

**CROW TRIBE
ABANDONED MINE LAND
ANNUAL REPORT
EVALUATION YEAR 2001**



**PREPARED BY THE
OFFICE OF SURFACE MINING
CASPER FIELD OFFICE
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Part I. General

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 to oversee the regulation of coal exploration and surface coal mining and reclamation operations and the reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the reclamation of abandoned mine lands within its borders.

Because legislation for Tribes did not exist, a supplemental appropriations bill (Public Law 100-71) was enacted on July 11, 1987, to amend SMCRA and to authorize the Crow, Hopi, and Navajo tribes the right to obtain the Secretary of the Interior's approval of the Abandoned Mine Land Reclamation (AMLR) programs without first having regulatory programs as required by Section 405 of SMCRA. Once a Tribe has an approved AMLR program, OSM has responsibility to make investigations, evaluations, and inspections necessary to determine if the Tribal program is being administered in accordance with approved program provisions. The Crow AMLR Program was approved by OSM on January 4, 1989. The Tribe established a Crow Office of Reclamation (COR) to administer its abandoned mine land program.

The Crow Reservation, an area approximately 2,226,000 acres, is located in south-central Montana adjacent to the Wyoming border. Adjoining the reservation to the north is the 1,100,000 acre Crow Ceded Area, where the Crow Tribe of Indians holds extensive mineral rights. Prior to 1904, the Ceded Area was a part of the reservation. Congress required the Tribe to return the surface rights to the area to the United States through legislation enacted in 1904. The surface was then acquired by non-Indians. The Tribe retained ownership to the minerals, and has AMLR reclamation jurisdiction for the Ceded Area.

Numerous small abandoned mines are located on the reservation and the Ceded Area. Historically, coal was mined for local domestic use by residents of the area. The Tribe concentrated its reclamation efforts during the evaluation year on low priority coal sites. The Tribe has been unable to obtain access to the few remaining high priority coal sites. Landowners where the sites are located have denied access for various reasons. The Tribe continues to work with these landowners in an attempt to obtain consensual access. As a result, all accessible high priority sites on the reservation have been reclaimed.

All reclamation funds to support the Tribe's program are generated from the one active mine located in the Ceded Area. Calendar Year 2000 production from this mine was approximately 4.9 million tons. This resulted in an FY2001 allocation to the Tribe of \$589,310 of Tribal share AML funds. This level of funding qualifies the Tribal program as a minimum program under SMCRA. Normally this would have resulted in a supplement of Federal Share funds of up to \$1.5 million if sufficient high priority coal projects existed on the Abandoned Mine Lands Inventory System (AMLIS). In past years, the Tribe has received and accumulated supplemental funds from the Federal share sufficient to reclaim all remaining hazardous abandoned coal mine related problems recorded in AMLIS. Therefore no additional Federal share funds were provided to the Tribe in the FY2001 allocation. If access is not obtained for the remaining high

priority coal sites or additional high priority coal sites are not identified, the Tribe will continue to be limited to the use of Tribal share funds.

The COR administrative staff is made up of 4.55 full time employees. This staff is responsible for the direction of all construction activities as well as all administrative functions of the program. To assure an acceptable level of control, OSM in their approval of the Crow Tribe AMLR program, required that the administrative functions such as grant application preparation, progress report preparation, payroll, procurement, property management, and all financial activities be separate from the Tribal systems.

All construction to date has been accomplished by manual labor using hand tools. The AML program is a major employer on the reservation. During the construction season of this evaluation year, approximately 34 laborers and foremen were employed to reclaim AML sites. The construction season begins in May and continues until late November.

The 2001 evaluation period started on October 1, 2000 and concluded September 30, 2001. Evaluation of the Tribal AML program is conducted by OSM's Casper Field Office (CFO) located in Casper, Wyoming. Evaluation methods are based upon OSM Directive AML-22. The Tribe takes an active role in the entire oversight process. Oversight is designed to evaluate whether the Tribe, through its AMLR program, is achieving the overall objective of Section 102 of SMCRA which states that AMLR programs are to:

"... promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public ..."

Specific topics are identified for review and review methodologies were developed for the evaluation period. The reviews were designed to result in an overall measure of the Tribe's success in achieving planned reclamation goals. By focusing on end results, OSM is able to determine the root causes of problems and concentrate its resources on prevention by providing assistance to the Tribe to improve its program.

Part II. Results of Enhancement and Performance Reviews

Last year's evaluation revealed two deficiencies. The Tribe continued to have a lack of internal controls as they relate to the drawdown of grant funds. This lack of control resulted in the Tribe drawing grant funds which were in excess of their immediate needs. The Tribe also had not corrected all project inventory errors in Abandoned Mine Land Inventory System (AMLIS).

A change of administration in the Tribal government resulted in changes in key personnel in the AML Program. Due to the inherent risks associated with such changes, OSM and the Tribe agreed the evaluation efforts for this year should concentrate on all areas of oversight as defined in OSM Directive AML-22 with special emphasis given to the two deficiencies noted during the previous evaluation period. Therefore, Enhancement and Performance Reviews were structured

to evaluate the Tribe's effectiveness in achieving three principles. They are: (1) Program States and Indian tribes must have approved reclamation plans which meet the requirements of Federal laws and regulations and conduct reclamation in accordance with their plan; (2) on-the-ground construction is to be achieved in a timely, cost-effective manner; and (3) programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that the systems are working. Specific areas of interest within these three principles were reviewed. The specific areas of interest for the first principle were maintenance of the approved Reclamation Plan and project inventory maintenance. Overall reclamation success was evaluated for the second principle. Five specific areas of interest applied to the third principle. They included timeliness of drawdowns, adequacy of accounting procedures, timeliness of applications and reports, timeliness of A-128 audits and implementation of audit recommendations, and adequacy of procurement and management of property and services.

As a result of the reviews, the CFO concluded that the Tribe's overall performance was good. The Tribe appears to have improved its controls relating to the drawdown of grant funds and as of the end of the evaluation year were no longer drawing funds in excess of their immediate needs. However, the Tribe had not corrected all project inventory errors in AMLIS. This deficiency was noted in last year's evaluation but was not corrected because of turnover of key personnel responsible for this activity. In addition, this year's reviews detected a lack of controls relating to vehicle usage and the Tribe's failure to reconcile bank balances with book balances on a monthly basis. This lack of internal controls has resulted in the Tribe's inability to determine the accuracy of book balances on a monthly basis and their inability to evaluate the usage of vehicles and the reasonableness of maintenance and fuel costs. OSM's oversight reviews did not detect any misuse of funds resulting from these weaknesses.

Now that the key position responsible for maintaining AMLIS has been filled, the Tribe has agreed to correct all erroneous data during the next evaluation year. The Tribe has also agreed to establish a vehicle log system to control vehicle usage and are in the process of converting to different accounting software. The Tribe believes that the new accounting software will generally improve internal controls and simplify the reconciliation of bank balance with book balances. OSM will monitor the progress of the Tribe in correcting the deficiencies in the next evaluation year.

Overall reclamation success was achieved on all construction projects completed during the evaluation year. The planned reclamation goals for all of the sites have been achieved. Success in achieving adequate vegetation on the sites reclaimed during this evaluation year will be evaluated in the upcoming year.

Appendix A contains the "Enhancement and Performance Review Reports" reflecting the details of the reviews conducted during the evaluation year.

Part III. Accomplishments and Inventory Reports

Prior to the effective date of SMCRA, coal mining on the Crow reservation resulted in hazards

relating to abandoned equipment and facilities and unreclaimed subsidence, vertical openings, portals, highwalls and impoundments. Unreclaimed environmental problems consisted of spoil piles, pits, gob piles, haulroads, and minor highwalls. Three deaths and six injuries are known to have occurred in association with abandoned mines. No deaths or injuries have occurred in recent years.

The Tribe concentrated its reclamation efforts during the evaluation year on three low priority coal sites. Construction on one of the sites was continued from the previous evaluation year. One site was started and completed during the evaluation period and the other site was started during this evaluation period and will be completed during the next evaluation period. Work on the three sites resulted in the reclamation of approximately five acres. Projects worked on during the evaluation year consisting of minor highwalls, pits, and gob piles.

Since implementation of their approved AMLR program, the COR has eliminated safety hazards and threats to the environment posed by unreclaimed mines. Reclamation has involved coal and non-coal mines as provided for in SMCRA. Table 1 reflects the accomplishments of the Crow AML Reclamation Program since its inception and those problems which remain to be reclaimed. The reclamation accomplishments reflected in the Table have enhanced surrounding areas and returned the land to a condition that is of greater use to the Crow Tribe and others.

TABLE 1

**ABANDONED MINE LAND RECLAMATION
NEEDS AND ACCOMPLISHMENTS SINCE PROGRAM APPROVAL**



Problem nature	Unit	Coal-related problems				Noncoal-related problems	
		Abatement status			Total	Abatement status	
		Unfunded	Funded	Completed		Funded	Completed
Priority 1 & 2 (Protection of public health, safety, and general welfare)							
Clogged streams	Miles	—	—	1	1.0	—	—
Clogged stream lands	Acres	—	—	—	0.0	—	—
Dangerous highwalls	Lin. Feet	—	—	1,765	1,765.0	—	352
Dangerous impoundments	Count	—	—	1	1.0	—	—
Dangerous piles & embankments	Acres	1	—	21.6	22.6	—	3.3
Dangerous slides	Acres	—	—	—	0.0	—	1
Gases: hazardous/explosive	Count	—	—	—	0.0	—	—
Underground mine fires	Acres	—	—	—	0.0	—	—
Hazardous equip. & facilities	Count	5	—	31	36.0	—	—
Hazardous water bodies	Count	—	—	1	1.0	—	—
Industrial/residential waste	Acres	—	—	—	0.0	—	—
Portals	Count	3	—	12	15.0	—	—
Polluted water: agric. & indust.	Count	—	—	2	2.0	—	—
Polluted water: human consumption	Count	—	—	—	0.0	—	—
Subsidence	Acres	7	—	—	7.0	—	—
Surface burning	Acres	—	—	—	0.0	—	—
Vertical opening	Count	—	—	4	4.0	—	—
Priority 3 (Environmental restoration)							
Spoil areas	Acres	15	—	23	38.0	—	3
Benches	Acres	—	—	4.6	4.6	—	—
Pits	Acres	6	0	13.5	19.5	—	4
Gob piles	Acres	8	0	25.8	33.8	—	—
Slurry ponds	Acres	—	—	.1	0.1	—	—
Haul roads	Acres	7	—	12.7	19.7	—	—
Mine openings	Count	1	—	1	2.0	—	—
Slumps	Acres	1	0	4.6	5.6	—	—
Highwalls	Lin. Feet	34	0	1995	2,029.0	—	300
Equipment/facilities	Count	—	—	—	0.0	—	—
Industrial/residential waste	Acres	—	—	—	0.0	—	—
Water problems	Gal./min.	—	—	—	0.0	—	—
Other	---	—	—	—	0.0	—	—
Note: All data in this table are taken from the Abandoned Mine Land Inventory System (AMLIS).							

APPENDIX A

ENHANCEMENT AND PERFORMANCE REVIEW REPORTS

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2001**

Principles Being Evaluated: Program States and Indian tribes must have approved reclamation plans which meet the requirements of Federal laws and regulations and conduct reclamation in accordance with their plan.

Subelement: Maintenance of Approved Reclamation Plan

Review Dates: Continuous

Personnel: Harold Hill (COR) and Orvel Gustafson (CFO)

Background: AML Reclamation Plans must be amended to comply with changing requirements of SMCRA.

Review Methodology: The Tribal program was continually monitored to assure that any new changes to SMCRA are not implemented without the necessary changes to the program.

Population / Sample: The population and sample size consisted of all potential AML Plan changes.

Findings and Conclusions: The Tribe made no changes to reclamation and related activities during the evaluation period that would require amendments to the Tribe's AML Reclamation Plan.

Corrective Actions: No corrective action is necessary.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2001**

Principles Being Evaluated: Program States and Indian tribes must have approved reclamation plans which meet the requirements of Federal laws and regulations and conduct reclamation in accordance with their plan.

Subelement: Inventory Maintenance

Review Dates: Continuous

Personnel: Johnny Stewart (COR) and Orvel Gustafson (CFO)

Background: OSM's Abandoned Mine Land Inventory System (AMLIS) is an inventory of AML problems. The inventory is used to determine the extent of AML problems and related reclamation accomplishments. AMLIS is also used in determining funding levels for minimum programs. States/Tribes are responsible for maintaining a current inventory of AML projects. This is to be accomplished by the States/Tribes updating the inventory through direct automated access to AMLIS. The review conducted during the last evaluation period (1999) revealed that the Tribe's inventory of projects was incomplete and inaccurate. Thus this topic again was chosen for review during this evaluation period.

Review Methodology: The Tribe's process for maintaining a complete, current, prioritized inventory of eligible unreclaimed sites was reviewed for consistency with the Reclamation Plan. The procedures were tested through a review of the Tribe's internal inventory maintenance activities concerning the sampled sites. The review measured their effectiveness in entering accurate inventory data into AMLIS. The accuracy of the data contained in the Tribe's internal inventory and the data input into AMLIS was verified through project documentation, OSM's knowledge of the sites obtained during site visits and ongoing communications with Program personnel.

Population / Sample: The population consisted of all reclaimed sites and all sites identified for reclamation in the future. The sample consisted of the entire population.

Findings and Conclusions: The inventory appeared to be accurate for the high priority coal sites. Data entry errors concerning the non-coal and Priority 3 sites were noted during previous evaluation years. Errors included duplicate and erroneous problem area numbers, inaccurate problem types, and inaccurate or missing cost data. New PAD's or updates where additional work is being done on projects are being completed are entered correctly. Thus, errors are related to old PAD's where data had been entered incorrectly. During the evaluation year, the Tribe and OSM identified those PAD's where errors exist. Due to a change the Tribal government administration and resulting changes in key personnel in the AML program, the incorrect data in the system was not corrected. Until

the errors are corrected, the Tribe's inventory contained in AMLIS is inaccurate and incomplete and cannot be relied upon to determine the reclamation accomplishment of their program. This is in direct contradiction with the principle being measured and must be corrected.

Corrective Actions: Now that the key positions responsible for this activity have been filled, the Tribe has been directed to finish correcting the inventory during the upcoming evaluation year. The CFO will monitor this activity during the upcoming evaluation year to assure that all deficiencies are corrected.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2001**

Principles Being Evaluated: On-the-ground reclamation is to be achieved in a timely, cost-effective manner.

Subelement: Overall Reclamation Success

Review Dates: Continuous

Personnel: Marvin Stewart (COR), Johnny Stewart (COR), and Orvel Gustafson (CFO)

Background: The Tribe contracts its design activities with a private consulting firm. AML sites are to be reclaimed to the design specifications. The objective of oversight is to determine if the reclamation projects have been achieved as defined in the preconstruction specifications. This is defined as "overall reclamation success".

Review Methodology: The evaluation of the overall reclamation success consisted of site inspections of the sample of completed projects to determine if the Tribe's reclamation objectives were met. A review of the Tribe's internal project documentation and the National Environmental Policy Act documentation was reviewed prior to each site visit to determine the reclamation objectives for the project.

Population / Sample: The population consisted of all reclamation projects completed during the last five evaluation years. The sample consisted the one reclamation project completed during the evaluation year.

Findings and Conclusions: Overall reclamation success is being achieved by the Tribe.

Corrective Actions: No corrective action is necessary.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
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Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Drawdown and Disbursement

Review Dates: October 1, 2001

Personnel: Amy Lopez-Dexter (COR) and Neal Jacquot and Orvel Gustafson (CFO)

Background: The US Treasury requires that grant recipients minimizing the time between the transfer of funds from the US Treasury and the pay out of funds for program purposes to the shortest time administratively possible. The COR makes all payments for their program through check payment. These payments are for payroll and all other costs and are paid biweekly. Timing of drawdowns is made to assure that check issuance occurs on the same day that funds from the drawdown are received in the COR's bank account. The review was conducted to comply with the US Treasury requirement that granting agencies review the grantees drawdown activities to assure that drawdowns are timely and that no excess funds are being held by the grantee.

Review Methodology: The analysis consisted of a review of month-end bank account reconciliations to determine if the book/bank balances are \$0 as of the last day of the month.

Population / Sample: The population consisted of all month-end bank balance reconciliations from October 1, 2000 through September 30, 2001. The sample consisted of the entire population.

Findings and Conclusions: The review revealed that the Tribe's bank balance contained balances at the end of each of the first 10 months of the year. In some cases the reconciled balance was positive and in other cases it was negative. The problem appears to have been corrected in the last 2 months of the evaluation year.

Corrective Actions: Since the problem appears to have been corrected during the last two months of the evaluation year, this item will be included in next year's evaluation to assure that it is corrected.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2001**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Accounting Procedures

Review Dates: October 1, 2001

Personnel: Amy Lopez-Dexter (COR) and Neal Jacquot and Orvel Gustafson (CFO)

Background: Grant recipients are required to account for all program income and expenditures, using generally accepted accounting practices. The Tribe's AML program does not generate program income. Expenditures are a result of payroll, travel, and accounts payable transactions. The COR pays payroll biweekly. The greatest amount of payroll activity occurs during the construction season. Travel occurs primarily for training and meetings with OSM. Some procurement actions require travel. Accounts payable mainly result from the COR's procurement of rental space, supplies, vehicles and gas related services, and utility services. In almost all instances payment of these account payables is conducted on a biweekly basis. Bank reconciliations are to be prepared monthly. No deficiencies were found in the previous evaluation year.

Review Methodology: The review was limited to an examination of bank reconciliations to assure that any differences in bank balances and book balances were being resolved.

Population / Sample: The population consists of all monthly bank reconciliations since inception of the AML Program. The sample consisted of all monthly bank reconciliations for the evaluation year.

Findings and Conclusions: The review revealed that the Tribe was only determining a true bank balance after adjusting the bank statement balance for outstanding deposits and checks. The process did not include a comparison to the book balance to determine if there was a variance. Therefore, cash balances were not validated monthly. Periodically a contracted CPA reconciles drawdowns with expenditures and makes appropriate adjustments. The result is that the bank reconciliations are not accomplishing their intended purpose and book balances are not being adjusted on a monthly basis.

Corrective Actions: The Tribe must develop a bank reconciliation process that reconciles bank balances with book balances.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2001**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Timeliness of Applications and Reports

Review Dates: Continuous

Personnel: Amy Lopez-Dexter (COR) and Orvel Gustafson (CFO)

Background: The Tribe's grant/amendment applications for funds, interim and closeout reports, and requests for Authorizations to Proceed with projects must meet OSM's established timeframes. Grant/amendment applications are required sixty days before the requested effective date of the grant, interim reports are due thirty days after the end of the reporting period and closeouts are required ninety days after the end of the grant period. Requests by the Tribe for Authorizations to Proceed with projects require sixty days lead time to allow OSM to perform historic preservation consultations and obtain necessary approvals. These timeframes were established to assure that funding and project approval actions will result in continuous program operations and timely and accurate recordation of accomplishments and financial data relating to the Tribal AML Program.

Review Methodology: CFO continuously reviewed the timing of Tribal submissions of grant/amendment applications for funds, interim and closeout reports, and requests for Authorizations to Proceed with projects to assure that they met OSM's pre-established timeframes which would result in continuous program operations.

Population / Sample: The population consisted of all grant/amendments applications, requests for Authorizations to Proceed, and reports required during EY2000. The sample equaled the population.

Findings and Conclusions: The Tribe was timely in submitting all grant/amendment applications for funds, interim and closeout reports, and requests for Authorizations to Proceed with projects during the evaluation period.

Corrective Actions: No corrective action is necessary.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
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Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Audits and Implementation of Audit Recommendations

Review Dates: Continuous

Personnel: Amy Lopez-Dexter (COR) and Orvel Gustafson (CFO)

Background: The Tribe is subject to an annual A-133 audit. OSM is responsible to resolve any findings in the audits that pertain to OSM programs. To assure that all findings are promptly resolved, OSM continuously reviews the A-133 process and resolves findings as they develop. All findings resulting from audits conducted in past evaluation years have been resolved.

Review Methodology: The A-133 audit report for the timeframe October 1, 1999 through September 30, 2000 had been completed but the final report had not been issued. The Tribe's performance in this area is normally based on the contents of the audit report. The report will be issued before the end of February 2002. A review of the report findings will be conducted when the report is issued and the results will be reported in the next year's evaluation report.

Population / Sample: The population will consist of all of the findings in the A-133 Audit completed for the period of October 1, 2000 through September 30, 2001. The sample will be equal to the population.

Findings and Conclusions: Findings and conclusions will be made after receipt of the current audit report. The A-133 audit for the prior year contained no findings concerning the Tribe's AML program.

Corrective Actions: The Tribe must provide OSM a copy of the A-133 Audit for the period of October 1, 2000 through September 30, 2001 when it is received from the contracted CPA firm.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
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Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Procurement and Management of Property and Services

Review Dates: October 1, 2001

Personnel: Elizabeth Other Medicine (COR) and Neal Jacquot (CFO)

Background: The COR must conduct procurement actions in accordance with Tribal procedures and manage and dispose of program property in accordance with Tribal procedures while complying with OSM's minimum requirements. Since these areas are high risk areas due to the level of internal controls required, it is selected for review in every evaluation period. There were no procurement or inventory control deficiencies noted in the previous evaluation period.

Review Methodology: Procurement: The review consisted of a review of procurement documentation to assure that procurements were conducted in accordance with Tribal policy.

Management of Property and Services: The review methodology consisted of a review of procurements of property to assure that the property purchase was entered into the property inventory records. The requirements of the Federal Common Rule and the policies of the Tribe were used in determining what property should be included in the property listing.

Population / Sample: The population of the procurement review was all procurement conducted during the evaluation year. The sample that was reviewed were those procurements involving the purchase of property. The population of the property review was all property purchased during the evaluation year. The sample was equal to the population.

Findings and Conclusions: Procurement: All procurements were conducted in accordance with Tribal procurement policy.

Management of Property and Services: All property purchased during the evaluation year was accurately entered into the property records.

Corrective Actions: No corrective action is necessary.