, [YYYY] to June 30, [YYYY]. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the OSM [Office Name, Address, Phone Number and name and email address of contact person].

(This introduction may be adjusted to report AML activities at the FOD's discretion.)

The following acronyms are used in this report:

OSM      Office of Surface Mining Reclamation and Enforcement  
SMCRA   Surface Mining Control and Reclamation Act of 1977  
[List alphabetically all acronyms used in the report and their definitions]

### II. Overview of the Coal Mining Industry in the State or on Tribal Lands

Instructions: To provide a context or characterization for the reader to understand the significance of coal mining within the state, prepare a short narrative setting forth general information on coal mining in the state or on tribal lands considering the following topics and other appropriate information:

- Types of mining (surface and underground, differentiated by longwall, conventional, or in-situ, if possible);
- The number, type, and size of mines within the state or on tribal lands – historic and present;
- Regions, counties, or other political sub-divisions of the state or tribal lands where mining is located;
- Significance of coal mining to the local and state or tribal economies;
- Any other information characterizing coal mining in the state or on tribal lands that provides a sense of conditions in the state or on tribal lands; and
- Any significant changes in the above information that have occurred during the Evaluation Year.

### III. Overview of the Public Participation and Outreach Efforts

Instructions: To provide a context or characterization for the reader to understand the level of public involvement and the opportunities provided for public input by OSM and the state, prepare a brief narrative setting forth general information on public participation in OSM's oversight process and in the state or tribal program. The term, "public," includes all stakeholders (i.e., citizenry at large, industry, other Federal, state, or local agencies, and environmental groups). The following are potential topics:

- Identify the OSM website and state or tribe website (if available) where the public can find information relating to public comment, the state's or tribe's Performance Agreement, and other documentation;
- Identify the opportunities and information provided by OSM and the state or tribe to the public to provide input into the oversight and state regulatory processes;
- Identify public meetings held and quantify the amount of participation that occurred;
- Identify outreach efforts undertaken by OSM and the state or tribe;
- Characterize any significant involvement of environmental, industry and grassroots organizations;
- Identify any results or impacts to the effectiveness of the program that have occurred due to public participation;
- Identify any highly controversial areas or concerns that have arisen due to public involvement;
- Identify any precedent-setting legal issues decided during the period; and
- Briefly summarize any specific issues or successes identified through OSM evaluations conducted on the state or tribe implementation of the public participation aspects of the program.

### IV. Major Accomplishments and Innovations

Instructions: Briefly summarize the state's or tribe's overall performance in implementing its regulatory programs to meet the applicable purposes listed in section 102 of SMCRA. Identify any significant accomplishments and innovations that may be of national or regional interest and place each in context. This description should include areas of the state or tribal program that go beyond the minimum requirements and should include areas of the state or tribal program where innovative approaches to solving problems have proven successful. Provide an overall summary of the success of the state or tribal program and the state's or tribe's and OSM's expectations for the program in the coming year as they relate to the accomplishments and innovations described above.

## V. Success in Achieving the Purposes of SMCRA

Instructions: The following sub-sections must be placed in this section of the report, substituting state- or tribal-specific information where so indicated.

Each state and tribe is evaluated to collect data for a national perspective in terms of the following:

- Off-site Impacts -
  - Number and extent of observed off-site impacts;
  - Number and percentage of inspectable units free of off-site impacts;
- Reclamation Success -
  - Number of acres that have been mined and reclaimed and which meet the bond release requirements and have been released for the various phases of reclamation;
- Customer Service -
  - The effectiveness of customer service provided by the state.

Indicate in this section of the report where the reader can locate individual topic reports that will provide details on how the following evaluations and measurements were conducted, including the Field Office name, address, phone numbers, email addresses, and the OSM website address where the reports are located.

### A. Off-Site Impacts

Instructions: Prepare a summary evaluation of the data reported in Table 5, Off-site Impacts, identifying the sources of the information and an analysis with regard to the effectiveness of the state or tribal program in protecting the environment and public from off-site impacts resulting from surface coal mining and reclamation operations. The summary should reference the number and percentage of inspectable units that were free of off-site impacts, provide an explanation of the significance of that finding and report on the results of any root cause analyses that were conducted. The summary also should report the actions being taken with the state or tribe to correct any programmatic deficiencies that may have caused off-site impacts to occur and to develop ways to lessen the number of future impacts.

### B. Reclamation Success

Instructions: Prepare a summary discussing and assessing the data in Table 6, Surface Coal Mining and Reclamation Activity, with regard to the effectiveness of the state program in ensuring successful reclamation on land affected by surface coal mining operations. The summary also should report the actions

being taken with the state or tribe to prevent future occurrences when areas do not meet bond release standards.

### C. Customer Service

Instructions: Prepare a summary discussing the effectiveness of the customer service provided through the state or tribal program. The summary should briefly discuss any specific issues or successes identified through OSM evaluations of the state's or tribe's implementation of the public participation aspects of its program. It also should report the actions being taken by the state or tribe to correct programmatic deficiencies that may have been identified during OSM's evaluations.

## VI. National Priority and General Oversight Topic Reviews

Instructions: Provide a short description of all oversight topics that OSM reviewed during the period. All national priority review topics should be listed first in this section followed by program-specific oversight topical reviews. The description may include issues that were identified through means other than a formal oversight study topic. Include a statement on how and where to obtain individual topic reports and information. This section should be used to summarize results of any topic reviews. Utilize photographs or data charts to better communicate findings to the reader.

## VII. Regulatory Program Problems and Issues

Instructions: List and discuss all Regulatory Program Problems that have been corrected during the Evaluation Year and indicate which Regulatory Program Problems were the subject of an Action Plan. List and discuss all Regulatory Program Problems that remain uncompleted at the end of the Evaluation Year and indicate which Regulatory Program Problems were the subject of an Action Plan.

Directive REG-23, "Corrective Actions for Regulatory Program Problems and Action Plans," provides guidance on corrective actions that may be taken to resolve Regulatory Program Problems including the Action Plan process. Action Plans are listed in Table 14, Status of Action Plans, in Appendix 1 of the Annual Evaluation Report.

## VIII. OSM Assistance

Instructions: To provide a context or characterization for the reader to understand the level of assistance that OSM has provided to the state or tribe during the evaluation year, include:

- Specific technical assistance;
- Training;
- Management assistance;

- Financial (reference Table 9, Funds Granted to State or Tribe by OSM);
- Any other notable assistance provided, as well as the expected results; and
- A brief general statement about OSM’s assistance role.

Appendix 1 Summary of Core Data to Characterize the Regulatory Program

Instructions: Complete the DST tables in accordance with section “F. Instructions for Completion of Specific Tables in Appendix 1” below (i.e., after the instructions for completing Appendix 2). The reporting period for all tables, except Table 1, is the Evaluation Year (i.e., Table 1 contains Production Data for the Calendar Year). The DST will produce report-ready tables including the tables showing Historical Trends. Append the tables from the DST after the following title page for Appendix 1. If a table does not apply to a particular state or tribe, enter an explanatory statement in lieu of the table.

Insert the following Appendix 1 title page with text and the List of Tables into the Annual Evaluation Report, followed by the Tables from the DST:

**[State or tribe] Annual Evaluation Report  
Evaluation Year [YYYY]**

**APPENDIX 1**

**Summary of Core Data to Characterize the Regulatory program**

The following tables present summary data pertinent to mining operations and regulatory activities under the [state or tribal] regulatory program. Unless otherwise specified, the reporting period for the data contained in the tables is the Evaluation Year. Other data and information used by OSM in its evaluation of [state's or tribe's] performance is available for review in the evaluation file maintained by [OSM Office].

Because of the enormous variations from state to state and tribe to tribe in the number, size, and type of coal mining operations and the differences between state and tribal programs, the summary data should not be used to compare one state or tribe to another.

List of Tables

Table 1	Coal Produced for Sale, Transfer, or Use
Table 2	Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration
Table 3	Permits Allowing Special Categories of Mining
Table 4	Permitting Activity
Table 5	Off-site Impacts
Table 6	Surface Coal Mining and Reclamation Activity
Table 7	Bond Forfeiture Activity
Table 8	Regulatory and AML Programs Staffing
Table 9	Funds Granted to State or Tribe by OSM
Table 10	State or Tribal Inspection Activity
Table 11	State or Tribal Enforcement Activity
Table 12	Lands Unsuitable Activity
Table 13	OSM Oversight Activity
Table 14	Status of Action Plans
Table 15	Land Use Acreage (Optional)

Appendix 2 State's or Tribe's Comments on the Annual Evaluation Report

Instructions: Insert the following title page for Appendix 2 into the Annual Evaluation Report:

**[State or Tribe] Annual Evaluation Report  
Evaluation Year [YYYY]**

**APPENDIX 2**

**Comments of ["State of [State Name]" or "[Name of Tribe]" on the Report**

Instructions: Append the comments on the Annual Evaluation Report submitted by the state or tribe after the title page followed by a discussion of how OSM addressed each of the comments. If the state or tribe had no comments, add the following sentence to the title page:

[State or tribe] had no comments on the Annual Evaluation Report.

F. Instructions for Completion of Specific Tables for Appendix 1

Note: Any definitions below are set forth for purposes of this Directive only. The definitions contained herein do not alter or modify any regulatory definitions in SMRCA, the Code of Federal Regulations, or approved state or tribal programs in any way. To the extent the definitions in this Directive differ from the regulatory definitions in any way, OSM and state and tribal regulatory authorities are bound by the regulatory definitions.

All Tables: The page header for each table will specify the name of the program and the Evaluation Year. For example:

Alabama state program  
EY 2010, ending June 30, 2010

Crow tribal program  
EY 2010, ending June 30, 2010

Blank cells in the following tables are data elements to be entered in the DST. Cells with "calculated" in them are data elements that will be captured by the DST from other tables or calculated by the DST.

As used in any table, the following terms mean:

Initial Program Site is any discrete mine site or facility that was regulated at the end of the Evaluation Year under the Initial Program regardless of whether the site is or was part of an Inspectable Unit comprised of multiple sites. Land within the permit area of a Permanent Program Permit that is regulated under the Initial Program is an Initial Program Site.

Permanent Program Permit covers any mine site or facility for which the regulatory authority has issued an individual permit under the state or tribal permanent regulatory program approved by the Secretary of the Interior under SMCRA regardless of whether the site is part of an Inspectable Unit comprised of multiple sites or the permit area is divided into multiple Inspectable Units.

Table 1: Coal Produced for Sale, Transfer, or Use

Coal Produced for Sale, Transfer or Use is gross tons of coal reported quarterly to OSM on line 8(a) of form OSM-1, Coal Reclamation Fee Report, by each coal company for all coal sold, used or transferred during the calendar quarter.

Surface Mines include sites where surface mining activities as defined at 30 CFR 701.5 occur or occurred.

Underground Mines include sites where underground mining activities as defined at 30 CFR 701.5 occur or occurred.

The “Total” value is calculated by the DST.

Data are collected and compiled by OSM’s Division of Financial Management and reported to Field Offices.

Table 2: Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration

To provide national consistency, use the following definitions even if they differ from those approved in the state or tribal program.

***Mines and Other Facilities***

Surface Mines include sites where surface mining activities as defined at 30 CFR 701.5 occur or occurred.

Underground Mines include sites where underground mining activities as defined at 30 CFR 701.5 occur or occurred.

Other Facilities include surface coal mining operations that are not surface or underground mines, such as independently-permitted preparation plants outside the permit area for a specific mine.

***Numbers of Initial Program Sites and Permanent Program Permits***

The Numbers of Initial Program Sites, Permanent Program Permits, Inspectable Units, and Area are the number of permits, sites, inspectable units, and the acres at the end of the Evaluation Year.

Initial Program Site: Any discrete mine site or facility that was regulated at the end of the Evaluation Year under the Initial Program (or under a state program before approval of the permanent program for the state) regardless of whether the site is or was part of an Inspectable Unit comprised of multiple sites. Initial

Program Sites also include lands that are within the permit area of a Permanent Program Permit, but which are regulated under the Initial Program. Initial Program Sites do not include sites that were fully reclaimed and jurisdiction under the Initial Program (or state program) was terminated by the end of the Evaluation Year.

Permanent Program Permit: Any mine site or facility for which the regulatory authority has issued an individual permit under the state or tribal permanent regulatory program approved by the Secretary of the Interior under SMCRA regardless whether the site is part of an Inspectable Unit comprised of multiple sites or the permit area is divided into multiple Inspectable Units. Permanent Program Permits include bond forfeiture sites reported in Table 7, Bond Forfeiture Activity, as “Sites with bonds forfeited and collected that were unreclaimed at the end of the current Evaluation Year” and “Sites being reclaimed by surety/other party at the end of the current Evaluation Year.” Permanent Program Permits do not include sites that were fully reclaimed and jurisdiction under the Permanent program was terminated (i.e., final Phase III bond release was approved for the entire site) by the end of the Evaluation Year.

Active: Any mine site or related facility not included in one of the other categories (i.e., Inactive or Abandoned).

Inactive: Any mine site or facility meeting the criteria of 30 CFR 840.11(f) (i.e., an inactive surface coal mining and reclamation operation is one for which: (1) the state regulatory authority has secured from the permittee a written notice of temporary cessation provided for under 30 CFR 816.131(b) or 30 CFR 817.131(b); or (2) reclamation Phase II bond release as defined at 30 CFR 800.40(c)(2) has been completed by the state regulatory authority in accordance with the state program (i.e., “after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan” and a bond release application has been approved by the regulatory authority for such lands).

Abandoned: Any site meeting the criteria of 30 CFR 840.11(g) (i.e., the regulatory authority has found in writing that all mining and reclamation activities have ceased and is taking enforcement action, permit blocking, and taking other actions to secure abatement and/or recover reclamation costs and forfeit the bond.) Abandoned includes all Bond Forfeiture Sites where the site is not fully reclaimed (i.e., reclamation at the end of the Evaluation Year is not adequate to fully abate all outstanding violations). Abandoned does not include Bond Forfeiture Sites where the site is fully reclaimed at the end of the Evaluation Year.

### ***Inspectable Units***

An Inspectable Unit is defined by the regulatory authority and may include multiple small and neighboring Initial Program Sites or Permanent Program Permits that have been grouped together as one Inspectable Unit for inspection efficiency. An Inspectable Unit also may be one of multiple inspectable units for

one Permanent Program Permit that was divided into multiple inspectable units to allow full coverage of complete inspections of the site. The number of Inspectable Units are reported separately for Surface Mines, Underground Mines, and Other Facilities. The Total Inspectable Units is calculated by the DST and is the sum of the Inspectable Units for Surface Mines, Underground Mines, and Other Facilities.

### ***Area***

Areas of Initial Program Sites and Permanent Program Permits are acre units; (i.e., not “100s of acres” as was reported in the past). Acreages may be rounded to the nearest 100 acres, the nearest 10 acres, or the nearest 1 acre and the level of rounding is noted in the heading, Area. Areas of Initial Program Sites, at a minimum, are the disturbed area of the site over which the regulatory authority maintains jurisdiction or if permitted by the regulatory authority before approval of the permanent program, the permit area (i.e., areas of Initial Program Sites over which the regulatory authority had terminated jurisdiction at the end of the Evaluation Year are not included). Areas of Permanent Program Permits are acres within the permit area.

Federal Lands, as defined under 30 CFR 700.5, means any land, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. Federal lands do not include Indian lands as defined at 30 CFR 700.5.

For states, State/Tribal and Private Lands include all lands within the state that are not Federal lands or Indian lands as defined at 30 CFR 700.5.

For tribes, State/Tribal and Private Lands include reservation lands under the jurisdiction of the tribe.

The Areas of Surface mines and Other Facilities are the acres that were under the jurisdiction of the regulatory authority under the Initial Program or within the permit boundary at the end of the evaluation year.

The Areas of Underground mines are areas that were under the jurisdiction of the regulatory authority under the Initial Program or within the permanent program permit boundary at the end of the Evaluation Year:

- For state and tribal programs that **do not require** the underground workings to be included within the permit area, the total acreage of the permit area is included in the Area, or
- For state and tribal programs that **do require** the underground workings to be included within the permit area, only the acreage of actual and proposed surface activities within the permit area is included in the Area.

The Permanent Program Permits and Initial Program Sites Total Number is calculated by the DST. The Average Acres per Site is calculated by the DST and

is the total acres of both Permanent Program Permits and Initial Program Sites divided by the Total Number of Permanent Program Permits and Initial Program Sites.

The Average Number of Permanent Program Permits and Initial Program Sites per Inspectable Unit (IU) is calculated by the DST and is the Total Number of Permanent Program Permits and Initial Program Sites divided by the total number of Inspectable Units. The Average Acres per IU is calculated by the DST and is the total acres of both Permanent Program Permits and Initial Program Sites divided by total number of Inspectable Units.

The Total Number of Permanent Program Permits in Temporary Cessation is the number of permits where all or part of the mining operations are in temporary cessation at the end of the Evaluation Year. Number More than 3 Years is the number of Permanent Program Permits that have been in Temporary Cessation for more than 3 years at the end of the Evaluation Year.

### ***Exploration Sites***

The numbers of Exploration sites are the number of sites at the end of the Evaluation Year.

Exploration sites with permits include all exploration sites where exploration activities require approval from the regulatory authority before commencing the exploration activities. Sites with Federal lands is the number of exploration sites with exploration permits, any part of which is regulated by the state under a cooperative agreement or by OSM pursuant to the Federal Lands Program, but excludes exploration sites that are regulated by the Bureau of Land Management.

Exploration sites with notices include all sites where exploration activities may be conducted without prior approval from the regulatory authority, but where prior notice must be provided to the regulatory authority before commencing such exploration activities. Sites with Federal lands is the number of exploration sites with notices, any part of which is regulated by the state under a cooperative agreement or by OSM pursuant to the Federal Lands Program, but excludes exploration sites that are regulated by the Bureau of Land Management.

Except for the total number of Inspectable Units, all “Total” and “Average” values are calculated by the DST.

All data should be collected from the regulatory authority.

### **Table 3: Permits Allowing Special Categories of Mining**

30 CFR Citation Defining Permits Allowing Special Mining Practices refers to the Federal rule that “identifies” whether a permit includes a special category of mining (e.g., whether a specific finding was made for approval of the permit or revision or if the permit is marked specifically as a special category of mining).

Numbers of Permits Issued During the EY is the number of new permits issued or revisions approved that first allow the practice.

Total Number of Active and Inactive Permits is the total number of Active and Inactive permits that allow the practice at the end of the Evaluation Year. A single permit may encompass several of the special categories of mining so no attempt should be made to use this data as a cumulative total of permits with special categories of mining.

All data should be collected from the regulatory authority.

Table 4: Permitting Activity

Surface Mines are operations where surface mining activities as defined at 30 CFR 701.5 occur or will occur.

Underground Mines are operations where underground mining activities as defined at 30 CFR 701.5 occur or will occur.

Other Facilities are surface coal mining operations that are not surface or underground mines, such as independently-permitted preparation plants outside the permit area for a specific mine.

App. Rec. is the number of applications received during the Evaluation Year for each type of application in each category of operation.

Issued/Appvd is the number of only those actions for which the state has both approved the application and issued a permit or other final authorization to initiate operations (i.e., bond has been posted, final compliance checks have been completed, and a permit or other final authorization has been issued).

Acres is the total acres for the permits issued or revisions approved during the Evaluation Year (i.e., those actions counted in “Issued/Appvd”).

Exploration permits include all exploration sites where exploration activities require approval from the regulatory authority before commencing the exploration activities.

Exploration notices include all exploration sites where the exploration activities may be conducted without prior approval from the regulatory authority, but where prior notice must be provided to the regulatory authority before such exploration activities begin.

Revisions that do not add acreage to the permit area are significant or minor revisions approved during the Evaluation Year that do not affect the permit area.

Revisions that add acreage to the permit area, but are not incidental boundary revisions are permit revisions that increase the acreage of a permit area, but are not incidental boundary revisions as defined in the state or tribal program.

Incidental boundary revisions are as defined in the state program and change the acreage of the permit area. Acres for incidental boundary revisions are the net acreage added by all incidental boundary revisions approved during the Evaluation Year.

Number and Acres of Permits terminated for failure to initiate operations is the number of permits that were terminated during the Evaluation Year in accordance with the regulatory program equivalent to 30 CFR 773.19(e) and the acres of the permit area(s).

Acres of Phase III bond releases (Areas no longer considered to be disturbed and subject to the jurisdiction of the regulatory authority) is the acres that were released from all performance bond during the Evaluation Year in accordance with the regulatory program equivalent to 30 CFR 800.40(c)(3). This acreage is calculated by the DST from “Total Acres Released in Approved Phase III Releases” in Table 6, Surface Coal Mining and Reclamation Activity.

Permits in temporary cessation—

- Notices received is the number of notices of intent to temporarily cease or abandon mining and reclamation operations that were received by the regulatory authority during the Evaluation Year.
- Terminations is the number of operations that ended temporary cessation during the Evaluation Year.

For midterm permit reviews completed that are not reported as revisions, the number of mid-term permit reviews completed during the Evaluation Year may be reported, but this information is optional.

Except for Exploration Permits and Exploration Notices, all “Total” values are calculated by the DST.

All data should be collected from the regulatory authority.

**NOTE:** Table 4, Permitting Activity, is not complete until Table 6, Surface Coal Mining and Reclamation Activity, is completed.

Table 5: Off-Site Impacts

Bonded sites and unreclaimed bond forfeiture sites are considered inspectable units for reporting offsite impacts. Impacts identified at bonded sites and impacts identified at bond forfeiture sites are reported separately and then totaled cumulatively for a report of all offsite impacts.

Impacts related to planned underground mine subsidence that are within the area authorized for mining are not included in Table 5.

TYPE OF IMPACT EVENT is the type of event that caused off-site impacts. Impact events should be listed in only one TYPE OF IMPACT EVENT category. Where an impact event could “fit” in more than one type (e.g., a land stability

event such as a rotational failure also causing a hydrologic event such as filling a streambed), it should be categorized by either the “dominant impact” event type (e.g., “hydrologic” if the resultant hydrologic event created major impacts and the land stability event cause minor or moderate impacts) or the “root cause” event type (e.g., “land stability” if both land and hydrologic impacts were minor); an “event” should be counted only once.

NUMBER OF EVENTS is (1) the number of impact events that occurred during the Evaluation Year and (2) the number of events that occurred in previous Evaluation Years where the off-site impacts have persisted into the current Evaluation Year. If events occurred in previous Evaluation Years, the Annual Evaluation Summary Report narrative should identify and explain those events and their continuing impacts.

RESOURCES AFFECTED (i.e., People, Land, Water, and Structures) and DEGREE OF IMPACT (i.e., minor, moderate, major) are as defined in Appendix 1, section II.D.1, Off-site Impacts, under the heading, “Resources and Type and Degree of Impacts.” More than one Resource may be affected by each type of Impact Event. For example, one blasting impact could affect people, structures and land with each resource receiving a different degree of impact. Therefore, the total number of impacts to the RESOURCES AFFECTED by IMPACT EVENTS will likely be more than the NUMBER OF EVENTS (i.e., the sum of numbers under the RESOURCES AFFECTED/DEGREE OF IMPACT columns will not necessarily equal the NUMBER OF EVENTS for each TYPE OF IMPACT EVENT).

All “Total” values are calculated by the DST.

Total number of Inspectable Units (OFF-SITE IMPACTS EXCLUDING BOND FORFEITURE SITES) is calculated by the DST and is the sum of the “Total Inspectable Units” in Table 2 (Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration) and the “Number of Permanent Program Permits Terminated under Phase III Bond Release and Initial Program Sites with Jurisdiction Terminated” in Table 6 (Surface Coal Mining and Reclamation Activity) minus the sum of “Sites with bonds forfeited and collected that were un-reclaimed at the end of the current Evaluation Year” and “Sites being reclaimed by surety/other party at the end of the current Evaluation Year” in Table 7 (Bond Forfeiture Activity).

Total number of Inspectable Units (OFF-SITE IMPACTS ON BOND FORFEITURE SITES) is calculated by the DST and is the sum of “Sites with bonds forfeited and collected that were un-reclaimed at the end of the current Evaluation Year,” “Sites with bonds forfeited and collected that were reclaimed during the current Evaluation Year,” and “Sites being reclaimed by surety/other party at the end of the current Evaluation Year” in Table 7 (Bond Forfeiture Activity).

Inspectable Units with off-site impacts is the sum of (1) the number of Inspectable Units where one or more impact events occurred during the Evaluation Year and (2) the number of Inspectable Units where events occurred in previous Evaluation Years and where the off-site impacts have persisted into the current Evaluation Year.

Inspectable Units free of off-site impacts is calculated by the DST and is the Total Number of Inspectable Units minus the number of Inspectable Units with Off-site Impacts.

% of Inspectable Units free of off-site impacts is calculated by the DST and is the number of Inspectable Units free of Off-site Impacts divided by the Total Number of Inspectable Units.

The entire sub-table, TOTAL OFF-SITE IMPACTS INCLUDING BOND FORFEITURE SITES, is calculated by the DST and, except for “% of Inspectable Units free of off-site impacts,” is the sum of the previous two tables. The “% of Inspectable Units free of off-site impacts” is calculated by the DST as described in the previous paragraph.

**NOTE:** Table 5, Off-site Impacts, is not completed until after Table 2, Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration, and Table 7, Bond Forfeiture Activity, are completed.

Data should be collected from the regulatory authority, OSM, and other known sources. All substantiated off-site impacts identified in a state should be accounted for regardless of the source of the information. All reported data will be for impacts that occurred and were identified by any source within the evaluation year.

Table 6: Surface Coal Mining and Reclamation Activity

The bond release phases (i.e., Phase I, Phase II, and Phase III) are as defined in 30 CFR 800.40(c).

Phase I Release is when, at a minimum, “the operator completes the backfilling, regrading ... and drainage control of a bonded area in accordance with the approved reclamation plan.”

Phase II Release is when, at a minimum, “revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan.”

Phase III Release is when “the operator has completed successfully all surface coal mining and reclamation activities,” and “reclamation requirements of the Act and the permit are fully met.”

***Areas of Phase I, II, and III Bond Releases During the Evaluation Year***

“Areas of Phase I, II, and III Bond Releases” only applies to Permanent Program Permits.

***Phase I Releases***

Total Acres Released in Approved Phase I Releases is the total number of acres that were released under all Phase I Bond Release applications approved during the Evaluation Year.

***Phase II Releases***

Total Acres Released in Approved Phase II Releases is the total number of acres that were released under all Phase II Bond Release applications approved during the Evaluation Year.

Acres not previously released under Phase I is the total number of acres within the Phase II Bond Release applications approved during the Evaluation Year that had not been previously released in any earlier approval of a Phase I Bond Release application.

***Phase III Releases***

Total Acres Released in Approved Phase III Releases is the total number of acres that were released under all Phase III Bond Release applications approved during the Evaluation Year.

Acres not previously released under Phase II is the total number of acres within the Phase III Bond Release applications approved during the Evaluation Year that had not been previously released in any earlier approval of a Phase II Bond Release application.

Acres not previously released under Phase I or II is the total number of acres within the Phase III Bond Release applications approved during the Evaluation Year that had not been previously released in any earlier approval of a Phase I or Phase II Bond Release application.

***Total Acres Released During the EY***

Phase I is calculated by the DST and is the sum of “Total Acres Released in Approved Phase I Releases,” and “Acres not previously released under Phase I,” and “Acres not previously released under Phase I or II.”

Phase II is calculated by the DST and is the sum of “Total Acres Released in Approved Phase II Releases” and “Acres not previously released under Phase II.”

Phase III is calculated by the DST and is “Total Acres Released in Approved Phase III Releases.”

Cumulative Total Acres Released under All Bond Release Phases at the End of the Evaluation Year is calculated by the DST and is the sum of “Total Acres Released in Approved Phase I Releases,” “Total Acres Released in Approved Phase II Releases,” and “Total Acres Released in Approved Phase III Releases” added to the previous Evaluation Year’s “Cumulative Total Acres Released under All Bond Release Phases at the End of the Evaluation Year.”

Number of Permanent Program Permits Released under Phase III Bond Release and Initial Program Sites with Jurisdiction Terminated During the Evaluation Year is the total number of Permanent Program Permits and Initial Program Sites over which the regulatory authority terminated its jurisdiction over the entire site during the Evaluation Year. Specifically, it is the number of Permanent Program Permits where the regulatory authority approved final Phase III Bond Release for the entire permit during the Evaluation Year (i.e., the regulatory authority determines in writing that under the permanent program, all requirements imposed under the applicable regulatory program have been successfully completed or, where a performance bond was required, the regulatory authority has made a final decision in accordance with the state or tribal program counterpart to [30 CFR] Part 800 ... to release the performance bond fully” [30 CFR 700.11(d)(1)(ii)] **plus** the number of Initial Program Sites for which the regulatory authority terminated its jurisdiction over the entire site during the Evaluation Year (i.e., “the regulatory authority determines in writing that under the initial program, all requirements imposed under [30 CFR Chapter VII, subchapter B]... have been successfully completed” [30 CFR 700.11(d)(1)(i)]).

### ***Areas of Permits Bonded for Disturbance by Surface Coal Mining and Reclamation Operations***

Areas Bonded for Disturbance means the increment of land (acres) within the permit area identified in the approved permit application upon which surface coal mining and reclamation operations will be conducted during the term of the permit and for which bond has been posted.

Areas of Permits Bonded for Disturbance by Surface Coal Mining and Reclamation Operations excludes all areas where Phase III bond release has been approved and Bond Forfeiture Sites (i.e., sites where bond forfeiture proceedings have been completed and where no surety or other party has agreed to do reclamation in lieu of forfeiture). Reclamation activities on Bond Forfeiture Sites are reported in Table 7, Bond Forfeiture Activity.

### ***New Area and Cumulative Total Area Bonded for Disturbance***

Change in Acres During the EY is the total number of new acres (i.e., previously un-bonded lands) that were bonded for disturbance during the Evaluation Year.

Total Acres at Start of EY is calculated by the DST and is the cumulative “Total Acres at End of EY” of the previous Evaluation Year’s “New Area and Cumulative Area Bonded for Disturbance.”

Total Acres at End of EY is calculated by the DST and is the sum of “Total Acres at Start of EY” and “Change in Acres During the EY” (i.e., the cumulative total number of acres in all Permanent Program Permits that have been bonded for disturbance).

***Other Areas of Permits Bonded for Surface Coal Mining and Reclamation Operations—***

Total Acres at Start of EY is calculated by the DST and is the “Total Acres at End of EY” for the previous Evaluation Year.

Change in Acres During the EY is calculated by the DST and is “Total Acres at End of EY” minus “Total Acres at Start of EY.”

**Area Bonded for Disturbance without Phase I Bond Release:**

Total Acres at End of EY is the total number of acres in all Permanent Program Permits that are bonded for disturbance and for which no bond release for any bond release phase has been approved.

**Area Bonded for Disturbance for which Phase I Bond Release Has Been Approved:**

Total Acres at End of EY is the total number of acres in all Permanent Program Permits that are bonded for disturbance and for which only Phase I bond release has been approved (i.e., do not include acres where Phase II bond release has been approved).

**Area Bonded for Disturbance for which Phase II Bond Release Has Been Approved:**

Total Acres at End of EY is the total number of acres in all Permanent Program Permits that are bonded for disturbance and for which Phase II bond release has been approved.

Total Area Bonded for Disturbance is calculated by the DST and is the sum of “Area Bonded for Disturbance without Phase I Bond Release,” “Area Bonded

for which Phase I Bond Release Has Been Approved,” and “Area Bonded for which Phase II Bond Release Has Been Approved.”

Area Bonded for Remining:

Total Acres at End of EY is the total number of acres in all Permanent Program Permits that are bonded for remining.

***Areas of Permits Disturbed by Surface Coal Mining and Reclamation Operations***

The Areas of Permits Disturbed by Surface Coal Mining Operations excludes all areas where Phase III bond release has been approved and Bond Forfeiture Sites (i.e., sites where bond forfeiture proceedings have been completed and where no surety or other party has agreed to do reclamation in lieu of forfeiture). Reclamation activity on Bond Forfeiture Sites is reported in Table 7, Bond Forfeiture Activity.

“Areas of Permits Disturbed by Surface Coal Mining Operations” and “Disturbed Area” mean “area[s] where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as *disturbed* until reclamation is complete and the performance bond or other assurance of performance required by [30 CFR Chapter VII, subchapter J]... is released [fully]” [30 CFR 701.5 *Disturbed area*].

***Disturbed Area***

Total Acres at Start of EY is calculated by the DST and is the “Total Acres at End of EY” for the previous Evaluation Year.

Total Acres at End of EY is the total number of acres in all Permanent Program Permits that are disturbed.

Change in Acres is calculated by the DST and is “Total Acres at End of EY” minus “Total Acres at Start of EY.”

Data should be collected from the regulatory authority,

Table 7: Bond Forfeiture Activity

***Bond Forfeiture and Reclamation Activity***

“Sites with bonds forfeited and collected...” include only those sites:

1. where bond forfeiture proceedings have been finalized and forfeiture funds collected before or during the Evaluation Year,

2. or, in a bond pool state where forfeiture proceedings have been finalized and the State's system allows the State to begin work prior to collection of any site-specific bond,
3. that were not fully reclaimed at the start of the Evaluation Year, and
4. where no surety or other party has agreed to do reclamation in lieu of forfeiture (such sites are identified under the next section of Table7).

Sites with bonds forfeited and collected that were un-reclaimed at the start of the current Evaluation Year (i.e., the end of previous Evaluation Year) are the number of acres reported in the previous Evaluation Year as "Sites with bonds forfeited but un-reclaimed at the end of the current Evaluation Year" and are calculated in the DST.

Sites with bonds forfeited and collected that are un-reclaimed at the end of the current evaluation year (Row 5) is calculated by the DST and is the sum of sites that were un-reclaimed at the start of the current Evaluation Year (Row 1) and sites with bonds forfeited and collected during the current Evaluation Year (Row 2) minus the sum of sites that were re-permitted during the Evaluation Year (Row 3) and sites where reclamation was completed during the Evaluation Year (Row 4).

Sites with bonds forfeited but uncollected at the end of the current Evaluation Year are sites where bond forfeiture proceedings have been completed and where no surety or other party has agreed to do reclamation in lieu of forfeiture. Completion of bond forfeiture proceedings occurs when the regulatory authority considers the bonds for the site to be forfeited, typically when the appeal period has expired and/or when a collection notice or order has been sent.

#### **Forfeiture Sites with Long-Term Water Pollution**

"Bonds forfeited, land reclaimed but water pollution still occurring" are sites where the land restoration has been completed but the regulatory authority has not yet addressed noncompliant water leaving the site. Therefore, the site must be carried as an inspectable unit.

"Bonds forfeited, lands reclaimed, and water treatment is occurring" are sites where land reclamation has been completed and the regulatory authority or some other entity is maintaining a water treatment system (active or passive) that is satisfactorily treating water where necessary. Therefore, the site must remain as an inspectable unit.

#### **Surety/Other Reclamation Activity in Lieu of Forfeiture**

"Sites reclaimed by surety/other party..." are sites where the surety or other party agreed to complete or completed reclamation in lieu of forfeiture.

Sites being reclaimed by surety/other party at the start of the current Evaluation Year (i.e., the end of previous Evaluation Year) are the number and acres reported

in the previous Evaluation Year as “Sites being reclaimed by surety/other party at the end of the current Evaluation Year” and are calculated in the DST.

Sites with reclamation completed by surety/other party during the current Evaluation Year are sites where Phase III bond release was approved by the state during the current Evaluation Year. These sites are also reported in “Number of Permanent Program Permits Terminated under Phase III Bond Release and Initial Program Permits with Jurisdiction Terminated” in Table 6, Surface Coal Mining and Reclamation Activity, because Phase III bond release would be granted on these sites.

Sites being reclaimed by surety/other party at the end of the current Evaluation Year (Row 5) is calculated by the DST and is the sum of sites being reclaimed at the start of the Evaluation Year (Row 1) and sites where a surety or other party has agreed during the Evaluation Year to do reclamation (Row 2) minus the sum of sites that were re-permitted during the Evaluation Year (Row 3) and sites where reclamation was completed during the Evaluation Year (Row 4).

All data should be collected from the regulatory authority.

Table 8: Regulatory and AML Programs Staffing

***Function***

***Regulatory program***

Permit Review and Maintenance is the receipt, processing, reviewing, and approving of permitting applications, administering and maintaining permits (e.g., midterm review, bonding, monitoring report review), and any other activities associated with permit review and maintenance.

Inspection is inspection and enforcement activities including the conduct of inspections and mine site visits for the purpose of ensuring compliance of permittees with permits and regulatory programs (permanent and initial) and associated enforcement activities, mine site visits related to bond release applications, all activities associated with requests for inspection (aka “citizen complaints”), and all activities associated with responding to Ten-day Notices (including referrals of requests for inspection).

Other (supervisory, clerical, administrative, fiscal, personnel, etc.) is supervisory, clerical, and other personnel who perform administrative support for administering the regulatory program.

Regulatory program Total is calculated by the DST and is the sum of “Permit Review and Maintenance,” “Inspection,” and “Other (supervisory, clerical, administrative, fiscal, personnel, etc.)”

AML program Total is all personnel, including supervisory, clerical, and other personnel who perform administrative support for administering the Abandoned Mine Land program.

TOTAL is calculated by the DST and is the sum of “Regulatory program Total” and “AML program Total.”

Number of FTEs is the number of full-time equivalents for personnel actually in place or hired at the end of the Evaluation Year. A “full-time equivalent” is total hours divided by 2087 (i.e., one person employed full time spends 2087 hours per year at work, including holidays and other time off). “Number of FTEs” is the total time, expressed as FTEs, expended by program personnel funded (in whole or in part) under the program grant(s) by OSM on each “Function”

All data should be collected from the regulatory authority.

Table 9: Funds Granted to State or Tribe by OSM

Federal Funds Awarded is the sum (with appropriate sub-totals) of all grant applications, grant amendments and supplementary funds approved during the Evaluation Year. Generally, for purposes of determining the "Federal funds awarded," a grant is considered awarded on its effective date; however, except for initial grant applications, this does not apply if the effective date of the award is retroactive.

Total program Cost is the amounts specified in the Grant applications approved during the Evaluation Year.

All amounts are actual dollars, rounded to the nearest dollar.

All “Percentage” values are calculated by the DST.

All data are from OSM Regional grants specialists.

Table 10: State or Tribal Inspection Activity

**Permits and Sites**

Active: Any mine site or related facility not included in one of the other categories (i.e., Inactive or Abandoned).

Inactive: Any mine site or facility meeting the criteria of 30 CFR 840.11(f) (i.e., an inactive surface coal mining and reclamation operation is one for which: (1) the state regulatory authority has secured from the permittee a written notice of temporary cessation provided for under 30 CFR 816.131(b) or 30 CFR 817.131(b); or (2) reclamation Phase II bond release as defined at 30 CFR 800.40(c)(2) has been completed by the state regulatory authority in accordance with the state program (i.e., “after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan” and a

bond release application has been approved by the regulatory authority for such lands).

Abandoned: Any site meeting the criteria of 30 CFR 840.11(g) (i.e., the regulatory authority has found in writing that all mining and reclamation activities have ceased and is taking enforcement action, permit blocking, and taking other actions to secure abatement and/or recover reclamation costs and forfeit the bond). Abandoned includes all Bond Forfeiture Sites where the site is not fully reclaimed (i.e., reclamation at the end of the Evaluation Year is not adequate to fully abate all outstanding violations). Abandoned does not include Bond Forfeiture Sites where the site is fully reclaimed at the end of the Evaluation Year.

**Approximate Number Required Inspections of Permanent Program Permits and Approximate Number Required Inspections of Initial Program Sites (for Complete Inspections and Partial Inspections)**

Number of Permits and Sites: is calculated by the DST in Table 2, Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration, and is the “Total” number of “Permanent Program Permits” and “Initial Program Sites” for each activity type (i.e., “Active,” “Inactive,” and “Abandoned”).

Inspections Required Annually is the minimum number of inspections of a surface coal mining operation to be conducted each year for the activity type (i.e., “Active,” “Inactive,” and “Abandoned”) as required under the applicable state or tribal permanent regulatory program (for Permanent Program Permits) and Initial Program or state program before the permanent program was approved (for Initial Program Sites). If a regulatory program requires that inspections for an “activity type” are to be conducted only as necessary to ensure compliance with the regulatory program, “0” (zero) should be entered for Inspections Required per Site Annually.

Using Federal programs as an example:

- ***Active Permanent Program Permits***: OSM is required to “conduct an average of at least one partial inspection per month” and “an average of at least one complete inspection per calendar quarter of each active surface coal mining and reclamation operation” (30 CFR 842.11(c)(1)). A complete inspection also counts as one partial inspection; thus, the minimum number of Inspections Required Annually for Active Permanent Program Permits would be 4 Complete Inspections and 8 Partial Inspections.
- ***Inactive Permanent Program Permits***: OSM is required to “conduct an average of at least one complete inspection per calendar quarter” and “such partial inspections of each inactive surface coal mining and reclamation operation as are necessary to ensure effective enforcement of the regulatory program and the Act” (30 CFR 842.11(c)(2)). Thus, the minimum number of Inspections Required Annually for Inactive Permanent Program Permits would be 4 Complete Inspections and 0 (zero) Partial Inspections.

- ***Abandoned Permanent Program Permits:*** OSM is required to “inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year” (30 CFR 842.11(f)). Thus, the minimum number of Inspections Required per Site Annually for Abandoned Permanent Program Permits would be 1 Complete Inspection and 0 (zero) Partial Inspections.
- ***All Initial Program Sites:*** Under the Initial Program, OSM must conduct “at least one complete inspection each 6 months” and inspect whenever there is “a reasonable belief that the provisions of the Act, regulations or permit conditions required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health and safety of the public, or is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources” (30 CFR 721.11 (b) and (c)). The Initial Program does not differentiate between Active, Inactive, and Abandoned sites, thus the minimum number of Inspections Required Annually for all types of Initial Program Sites would be 2 Complete Inspections and 0 (zero) Partial Inspections.

Approximate Number of Required Inspections is calculated by the DST and is the product of the Number of Permits and Sites multiplied by the number of Inspections Required Annually.

***Inspections Conducted and Approximate Number Required on All Permanent Program Permits and Initial Program Sites (for Complete Inspections and Partial Inspections)***

Number of Sites: is calculated by the DST and, for each activity type (i.e., Total Active, Total Inactive, and Total Abandoned), is the sum of the Number of Permits and Sites for each “activity type” in “Approximate Number Required Inspections of Permanent Program Permits” and “Approximate Number Required Inspections of Initial Program Sites.” The Total is calculated by the DST and is the sum of Total Active, Total Inactive, and Total Abandoned.

Approximate Number of Required Inspections is calculated by the DST and, for each activity type, is the sum of the Approximate Number of Required Inspections for each activity type in “Approximate Number of Required Inspections of Permanent Program Permits” and “Approximate Number of Required Inspections of Initial Program Sites.” The Total is calculated by the DST and is the sum of Total Active, Total Inactive, and Total Abandoned.

Number of Inspections Conducted for each “activity type” is the total number of inspections completed during the Evaluation Year by the regulatory authority on all Permanent Program Permits and Initial Program Sites for each activity type. The Total is calculated by the DST and is the sum of Total Active, Total Inactive, and Total Abandoned.

***Exploration Sites with Permits and with Notices***

Number of Sites is the sum of Total number of permit sites and Total number of notice sites in Table 2 (Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration) and is calculated by the DST.

Number of Complete Inspections Conducted and Number of Partial Inspections Conducted is the number of inspections completed during the Evaluation Year of all Exploration Sites (permit sites and notice sites).

For state and tribal programs, all data should be collected from the regulatory authority.

**NOTE:** Table 10 is not complete until after Table 2 (Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration) is completed.

**Table 11: State or Tribal Enforcement Activity**

Number of Actions is the total number of “Enforcement Actions” issued during the Evaluation Year. If an “Action” included multiple “Violations” (e.g., a Notice of Violation specifying several Violations), it counts as only one “Action.” Actions that were vacated in their entirety are not included.

Number of Violations is the total number of all “Violations” cited in all “Enforcement Actions” that were issued during the Evaluation Year. If an “Action” included multiple “Violations,” all Violations cited in the one “Action” are counted. Violations that were vacated are not included.

Data should be collected from the regulatory authority.

**Table 12: Lands Unsuitable Activity**

***Activity***

Petitions to have lands declared unsuitable for surface coal mining operations are received, rejected or accepted, and decisions on petitions are made through either the state or Federal processes for designating lands unsuitable as required under 30 CFR Part 764 or 30 CPR Part 769, respectively, and in accordance with criteria established in 30 CFR Part 762, and the “Activities” are those identified in those Parts (i.e., receipt, rejection, acceptance, decision).

Number is the number of “Activities” completed during the Evaluation Year.

Acres is the number of acres of land for which the regulatory authority made a decision during the Evaluation Year that either declared the lands unsuitable for all or certain types of surface coal mining operations or terminated an unsuitability designation for land previously declared unsuitable.

Data should be collected from the regulatory authority.

Table 13: OSM Oversight Activity

***Oversight Inspections and Site Visits***

Inspections and Site Visits are “counted” if the field inspection was completed on or before the end of the Evaluation Year.

Inspections, for the purposes of Table 13 include:

- Inspections to evaluate the administration of the state or tribal program,
- Inspections where OSM received a request for a Federal inspection and was provided adequate proof that an imminent danger to the health and safety of the public or a significant environment harm to land, air or water existed, and the regulatory authority had failed to take appropriate action, and
- Inspections resulting from the failure of the state or tribal regulatory authority to take appropriate action, or show good cause for such failure, in response to a Ten-Day Notice (TDN).

Complete inspections are as defined in 30 CFR 842.11(c) (1) (ii).

Partial inspections are as defined in 30 CFR 842.11(c) (1) (i). Inspections for the purpose of bond release are considered Partial inspections.

Joint and Independent inspections are as discussed above in section II.C., Oversight Inspections under the heading “Conducting and selecting independent inspections.”

Site Visits include site visits for the purpose providing Technical Assistance to a state or tribe or for reasons Other than Technical Assistance or Inspections.

***Violations Observed by OSM and Citizen Requests for Inspection***

Violations Observed by OSM on Oversight Inspections: Enter the total number of violations reported on the violation page of Mine-Site Evaluation Reports.

Violations Observed that OSM Deferred to State Action During the Inspection: Enter the total number of violations reported on the violation page of the Mine-Site Evaluation Reports that were deferred to state action.

Violations Observed that OSM Referred to State through Ten-Day Notices: Enter the total number of violations reported on the violation page of the Mine-Site Evaluation Reports that were referred to the state through a Ten-Day Notice, excluding Ten-Day Notices related to for citizen requests for inspection and those for delinquent reporting or non-payment of Federal AML fees.

Ten-Day Notices OSM Issued for Observed Violations: Enter the total number of Ten-Day Notices issued, excluding those for citizen requests for inspection and those for delinquent reporting or non-payment of Federal AML fees.

Ten-Day Notices OSM Issued to Refer Citizen Requests for Inspection: Enter the total number of Ten-Day Notices issued to refer citizen requests for inspection to the State; i.e., citizen complaints.

Notices of Violation Issued by OSM: Enter the total number of Federal Notices of Violation issued, excluding those for delinquent reporting or non-payment of Federal AML fees.

Failure-to-Abate Cessation Orders Issued by OSM: Enter the total number of Federal Failure-to-Abate Cessation Orders issued, excluding those for delinquent reporting or non-payment of Federal AML fees.

Imminent Harm Cessation Orders Issued by OSM: Enter the total number of Federal Imminent Harm Cessation Orders issued.

***OSM Action for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees***

Ten-Day Notices Issued by OSM for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees: Enter the total number of Ten-Day Notices issued for delinquent reporting or non-payment of Federal AML reclamation fees.

Notices of Violation Issued by OSM for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees: Enter the total number of Notices of Violation issued for delinquent reporting or non-payment of Federal AML reclamation fees.

Federal Failure-to-Abate Cessation Orders Issued by OSM for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees: Enter the total number of Federal Failure-to-Abate Cessation Orders issued for delinquent reporting or non-payment of AML reclamation fees.

All data will be derived from the OSM Inspection and Enforcement database (i.e., I & E Tracking System).

Table 14 Status of Action Plans

Table 14, Status of Action Plans, lists all Action Plans that were carried over from the previous Evaluation Year, initiated during the Evaluation Year, or completed during the Evaluation Year (i.e., all Action Plans that were pending at any time during the Evaluation Year). If no Action Plans existed for a state or tribe at any time during the Evaluation Year, enter “None” in the table in the first row under “Action Plan ID.”

Action Plan ID is the two-character state postal code followed by the four-digit Evaluation Year in which the Regulatory Program Problem was identified followed by a chronologically-assigned three-digit sequence number. For example, the Action Plan ID for the first Action Plan initiated for a Regulatory Program Problem in California during Evaluation Year 2010 would be CA-2010-001 (illustration purposes only; Federal programs are not subject to oversight).

Problem Type is either “PA” or “RP,” which identifies whether the Action Plan addresses a regulatory program problem related to a required Program Amendment (PA) under the authorities of 30 CFR Part 732 or 30 CFR chapter 7, Subchapter T or to the state’s or tribe’s implementation or administration of its regulatory program (RP).

Problem Title is a short title of the Regulatory Program Problem for which the Action Plan was initiated.

Problem Description is a brief description of the Regulatory Program Problem.

Date Action Plan Initiated is the date that the state or tribal regulatory authority was notified of the Action Plan.

Scheduled Completion Date is the anticipated date for complete resolution of the Regulatory Program Problem (i.e., the scheduled completion date for final step in an Action Plan schedule).

Actual Completion Date is the date that resolution of the Regulatory Program Problem was actually completed (i.e., the actual completion date of final step in an Action Plan schedule).

Table 15: Land Use Acreage (Optional)

Acres Released is the number of acres of the particular land use, including associated acreage, for which Phase III bond release (i.e., final bond release) was approved by the regulatory authority and for which jurisdiction under the Initial Program has been terminated by the regulatory authority during the Evaluation Year.

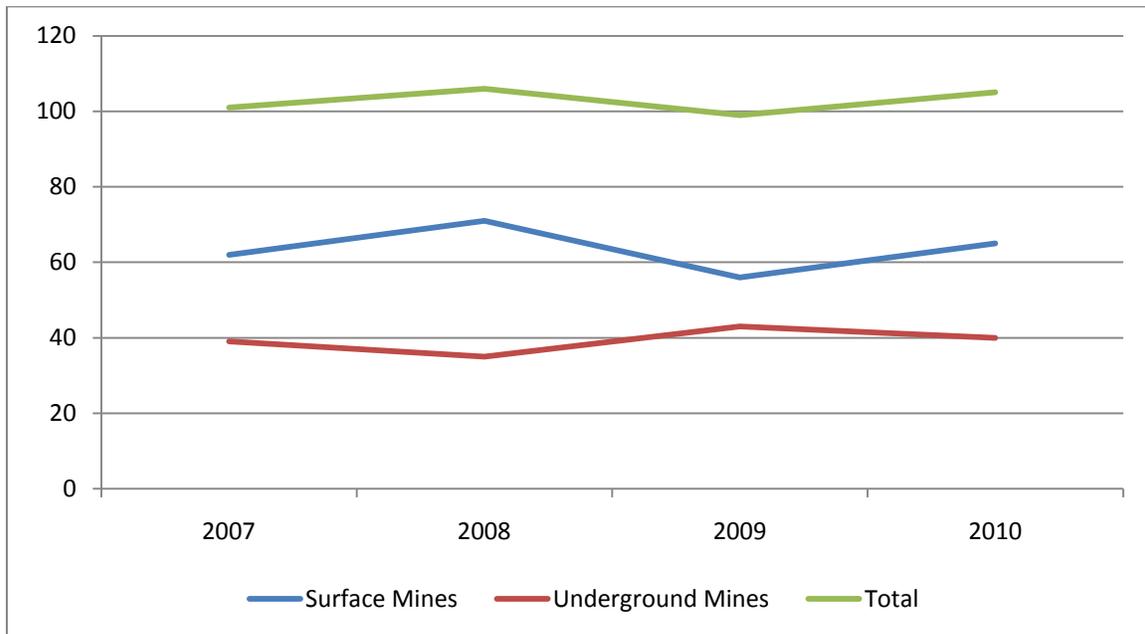
The “Sub-Total Other” and “Total” values are calculated by the DST.

Data should be collected from state regulatory authority.

**TABLE 1**  
**[For DST Data Entry Only]**

<b>COAL PRODUCED FOR SALE, TRANSFER, OR USE<sup>A</sup></b> <b>(Millions of short tons)</b>			
<b>Calendar Year</b>	<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Total</b>
YYYY			calculated
<p><sup>A</sup> Coal production is the gross tonnage (short tons) and includes coal produced during the calendar year (CY) for sale, transfer or use. The coal produced in each CY quarter is reported by each mining company to OSM during the following quarter on line 8(a) of form OSM-1, "Coal Reclamation Fee Report." Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by other sources due to varying methods of determining and reporting coal production.</p>			

**CHART 1**  
**COAL PRODUCED FOR SALE, TRANSFER, OR USE**  
**DURING THE CALENDAR YEAR**  
 (Millions of short tons)



**TABLE 1**

<b>COAL PRODUCED FOR SALE, TRANSFER, OR USE<sup>A</sup></b>			
<b>Calendar Year</b>	<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Total</b>
2007	62	39	101
2008	71	35	106
2009	56	43	99
2010	65	40	105

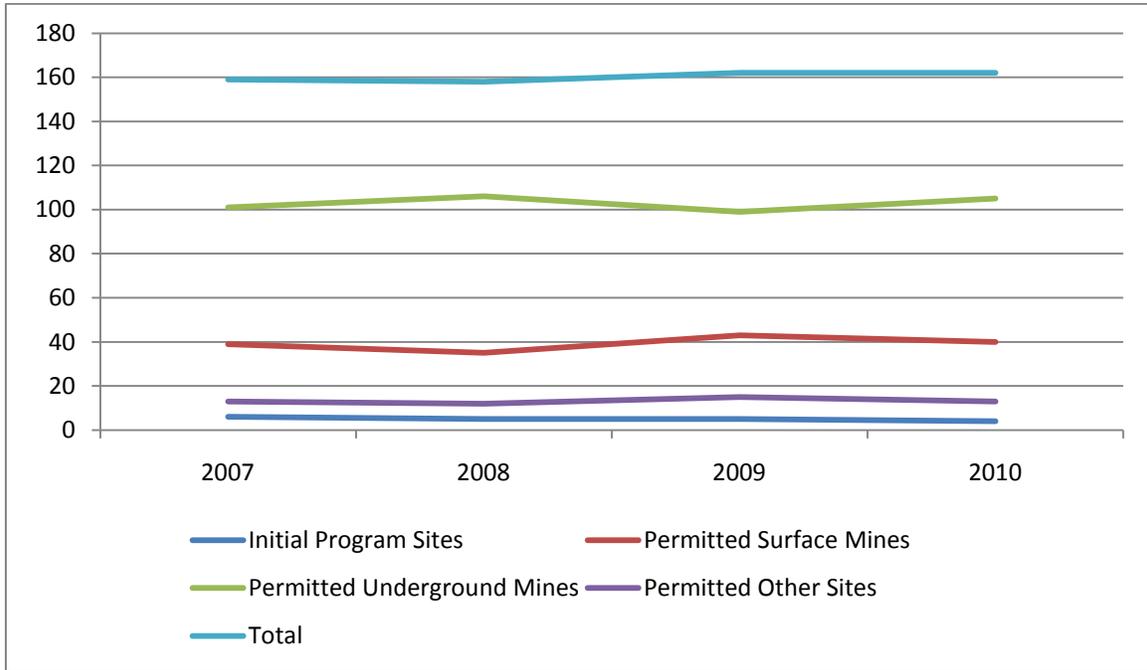
<sup>A</sup> Coal production is the gross tonnage (short tons) and includes coal produced during the calendar year (CY) for sale, transfer or use. The coal produced in each CY quarter is reported by each mining company to OSM during the following quarter on line 8(a) of form OSM-1, "Coal Reclamation Fee Report." Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by other sources due to varying methods of determining and reporting coal production

**TABLE 2**

<b>PERMANENT PROGRAM PERMITS, INITIAL PROGRAM SITES, INSPECTABLE UNITS, AND EXPLORATION</b>														
<b>Mines and Other Facilities</b>	<b>Numbers of Permanent Program Permits and Initial Program Sites</b>								<b>Insp. Units<sup>A</sup></b>	<b>Area<sup>B</sup> Rounded to nearest _____ Acres</b>				
	<b>Permanent Program Permits</b>				<b>Initial Program Sites</b>					<b>Permanent Program Permits (Permit Area)</b>		<b>Initial Program Sites</b>		<b>Total Area</b>
	<b>Active</b>	<b>Inactive</b>	<b>Aban- doned</b>	<b>Total</b>	<b>Active</b>	<b>Inactive</b>	<b>Aban- doned</b>	<b>Total</b>		<b>Federal Lands</b>	<b>State/ Tribal and Private Lands</b>	<b>Federal Lands</b>	<b>State/ Tribal and Private Lands</b>	
<b>Surface Mines</b>				calculated				calculated						calculated
<b>Underground Mines</b>				calculated				calculated						calculated
<b>Other Facilities</b>				calculated				calculated						calculated
<b>Total</b>	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
<p><b>Permanent Program Permits and Initial Program Sites:</b> <span style="float: right;"><b>Total Number:</b> <u>calculated</u></span> <span style="float: right;"><b>Average Acres per Site:</b> <u>calculated</u></span></p> <p><b>Average Number of Permanent Program Permits and Initial Program Sites per Inspectable Unit (IU):</b> <span style="float: right;"><u>calculated</u></span> <span style="float: right;"><b>Average Acres per IU:</b> <u>calculated</u></span></p> <p><b>Permanent Program Permits in Temporary Cessation</b> <span style="float: right;"><b>Total Number:</b> _____</span> <span style="float: right;"><b>Number More than 3 Years:</b> _____</span></p>														
<b>EXPLORATION SITES</b>														
<p><b>Number of Exploration Sites with Permits:</b> <span style="float: right;"><b>Total number of permit sites:</b> _____</span> <span style="float: right;"><b>Sites with Federal lands<sup>C</sup>:</b> _____</span></p> <p><b>Number of Exploration Sites with Notices:</b> <span style="float: right;"><b>Total number of notice sites:</b> _____</span> <span style="float: right;"><b>Sites with Federal lands<sup>C</sup>:</b> _____</span></p>														
<p><sup>A</sup> An Inspectable Unit may include multiple small and neighboring Permanent Program Permits or Initial Program Sites that have been grouped together as one Inspectable Unit, or conversely, an Inspectable Unit may be one of multiple Inspectable Units within a Permanent Program Permit.</p> <p><sup>B</sup> When a Permanent Program Permit or Initial Program Site contains both Federal and State and Private lands, the acreage for each type of land is in the applicable column.</p> <p><sup>C</sup> The number of Exploration Sites with Federal lands includes sites with exploration permits or notices any part of which is regulated by the state under a cooperative agreement or by OSM pursuant to the Federal Lands Program, but excludes exploration sites that are regulated by the Bureau of Land Management.</p>														

**CHART 2A HISTORICAL TRENDS**

**NUMBER OF INITIAL PROGRAM SITES AND PERMANENT PROGRAM PERMITS**

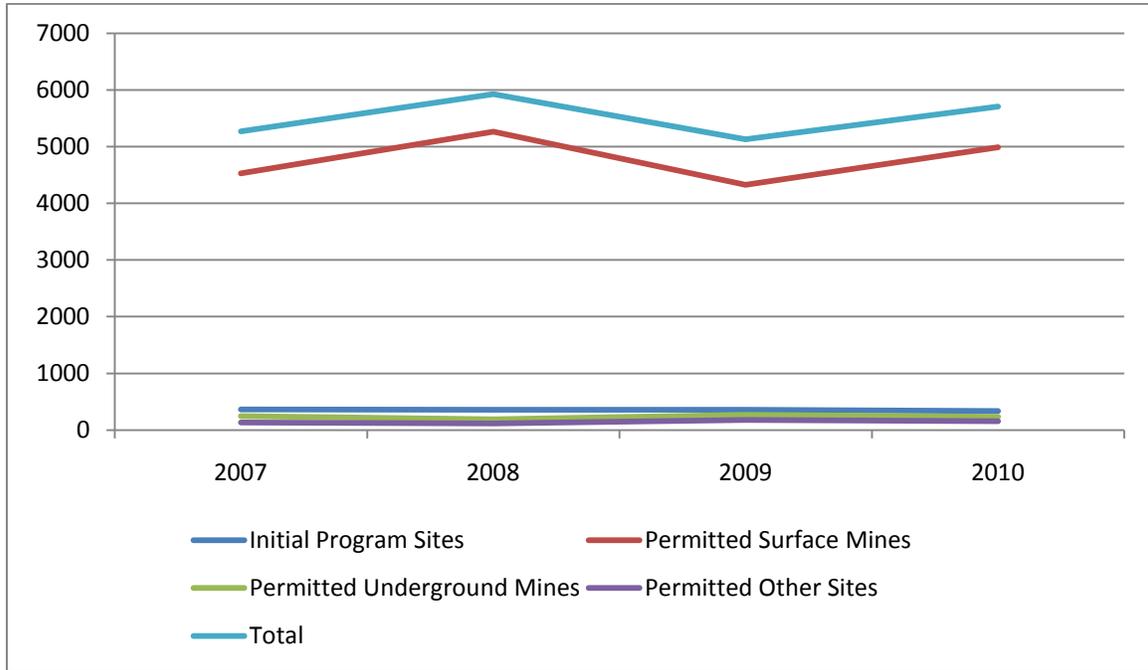


**TABLE 2A**

<b>NUMBER OF INITIAL PROGRAM SITES AND PERMANENT PROGRAM PERMITS</b>					
<b>Year</b>	<b>Initial Program Sites</b>	<b>Permanent Program Permits</b>			<b>Total</b>
		<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Other Facilities</b>	
2007	6	39	101	13	159
2008	5	35	106	12	158
2009	5	43	99	15	162
2010	4	40	105	13	162

**CHART 2B HISTORICAL TRENDS**

**AREA OF INITIAL PROGRAM SITES AND PERMANENT PROGRAM PERMITS**



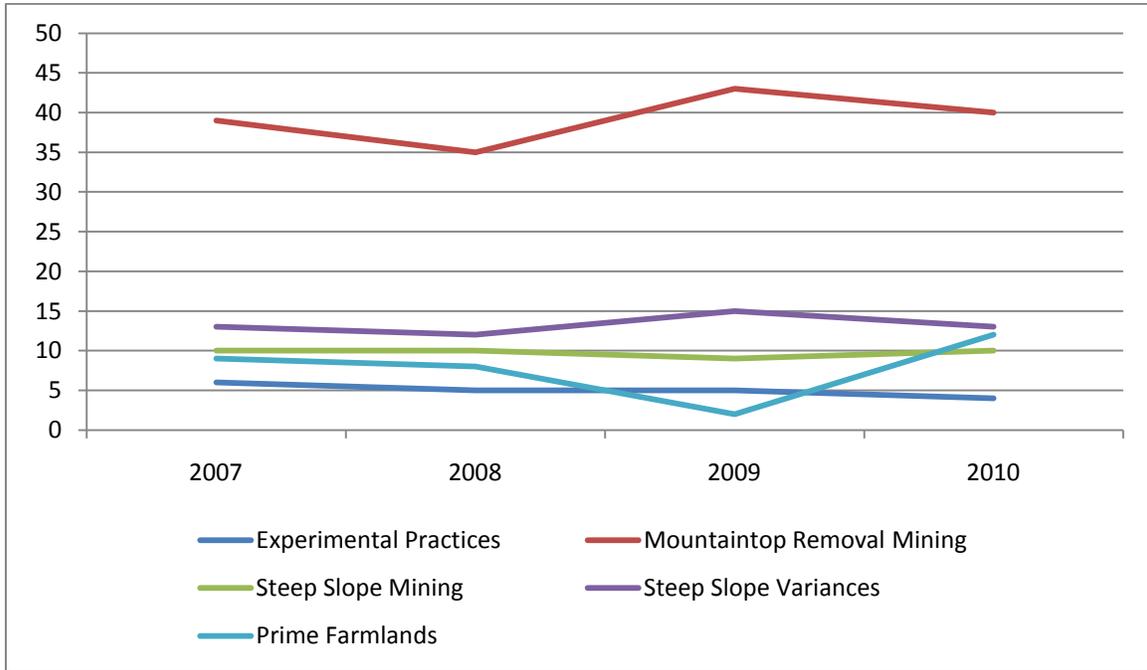
**TABLE 2B**

<b>AREA OF INITIAL PROGRAM SITES AND PERMANENT PROGRAM PERMITS</b>					
<b>Year</b>	<b>Initial Program Sites</b>	<b>Permanent Program Permits</b>			<b>Total</b>
		<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Other Facilities</b>	
2007	365	4526	248	131	5146
2008	358	5261	188	119	5832
2009	358	4326	268	178	4996
2010	334	4987	232	153	5590

**TABLE 3**

<b>PERMITS ALLOWING SPECIAL CATEGORIES OF MINING</b>			
<b>Special Category of Mining</b>	<b>30 CFR Citation Defining Permits Allowing Special Mining Practices</b>	<b>Numbers of Permits</b>	
		<b>Issued During EY</b>	<b>Total Active and Inactive Permits</b>
<b>Experimental Practice</b>	<b>785.13(d)</b>		
<b>Mountaintop Removal Mining</b>	<b>785.14(c)(5)</b>		
<b>Steep Slope Mining</b>	<b>785.15(c)</b>		
<b>AOC Variances for Steep Slope Mining</b>	<b>785.16(b)(2)</b>		
<b>Prime Farmlands Historically Used for Cropland</b>	<b>785.17(e)</b>		
<b>Contemporaneous Reclamation Variances</b>	<b>785.18(c)(9)</b>		
<b>Mining on or Adjacent to Alluvial Valley Floors</b>	<b>785.19(e)(2)</b>		
<b>Auger Mining</b>	<b>785.20(c)</b>		
<b>Coal preparation plants not located at a mine site</b>	<b>785.21(c)</b>		
<b>In-situ Processing</b>	<b>785.22(c)</b>		
<b>Remining</b>	<b>773.15(m) and 785.25</b>		
<b>Activities in or within 100 Feet of a Perennial or Intermittent Stream</b>	<b>780.28(d) and/or (e) 784.28(d) and/or (e)</b>		

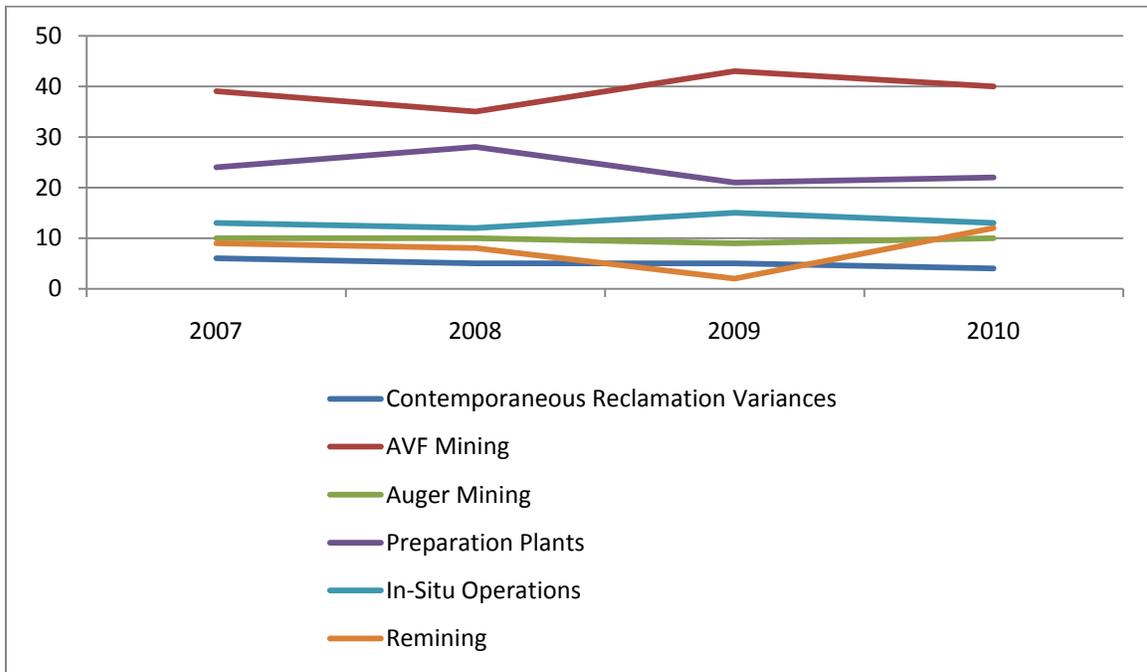
**CHART 3A HISTORICAL TRENDS**  
**PERMITS ALLOWING SPECIAL CATEGORIES OF MINING**



**TABLE 3A**

<b>NUMBER PERMITS ISSUED AND REVISIONS APPROVED</b>					
<b>Year</b>	<b>Experimental Practices</b>	<b>Mountaintop Removal Mining</b>	<b>Steep Slope Mining</b>	<b>Steep Slope Variances</b>	<b>Prime Farmlands</b>
2007	6	39	10	13	9
2008	5	35	10	12	8
2009	5	43	9	15	2
2010	4	40	10	13	12

**CHART 3B HISTORICAL TRENDS**  
**PERMITS ALLOWING SPECIAL CATEGORIES OF MINING**

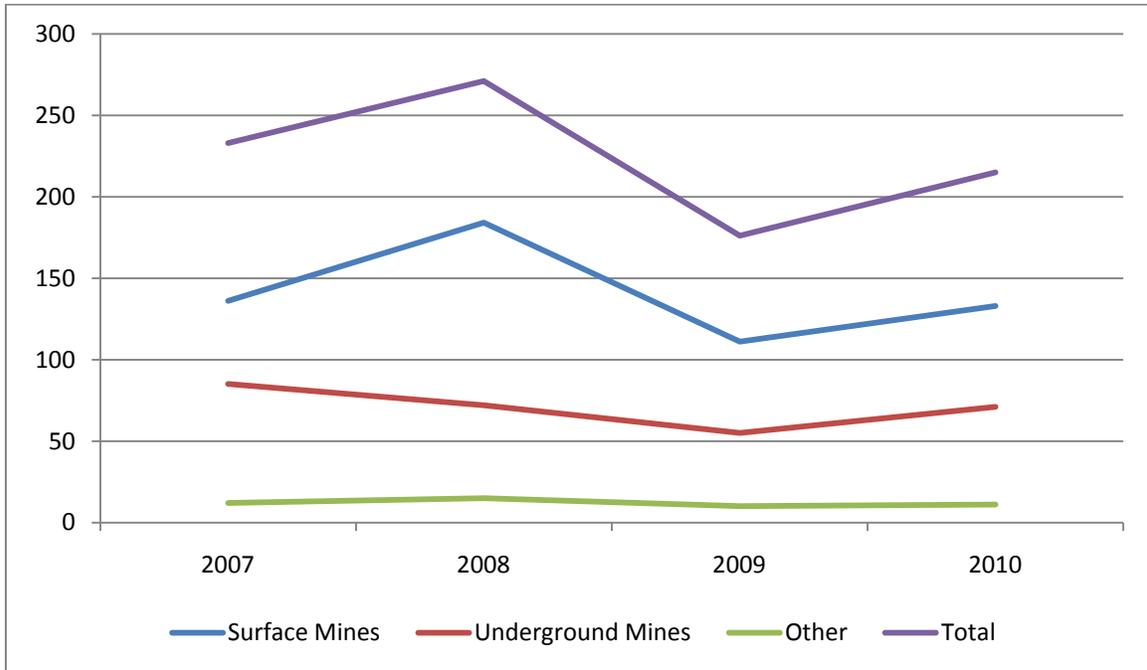


**TABLE 3B**

<b>NUMBER PERMITS ISSUED AND REVISIONS APPROVED</b>						
<b>Year</b>	<b>Contemporaneous Reclamation Variances</b>	<b>AVF Mining</b>	<b>Auger Mining</b>	<b>Preparation Plants not at Mine Site</b>	<b>In-Situ Operations</b>	<b>Remining</b>
2007	6	39	10	24	13	9
2008	5	35	10	28	12	8
2009	5	43	9	21	15	2
2010	4	40	10	22	13	12



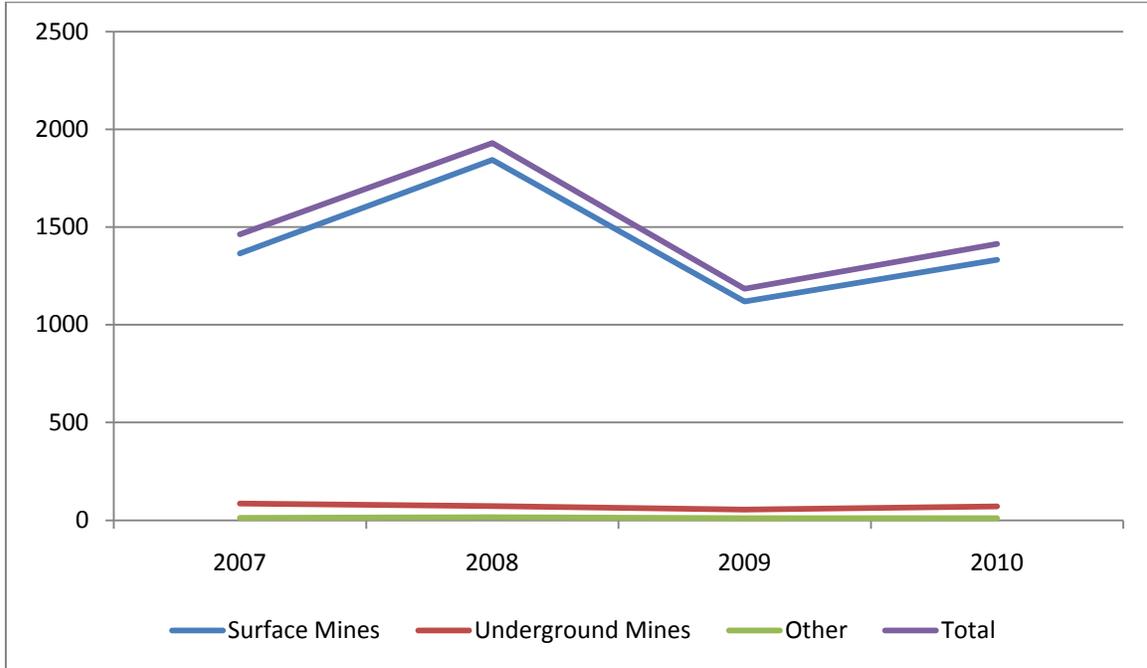
**CHART 4A HISTORICAL TRENDS**  
**NEW PERMITS ISSUED**



**TABLE 4A**

<b>NEW PERMITS ISSUED</b>				
<b>Year</b>	<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Other</b>	<b>Total</b>
2007	136	85	12	233
2008	184	72	15	271
2009	111	55	10	176
2010	133	71	11	215

**CHART 4B HISTORICAL TRENDS  
 NEW ACREAGE PERMITTED**



**TABLE 4B**

<b>NEW ACREAGE PERMITTED</b>				
<b>Year</b>	<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Other</b>	<b>Total</b>
2007	1365	85	12	1462
2008	1843	72	15	1930
2009	1119	55	10	1184
2010	1332	71	11	1414

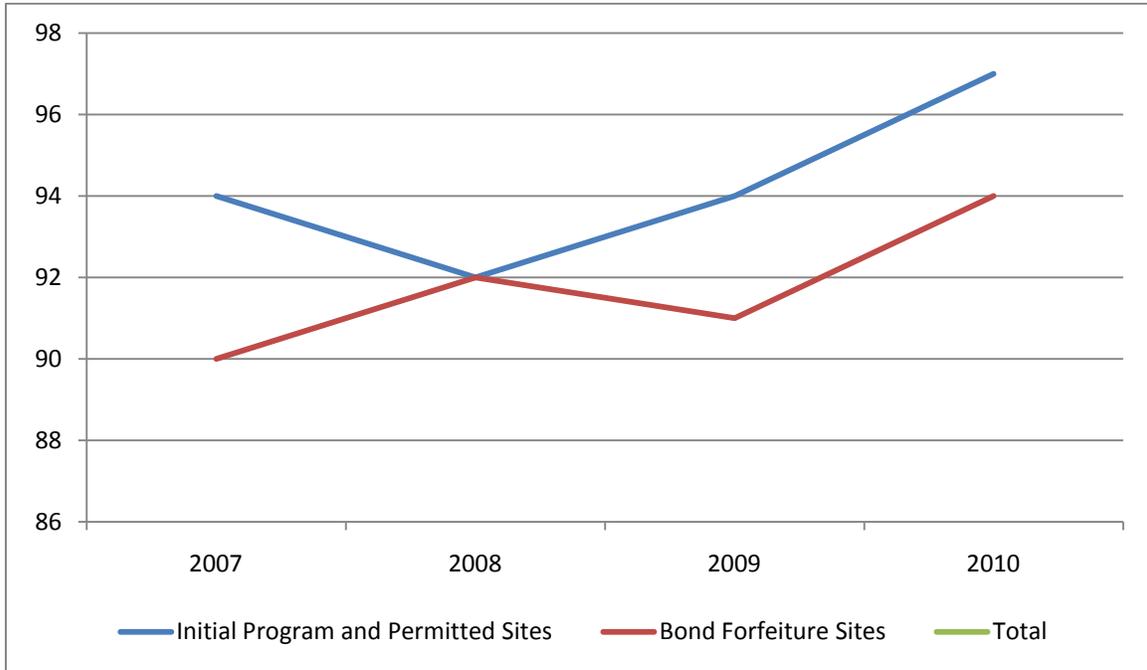
**TABLE 5**

<b>OFF-SITE IMPACTS EXCLUDING BOND FORFEITURE SITES</b>													
<b>RESOURCES AFFECTED</b>		<b>People</b>			<b>Land</b>			<b>Water</b>			<b>Structures</b>		
<b>DEGREE OF IMPACT</b>		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
<b>TYPE OF IMPACT EVENT</b>	<b>NUMBER OF EVENTS</b>												
Blasting													
Land Stability													
Hydrology													
Encroachment													
Other													
<b>Total</b>	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Total number of Inspectable Units <sup>B</sup> :					calculated								
Inspectable Units with one or more off-site impacts:					_____								
Inspectable Units free of off-site impacts:					calculated			% of Inspectable Units free of off-site impacts <sup>A</sup> : calculated					
<b>OFF-SITE IMPACTS AT BOND FORFEITURE SITES</b>													
<b>RESOURCES AFFECTED</b>		<b>People</b>			<b>Land</b>			<b>Water</b>			<b>Structures</b>		
<b>DEGREE OF IMPACT</b>		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
<b>TYPE OF IMPACT EVENT</b>	<b>NUMBER OF EVENTS</b>												
Blasting													
Land Stability													
Hydrology													
Encroachment													
Other													
<b>Total</b>	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Total number of Inspectable Units <sup>B</sup> :					calculated								
Inspectable Units with off-site impacts:					_____								
Inspectable Units free of off-site impacts:					calculated			% of Inspectable Units free of off-site impacts <sup>A</sup> : calculated					

**TABLE 5  
(Continued)**

<b>TOTAL OFF-SITE IMPACTS INCLUDING BOND FORFEITURE SITES</b>													
<b>RESOURCES AFFECTED</b>		<b>People</b>			<b>Land</b>			<b>Water</b>			<b>Structures</b>		
<b>DEGREE OF IMPACT</b>		<b>minor</b>	<b>moderate</b>	<b>major</b>	<b>minor</b>	<b>moderate</b>	<b>major</b>	<b>minor</b>	<b>moderate</b>	<b>major</b>	<b>minor</b>	<b>moderate</b>	<b>major</b>
<b>TYPE OF IMPACT EVENT</b>	<b>NUMBER OF EVENTS</b>												
Blasting	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Land Stability	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Hydrology	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Encroachment	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Other	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
<b>Total</b>	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated	calculated
Total number of Inspectable Units <sup>B</sup> :					calculated								
Inspectable Units with one or more off-site impacts:					calculated								
Inspectable Units free of off-site impacts:					calculated      % of Inspectable Units free of off-site impacts <sup>A</sup> : calculated								
<p><sup>A</sup> % of Inspectable Units free of off-site impacts is based on the number of Inspectable Units at the end of the Evaluation Year. The number of Inspectable Units may vary during the Evaluation Year.</p> <p><sup>B</sup> Total number of Inspectable Units is (1) the number of Inspectable Units at the end of the Evaluation Year and (2) the number of permanent program permits terminated under Phase III bond release during the Evaluation Year and (3) the number of Initial Program Sites with jurisdiction terminated during the Evaluation Year and (4) the number of bond forfeiture sites that were reclaimed during the Evaluation Year.</p>													

**CHART 5A HISTORICAL TRENDS**  
**PERCENT OF INSPECTABLE UNITS FREE OF OFF-SITE IMPACTS**



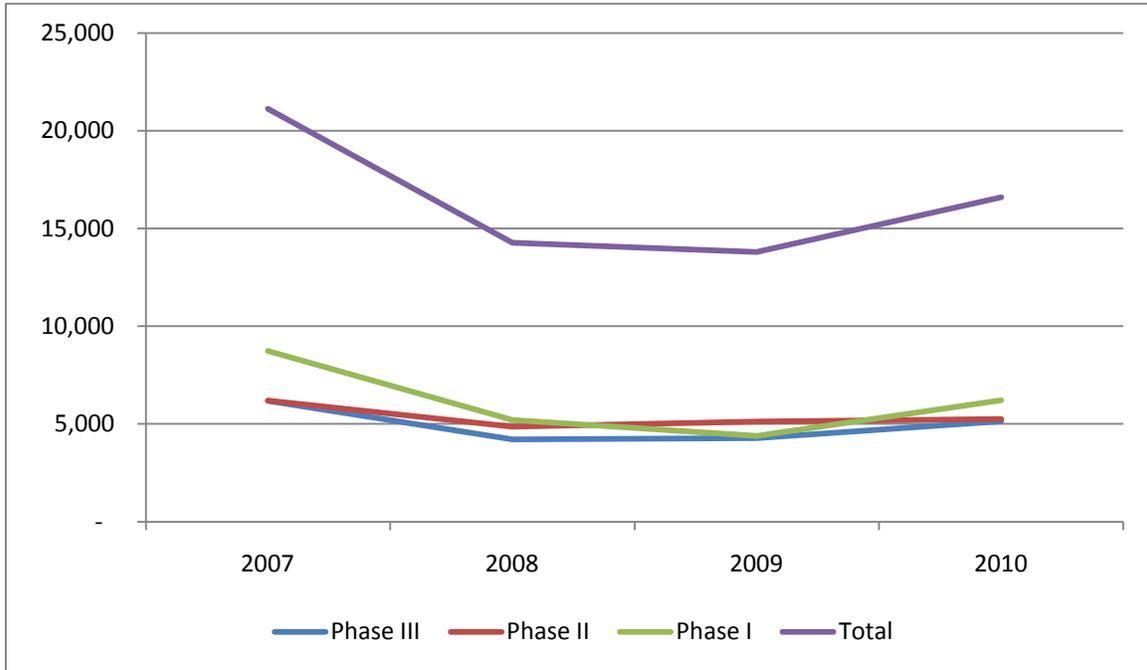
**TABLE 5A**

<b>PERCENT OF INSPECTABLE UNITS FREE OF OFF-SITE IMPACTS</b>		
<b>Year</b>	<b>Initial Program and Permanent Program Permits</b>	<b>Bond Forfeiture Sites</b>
2007	94	90
2008	92	92
2009	94	91
2010	97	94

**TABLE 6**

<b>SURFACE COAL MINING AND RECLAMATION ACTIVITY</b>								
<b>Areas of Phase I, II and III Bond Releases During the Evaluation Year (EY)</b>								
<b>Phase I Releases</b>	<b>Phase II Releases</b>		<b>Phase III Releases</b>			<b>Total Acres Released During the EY</b>		
<b>Total Acres Released in Approved Phase I Releases</b>	<b>Total Acres Released in Approved Phase II Releases</b>	<b>Acres not previously released under Phase I</b>	<b>Total Acres Released in Approved Phase III Releases</b>	<b>Acres not previously released under Phase II</b>	<b>Acres not previously released under Phase I or II</b>			
						<b>Phase I</b>	calculated	
						<b>Phase II</b>	calculated	
						<b>Phase III</b>	calculated	
Cumulative Total Acres Released under All Bond Release Phases at the End of the Evaluation Year						calculated		
Number of Permanent Program Permits Terminated under Phase III Bond Release and Initial Program Sites with Jurisdiction Terminated During the Evaluation Year						_____		
<b>Areas of Permits Bonded for Disturbance by Surface Coal Mining and Reclamation Operations</b>								
						<b>Total Acres at Start of EY</b>	<b>Total Acres at End of EY</b>	<b>Change in Acres During EY</b>
New Area and Cumulative Area Bonded for Disturbance						calculated	calculated	
Area Bonded for Disturbance without Phase I Bond Release						calculated		calculated
Area Bonded for Disturbance for which Phase I Bond Release Has Been Approved						calculated		calculated
Area Bonded for Disturbance for which Phase II Bond Release Has Been Approved						calculated		calculated
Total Area Bonded for Disturbance						calculated	calculated	calculated
Area Bonded for Remining						calculated		calculated
<b>Areas of Permits Disturbed by Surface Coal Mining and Reclamation Operations</b>								
Disturbed Area						calculated		calculated

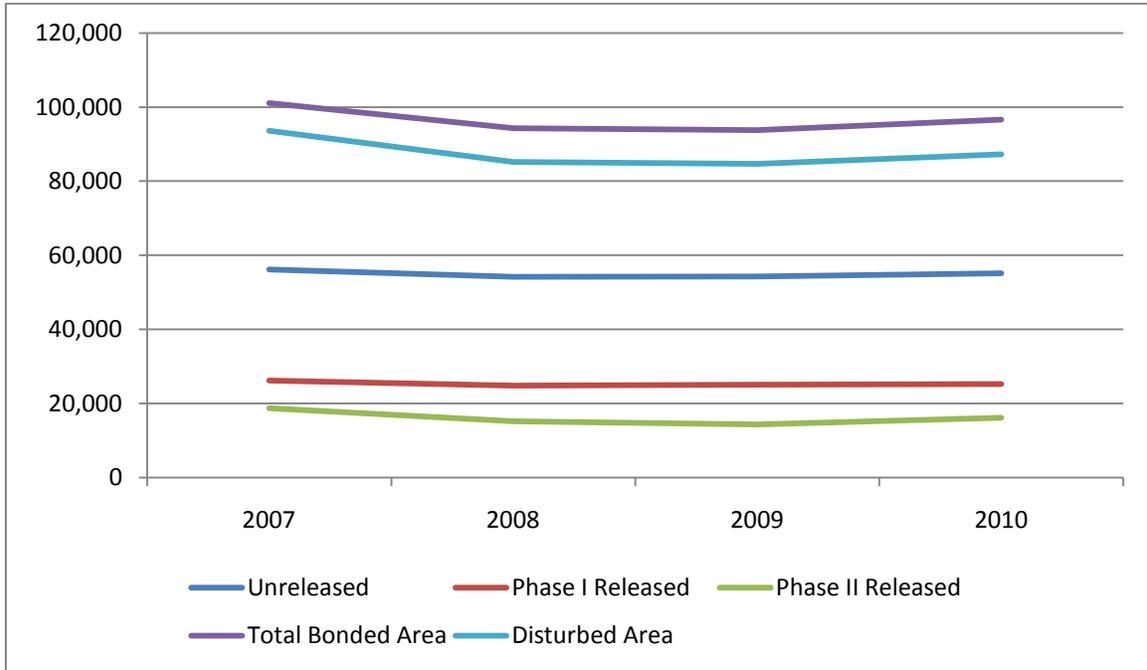
**CHART 6A HISTORICAL TRENDS**  
**ACRES OF PHASE I, II AND III BOND RELEASES**



**TABLE 6A**

<b>ACRES OF PHASE I, II AND III BOND RELEASES</b>				
<b>Year</b>	<b>Phase III</b>	<b>Phase II</b>	<b>Phase I</b>	<b>Total</b>
2007	6,182	6,197	8,733	21,112
2008	4,203	4,856	5,202	14,261
2009	4,268	5,128	4,396	13,792
2010	5,134	5,249	6,211	16,594

**CHART 6B HISTORICAL TRENDS**  
**ACRES BONDED FOR DISTURBANCE AND DISTURBED AREA**



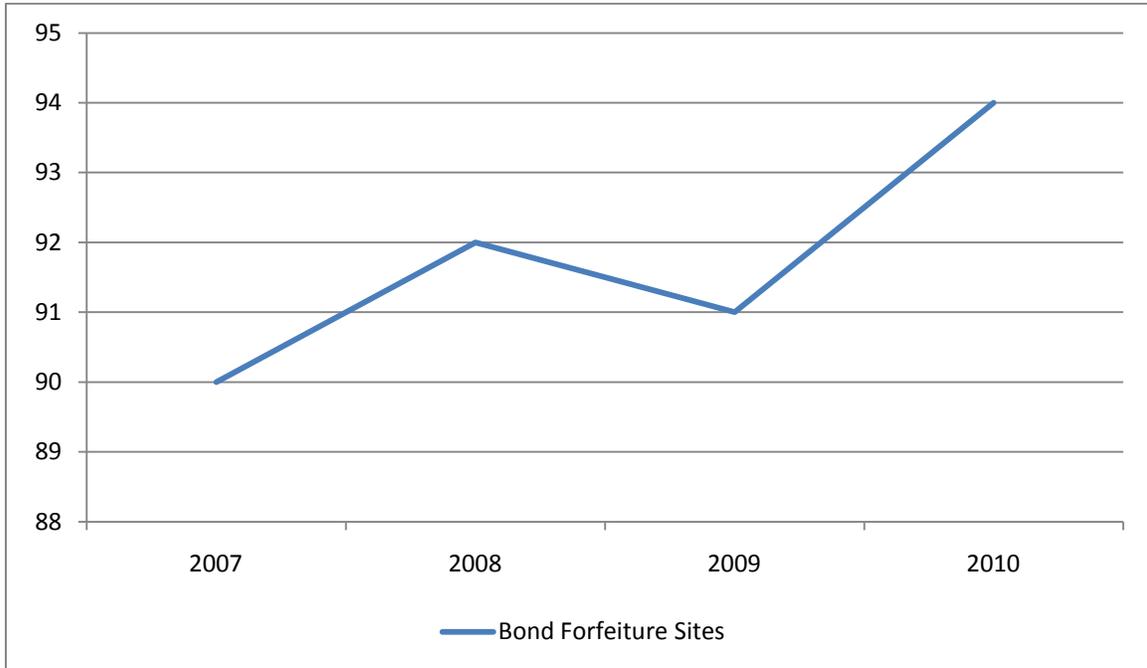
**TABLE 6B**

<b>AREAS BONDED FOR DISTURBANCE AND DISTURBED AREA</b>					
<b>Year</b>	<b>ACRES BONDED FOR DISTURBANCE</b>				<b>Disturbed Area</b>
	<b>Unreleased</b>	<b>Phase I Released</b>	<b>Phase II Released</b>	<b>Total Bonded Area</b>	
2007	56,182	26,197	18,733	101,112	93,576
2008	54,203	24,856	15,202	94,261	85,153
2009	54,268	25,128	14,396	93,792	84,667
2010	55,134	25,249	16,211	96,594	87,291

**TABLE 7**

<b>BOND FORFEITURE ACTIVITY (Permanent Program Permits)</b>			
<b>Bond Forfeiture and Reclamation Activity</b>	<b>Number of Sites</b>	<b>Dollars</b>	<b>Acres</b>
Sites with bonds forfeited and collected that were un-reclaimed at the start of the current Evaluation Year (i.e., end of previous Evaluation Year) <sup>A</sup>	calculated		calculated
Sites with bonds forfeited and collected during the current Evaluation Year			
Sites with bonds forfeited and collected that were re-permitted during the current Evaluation Year			
Sites with bonds forfeited and collected that were reclaimed during the current Evaluation Year			
Sites with bonds forfeited and collected that were un-reclaimed at the end of the current Evaluation Year <sup>A</sup>	calculated		calculated
Sites with bonds forfeited but un-collected at the end of the current Evaluation Year			
<b>Forfeiture Sites with Long-Term Water Pollution</b>			
Bonds forfeited, lands reclaimed, but water pollution is still occurring			
Bonds forfeited, lands reclaimed, and water treatment is ongoing			
<b>Surety/Other Reclamation Activity In Lieu of Forfeiture</b>			
Sites being reclaimed by surety/other party at the start of the current Evaluation Year (i.e., the end of previous Evaluation Year) <sup>B</sup>	calculated		calculated
Sites where surety/other party agreed during the current Evaluation Year to do reclamation			
Sites being reclaimed by surety/other party that were re-permitted during the current Evaluation Year			
Sites with reclamation completed by surety/other party during the current Evaluation Year <sup>C</sup>			
Sites being reclaimed by surety/other party at the end of the current Evaluation Year <sup>B</sup>	calculated		calculated
<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed. <sup>B</sup> Includes all sites where surety or other party has agreed to complete reclamation, and the site is not fully reclaimed. <sup>C</sup> These sites are also reported in Table 6, Surface Coal Mining and Reclamation Activity, because Phase III bond release would be granted on these sites.			

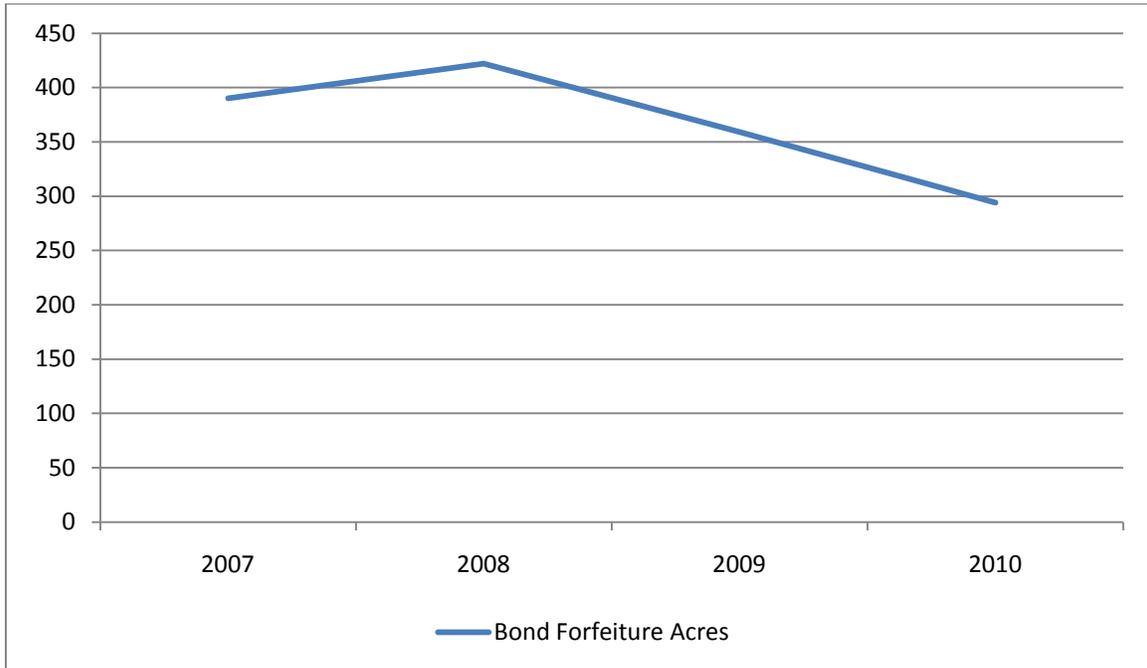
**CHART 7A HISTORICAL TRENDS**  
**NUMBER OF BOND FORFEITURE SITES**



**TABLE 7A**

<b>NUMBER OF BOND FORFEITURE SITES</b>	
<b>Year</b>	<b>Bond Forfeiture Sites</b>
2007	90
2008	92
2009	91
2010	94

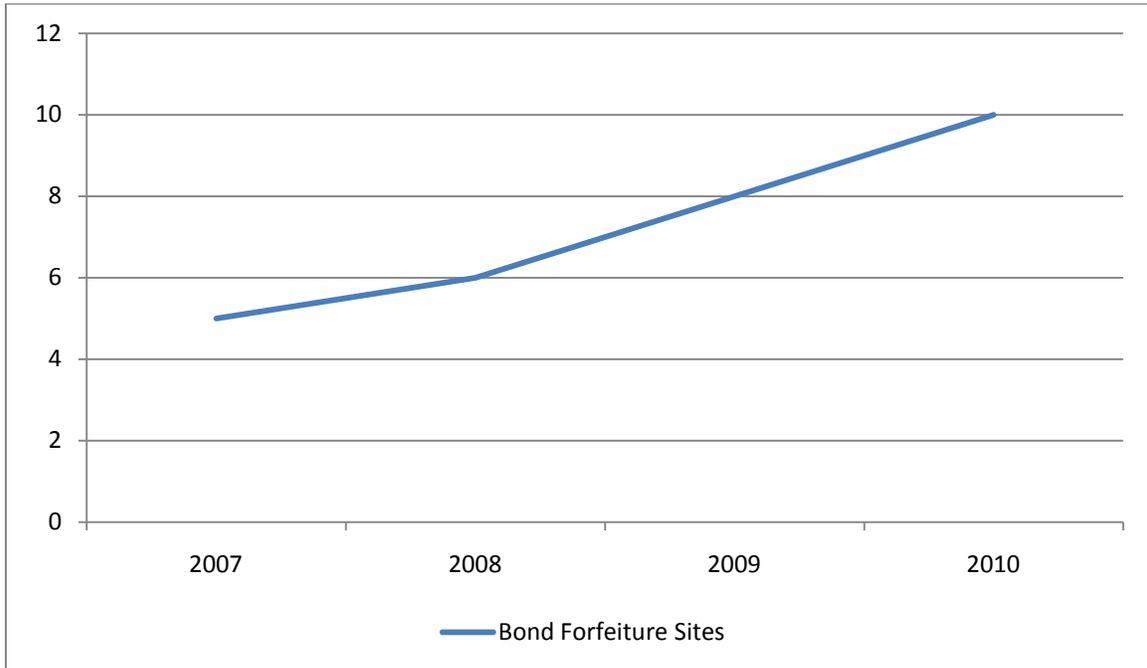
**CHART 7B HISTORICAL TRENDS**  
**ACREAGE OF BOND FORFEITURE SITES**



**TABLE 7B**

<b>ACREAGE OF BOND FORFEITURE SITES</b>	
<b>Year</b>	<b>Acres</b>
2007	90
2008	92
2009	91
2010	94

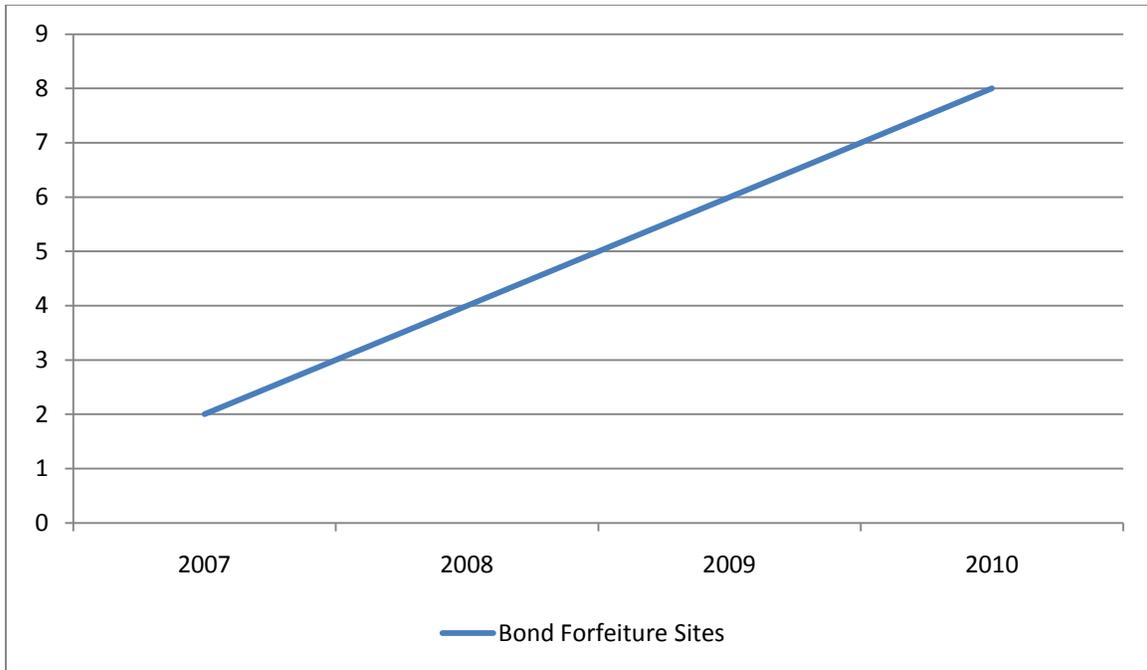
**CHART 7C HISTORICAL TRENDS**  
**NUMBER OF SITES WITH WATER POLLUTION STILL OCCURRING**



**TABLE 7C**

<b>NUMBER OF SITES WITH WATER POLLUTION STILL OCCURRING</b>	
<b>Year</b>	<b>Sites</b>
2007	90
2008	92
2009	91
2010	94

**CHART 7D HISTORICAL TRENDS**  
**NUMBER OF SITES WITH WATER TREATMENT ONGOING**



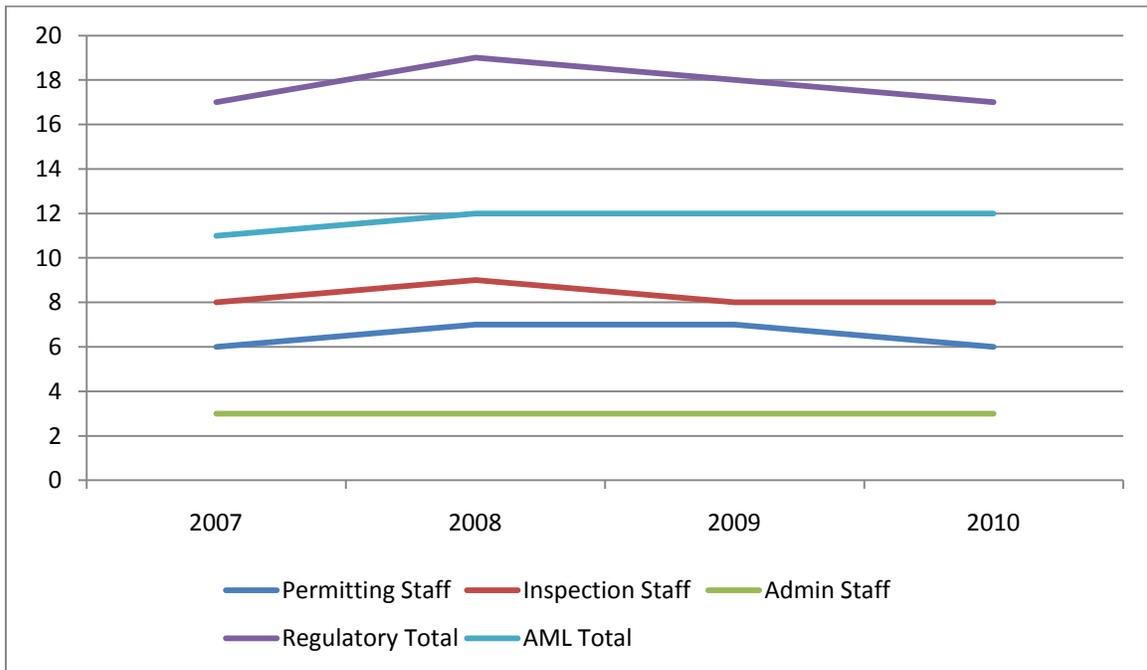
**TABLE 7D**

<b>NUMBER OF SITES WITH WATER TREATMENT ONGOING</b>	
<b>Year</b>	<b>Sites</b>
2007	90
2008	92
2009	91
2010	94

**TABLE 8**

<b>REGULATORY AND AML PROGRAMS STAFFING</b>	
<b>Function</b>	<b>Number of FTEs</b>
<b>Regulatory Program</b>	
Permit Review and Maintenance	
Inspection	
Other (supervisory, clerical, administrative, fiscal, personnel, etc.)	
<b>Regulatory Program Total</b>	<b>calculated</b>
<b>AML Program Total</b>	
<b>TOTAL</b>	<b>calculated</b>

**CHART 8A HISTORICAL TRENDS  
 REGULATORY AND AML PROGRAMS STAFFING**



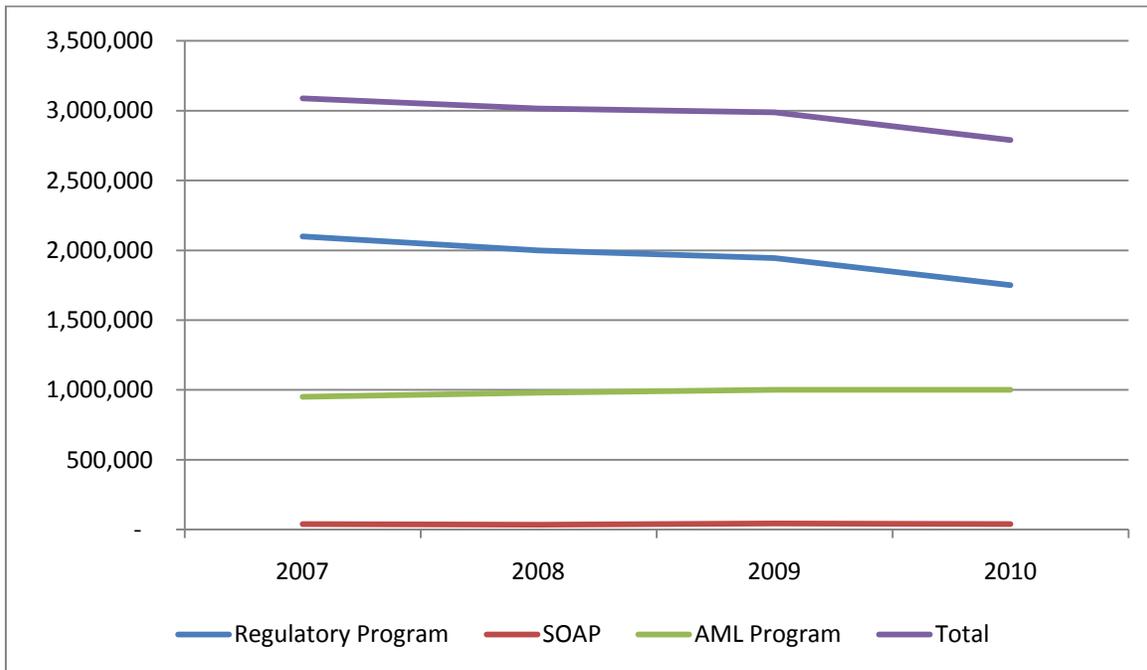
**TABLE 8A**

<b>REGULATORY AND AML PROGRAMS STAFFING</b>					
<b>Year</b>	<b>Regulatory Program</b>				<b>AML Program</b>
	<b>Permitting</b>	<b>Inspection</b>	<b>Admin</b>	<b>Total</b>	
2007	6	8	3	17	11
2008	7	9	3	19	12
2009	7	8	3	18	12
2010	6	8	3	17	12

**TABLE 9**

<b>FUNDS GRANTED TO STATE OR TRIBE BY OSM (Actual Dollars Rounded to the Nearest Dollar)</b>			
<b>Type of Funding</b>	<b>Federal Funds Awarded</b>	<b>Total Program Cost</b>	<b>Federal Funds Awarded as a Percentage of Total Program Costs</b>
<b>Regulatory Funding</b>			
Administration and Enforcement Grant			
Other Regulatory Funding, if applicable			
<b>Subtotal (Regulatory Funding)</b>			calculated
<b>Small Operator Assistance Program Grant Funding</b>			calculated
<b>Abandoned Mine Land Reclamation Funding<sup>A</sup></b>			calculated
<b>Watershed Cooperative Agreement Program</b>			calculated
<b>Total</b>			

**CHART 9A HISTORICAL TRENDS**  
**FUNDS GRANTED TO STATE OR TRIBE BY OSM**



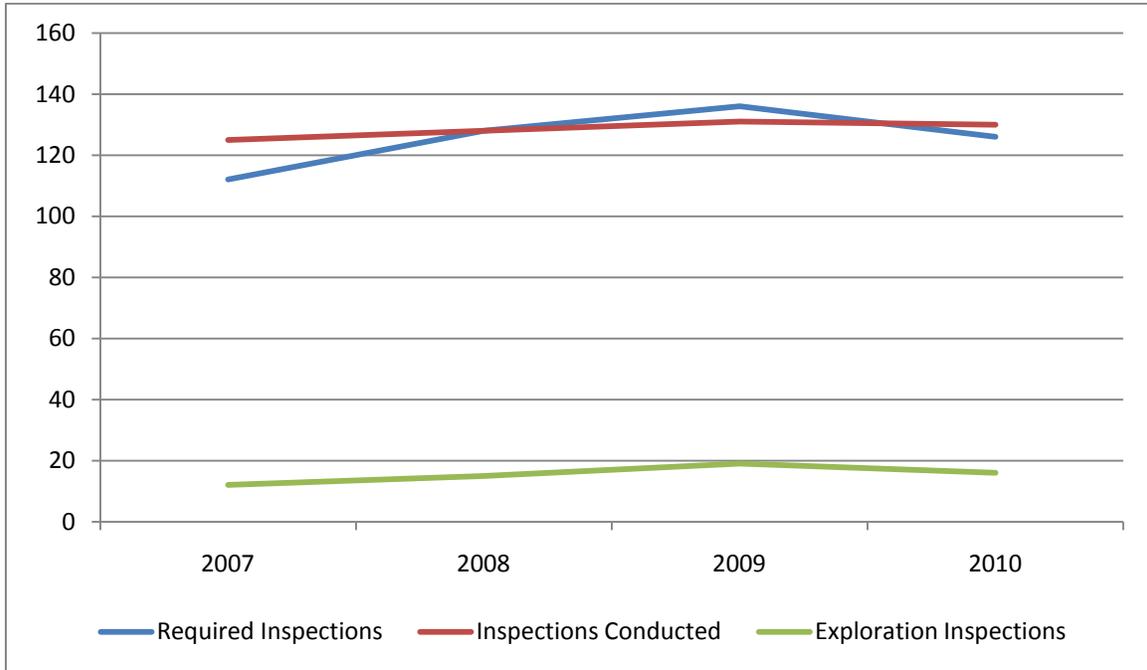
**TABLE 9A**

<b>FUNDS GRANTED TO STATE OR TRIBE BY OSM</b>				
<b>Year</b>	<b>Regulatory Program</b>	<b>SOAP</b>	<b>AML Program</b>	<b>Total</b>
2007	2,100,000	39,000	950,000	3,089,000
2008	2,000,000	35,000	980,000	3,015,000
2009	1,945,000	43,000	1,000,000	2,988,000
2010	1,750,000	40,000	1,000,000	2,790,000

**TABLE 10**

<b>STATE OR TRIBAL INSPECTION ACTIVITY</b>							
<b>Permits and Sites</b>		<b>Complete Inspections</b>			<b>Partial Inspections</b>		
<b>Activity Status</b>	<b>Number of Permits and Sites</b>	<b>Inspections Required Annually</b>	<b>Approximate Number of Required Inspections<sup>A</sup></b>	<b>Number of Complete Inspections Conducted</b>	<b>Inspections Required Annually</b>	<b>Approximate Number of Required Inspections<sup>A</sup></b>	<b>Number of Partial Inspections Conducted</b>
<b>Approximate Number of Required Inspections of Permanent Program Permits</b>							
Active	calculated		calculated			calculated	
Inactive	calculated		calculated			calculated	
Abandoned	calculated		calculated			calculated	
<b>Approximate Number of Required Inspections of Initial Program Sites</b>							
Active	calculated		calculated			calculated	
Inactive	calculated		calculated			calculated	
Abandoned	calculated		calculated			calculated	
<b>Inspections Conducted and Approximate Number Required on All Permanent Program Permits and Initial Program Sites</b>							
Total Active	calculated		calculated			calculated	
Total Inactive	calculated		calculated			calculated	
Total Abandoned	calculated		calculated			calculated	
<b>Total</b>	calculated		calculated	calculated		calculated	calculated
<b>Exploration Sites with Permits and with Notices</b>							
All Exploration	calculated						
<sup>A</sup> The number of required inspections are approximations because part way through the Evaluation Year Sites may change “activity status” or become eliminated because final Phase III bond release was approved or the regulatory authority terminated its jurisdiction under the Initial Program. Likewise, as new permits are issued throughout the Evaluation Year, the number of Permanent Program Permits would increase, but only some of the “Inspections Required per Site Annually” would be required for those sites permitted part way through the year. Additionally, some Sites may be consolidated into one inspectable unit, thus one inspection may cover multiple Sites.							

**CHART 10A HISTORICAL TRENDS**  
**STATE OR TRIBAL INSPECTION ACTIVITY**



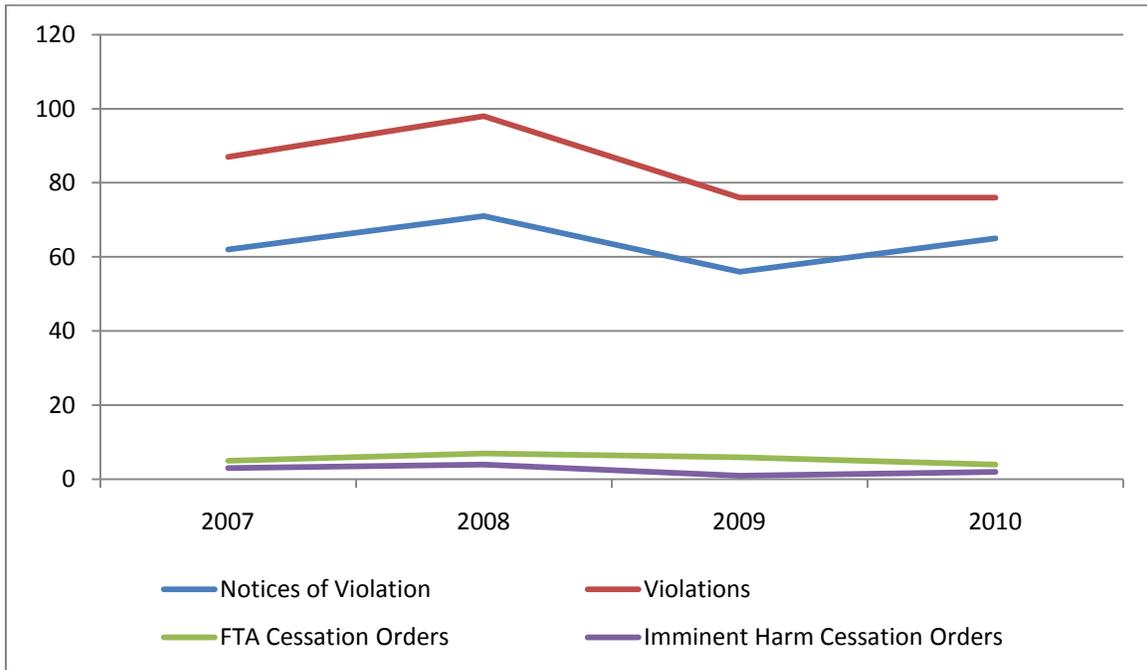
**TABLE 10A**

<b>STATE OR TRIBAL INSPECTION ACTIVITY</b>			
<b>Year</b>	<b>Required Inspections (Approx)</b>	<b>Inspections Conducted</b>	<b>Exploration Inspections</b>
2007	112	125	12
2008	128	128	15
2009	136	131	19
2010	126	130	16

**TABLE 11**

<b>STATE OR TRIBAL ENFORCEMENT ACTIVITY</b>		
<b>Type of Enforcement Action</b>	<b>Number of Actions<sup>A</sup></b>	<b>Number of Violations<sup>A</sup></b>
Notice of Violation		
Failure-to-Abate Cessation Order		
Imminent Harm Cessation Order		
<sup>A</sup> Does not include actions and violations that were vacated.		

**CHART 11A HISTORICAL TRENDS**  
**STATE OR TRIBAL ENFORCEMENT ACTIVITY**



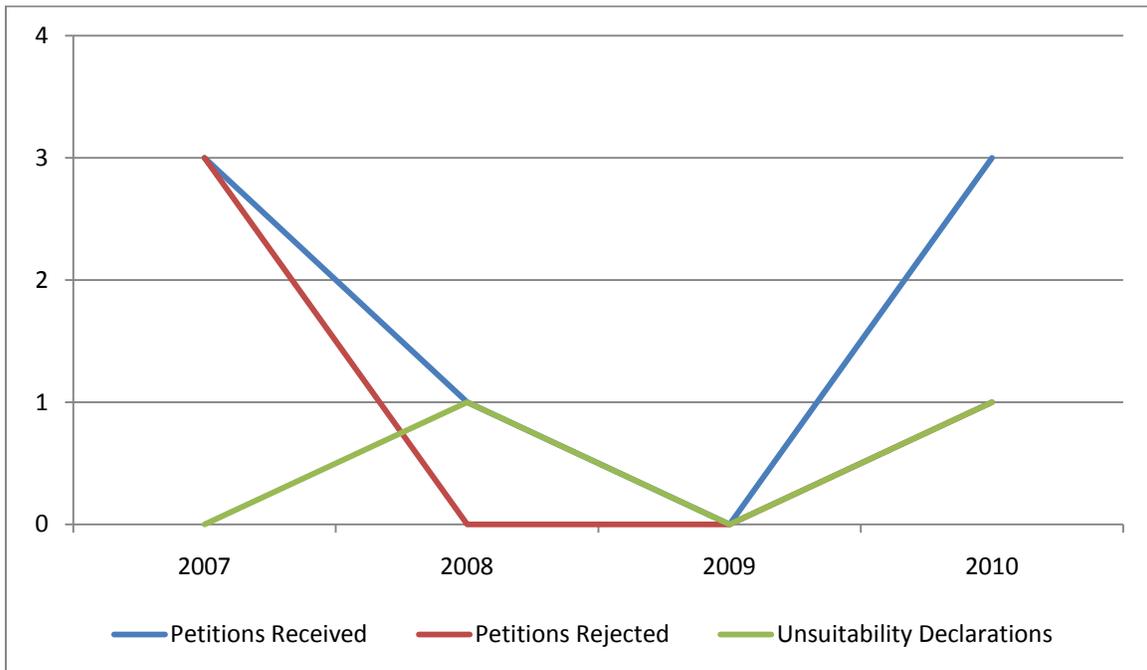
**TABLE 11A**

<b>STATE OR TRIBAL ENFORCEMENT ACTIVITY</b>				
<b>Year</b>	<b>Notices of Violation</b>	<b>Violations</b>	<b>FTA Cessation Orders</b>	<b>Imminent Harm Cessation Orders</b>
2007	62	87	5	3
2008	71	98	7	4
2009	56	76	6	1
2010	65	76	4	2

**TABLE 12**

<b>LANDS UNSUITABLE ACTIVITY</b>		
<b>Activity</b>	<b>Number</b>	<b>Acres</b>
Petitions Received		
Petitions Rejected		
Petitions Accepted		
Decisions Denying Petition		
Decisions Declaring Lands Unsuitable		
Decisions Terminating Unsuitable Designations		

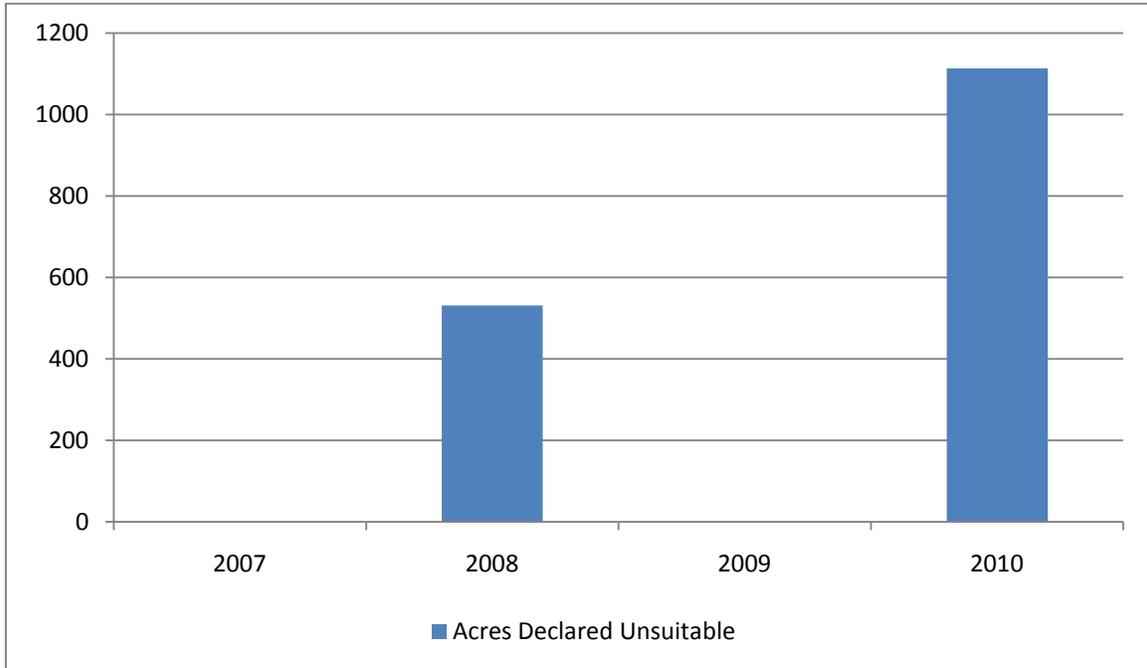
**CHART 12A HISTORICAL TRENDS  
 LANDS UNSUITABLE ACTIVITY**



**TABLE 12A**

<b>LANDS UNSUITABLE ACTIVITY</b>			
<b>Year</b>	<b>Petitions Received</b>	<b>Petitions Rejected</b>	<b>Unsuitability Declarations</b>
2007	3	3	0
2008	1	0	1
2009	0	0	0
2010	3	1	1

**CHART 12B HISTORICAL TRENDS**  
**ACRES DECLARED UNSUITABLE**



**TABLE 12B**

<b>Year</b>	<b>Acres Declared Unsuitable</b>
2007	0
2008	531
2009	0
2010	1113

**TABLE 13**

<b>OSM OVERSIGHT ACTIVITY</b>					
<b>Oversight Inspections and Site Visits</b>					
Oversight Inspections	Complete		Partial		Total
	Joint	Independent	Joint	Independent	
Site Visits	Technical Assistance		Other		Total
<b>Violations Observed by OSM and Citizen Requests for Inspection <sup>1</sup></b>					
Type of Action				Total	
Violations Observed by OSM on Oversight Inspections					
Violations Observed that OSM Deferred to state Action during the Inspections					
Violations Observed that OSM Referred to State through Ten-Day Notices <sup>2</sup>					
Ten-Day Notices OSM Issued for Observed Violations <sup>3</sup>					
Ten-Notices OSM Issued to Refer Citizen Requests for Inspection					
Notices of violation Issued by OSM					
Failure-to-Abate Cessation Orders Issued by OSM					
Imminent Harm Cessation Orders Issued by OSM					
<b>OSM Action for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees</b>					
Ten-Day Notices Issued by OSM for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees					
Notices of Violation Issued by OSM for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees					
Federal Failure-to-Abate Cessation Orders Issued by OSM for Delinquent Reporting or Non-payment of Federal AML Reclamation Fees					

<sup>1</sup> This section does not include actions for delinquent reporting or non-payment of Federal AML fees that are reported in the last section of the table.

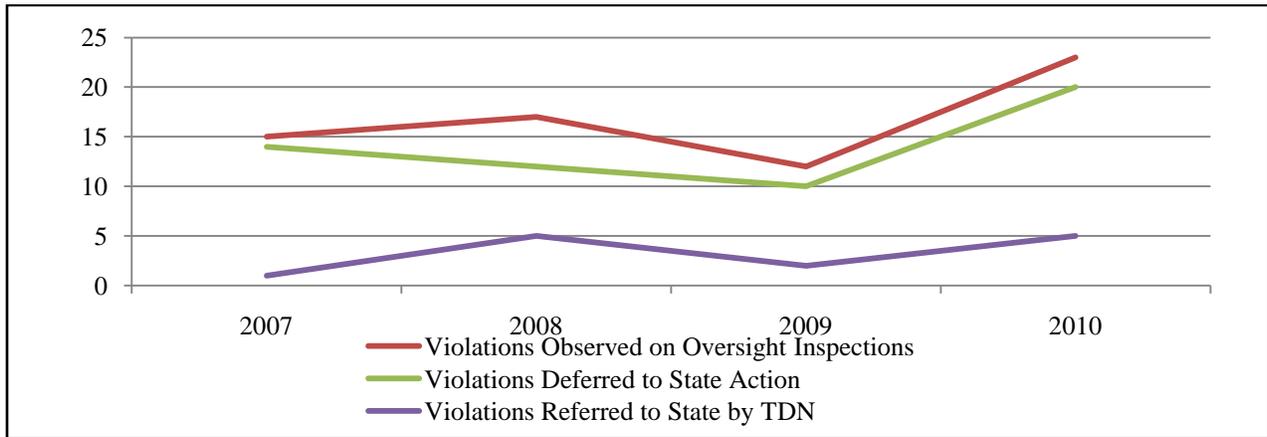
<sup>2</sup> Number of violations contained in Ten-Day Notices not including those issues to refer citizen's request for inspection.

<sup>3</sup> Number of Ten Day Notices issued not including those issued to refer citizen requests for inspection.

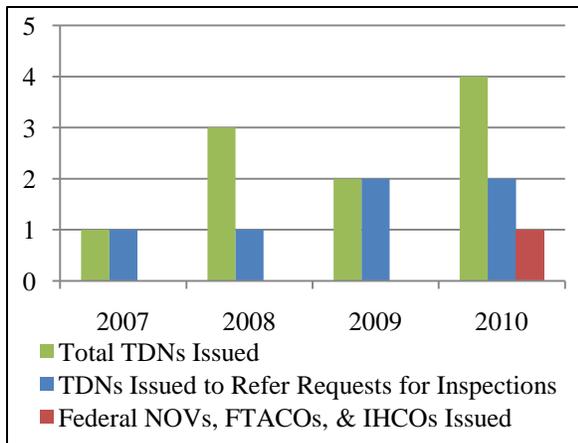
**TABLE 13A**

Year	Violations observed on OSM oversight inspections	Violations deferred to state action	Violations referred to state by TDN	Total TDNs issued	TDNs issued to refer requests for inspections	Federal NOVs, FTACOs, & IHCOs issued	Oversight inspections	Site Visits
2007	15	14	1	1	1	0	25	0
2008	17	12	5	3	1	0	20	2
2009	12	10	2	2	2	0	25	1
2010	23	20	5	4	2	1	30	3

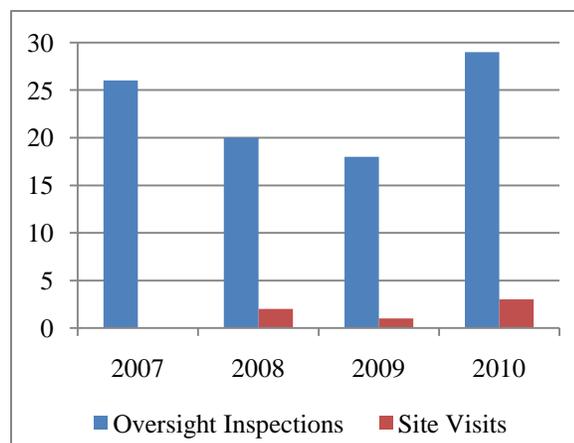
**CHART 13A HISTORICAL TRENDS  
OSM OBSERVED VIOLATIONS**



**CHART 13B  
OSM ENFORCEMENT ACTIVITY**



**CHART 13C  
OSM INSPECTION ACTIVITY**



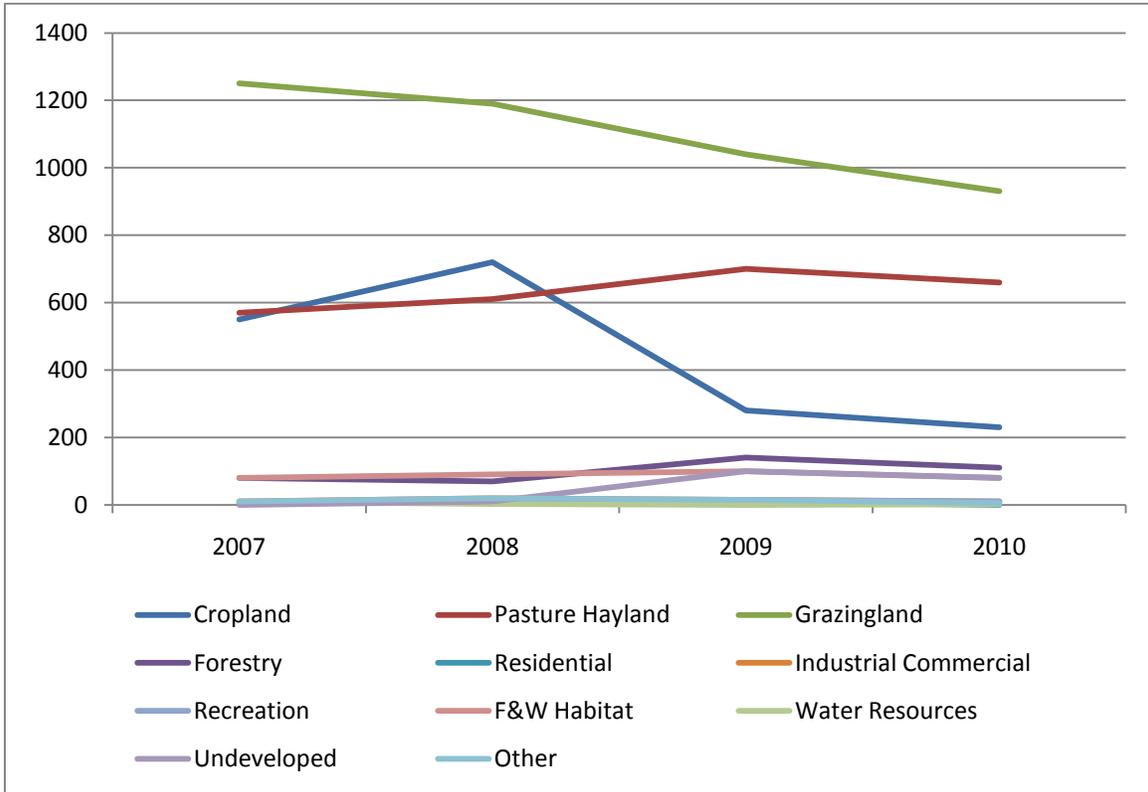
**TABLE 14**  
**STATUS OF ACTION PLANS**

Action Plan ID	Problem Type <sup>1</sup>	Problem Title	Problem Description	Date Action Plan Initiated	Scheduled Completion Date	Actual Completion Date
<sup>1</sup> Problem Type: "PA" indicates a required Program change under subchapter T or 732 "RP" indicates a Regulatory Program implementation or administration problem						

**TABLE 15**  
**(Optional)**

<b>POST-MINING LAND USE ACREAGE            OF SITES FULLY RECLAIMED            (Phase III bond release or termination of jurisdiction under the Initial Program)</b>	
<b>Land Use<sup>A</sup></b>	<b>Acres Released</b>
Cropland	
Pasture/Hayland	
Grazingland	
Forestry	
Residential	
Industrial/Commercial	
Recreation	
Fish & Wildlife Habitat	
Developed Water Resources	
Undeveloped land or no current use or land management	
Other – Public Utilities	
Other – [Identify]	
<b>Sub-Total Other</b>	calculated
<b>Total</b>	calculated
<sup>A</sup> Land uses as defined in 30 CFR 701.5 or “Other” as defined under the state or tribal program	

**CHART 15A HISTORICAL TRENDS  
 POST MINING LAND USE ACREAGES**



**TABLE 15A**

<b>POST MINING LAND USE ACREAGES</b>											
<b>Year</b>	<b>Cropland</b>	<b>Pasture Hayland</b>	<b>Grazing land</b>	<b>Forestry</b>	<b>Residential</b>	<b>Industrial Commercial</b>	<b>Recreation</b>	<b>F&amp;W Habitat</b>	<b>Water Resources</b>	<b>Undeveloped</b>	<b>Other</b>
2007	550	570	1250	80	5	10	5	80	10	0	10
2008	720	610	1190	70	15	20	10	90	3	10	20
2009	280	700	1040	140	10	15	15	100	0	100	15
2010	230	660	930	110	0	10	10	80	2	80	5