

I. Introduction

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 State regulatory programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Wyoming Program and the effectiveness of the Wyoming program in meeting the applicable purposes of SMCRA as specified in section 102. The report covers the period of October 1, 2001 to September 30, 2002. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Casper Field Office.

The following list of acronyms is used in this report:

ACHP	Advisory Council on Historic Preservation
AQD	Air Quality Division
BLM	Bureau of Land Management
CFO	Casper Field Office
DEQ	Department of Environmental Quality
EQC	Environmental Quality Council
EY	Evaluation Year
LQD	Land Quality Division
NOV	Notice of Violation
NO _x	Nitrogen oxides
NTTP	National Technical Training Program
OSM	Office of Surface Mining Reclamation and Enforcement
OTT	Office of Technical Transfer
PRBRC	Powder River Basin Resource Council
R2P2	Resource Recovery and Protection Plan
RSI	Random Sample Inspection
SHPO	State Historic Preservation Office
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice
TIPS	Technical Information Processing Systems
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
WQD	Water Quality Division
WRCC	Western Regional Coordinating Center
WOC	Wyoming Outdoor Council
WWF	Wyoming Wildlife Federation

II. Overview of the Wyoming Coal Mining Industry

Over ninety-nine percent of the current coal production in Wyoming is from surface coal mines with 92 percent of the coal currently mined in the Powder River Coal Basin near Gillette, Wyoming. Until 1954, underground mines out-produced surface mines, but in that year surface mines began to dominate production. By the late 1970's, surface coal mining production in the Powder River Basin became a major contributor to the Nation's total coal production. Coal-bearing formations underlie more than 40,000 square miles, or approximately 41 percent of Wyoming's total land area. The coal mining industry directly employs approximately 4,733 people providing substantial income and secondary employment in the State. Approximately 97 percent of coal produced in Wyoming is used for electrical generation in 37 states, Canada and Spain. Coal production increased 8 percent in the last year.

The Wyoming Geological Survey estimates the quantity of Wyoming open pit coal reserves is in excess of 26.3 billion tons; an additional 38.3 billion tons of coal reserves can be recovered by underground mining methods. Coal seams in the Wasatch Formation and the underlying Fort Union Formations can exceed 100 feet in thickness with 30 to 80 foot seams being common; 220 foot thick seams have been uncovered. Wyoming coals range from lignite to high volatile A bituminous in rank with the majority of the coal produced being sub-bituminous. Wyoming has the largest reserves of "compliance coal" in the lower 48 States; that is coal of such high quality that utility companies can burn the coal in power plants without expensive scrubbers to remove sulphur dioxide emissions. Currently, over 7 billion tons of coal is leased and 335,200 acres are permitted (Table 2).

Thirty-five active mining operations are permitted in Wyoming; 31 are surface operations, two (2) are underground operations, one permit for a dragline move from one mine site to another and one in-situ operation. The dragline move and in-situ operations are listed as "other facilities" in Table 2 of this report. Currently, nineteen mines of the thirty-five permitted operations are producing coal. The remaining mines are either in temporary cessation, or conducting final reclamation.

Several large mining companies owning more than one mine either have or are considering combining these mines into single permits. P&M's Kemmerer and Skull Point mines have consolidated into one permit. Last year, the Wyodak Resources Corporation consolidated the East Gillette and Clovis Point permits into the Wyodak mine permit. Kennecott Energy has been considering consolidating the Caballo Rojo and Cordero for the past few years.

III. Overview of the Public Participation Opportunities in the Oversight Process and the State Program

A. OSM Outreach Efforts.

The Casper Field Office (CFO) actively encourages public involvement in the Wyoming oversight and regulatory program. This includes CFO initiated contacts with citizen groups and participation in industry activities. Specifically, CFO has visited with citizens representing the Powder River Basin Resource Council (PRBRC), Wyoming Outdoor

Council (WOC), Wyoming Wildlife Federation (WWF), and the Wyoming Mining Association (WMA). The purpose of these contacts is to notify these groups of OSM's activities and to provide the opportunity to interested parties to suggest how OSM's oversight role can assist in improving the State's regulatory program. In the past, CFO held public meetings; however, there was very limited public participation.

CFO has a good working relationship with the PRBRC, WOC and WWF. These organizations are actively involved in OSM and State permitting and inspection oversight activities. Such involvement has resulted in helpful changes in the State program, thus improving the overall quality of the program. PRBRC has taken an active part in the oversight process and meets with the CFO several times a year. WOC and WWF have not been actively involved in coal mining issues in recent years. CFO maintains communications with these groups, informing them of meetings and issues.

B. Wyoming Outreach Efforts

LQD has an advisory board (Land Quality Division Advisory Board) that provides recommendations to the Land Quality Division through a public forum. The Environmental Quality Council (EQC) rules on regulatory matters for all Divisions within the Department (including LQD), and also serves as the administrative hearings board for all Divisions (i.e., Land Quality, Air Quality and Water Quality Divisions) in DEQ. Wyoming's outreach efforts include, but are not limited to LQD Advisory Board meetings, and Environmental Quality Council hearings and public meetings. LQD has met on several occasions with the special interest groups (PRBRC, WOC, WWF, and WMA) to discuss their concerns. In addition, LQD has hosted several technical forums addressing current issues.

LQD also has public participation during the permitting, bond release, and enforcement processes. During the permitting and bond release processes, notices are published and comments are solicited. Citizen complaints are investigated as part of the enforcement process. Previous oversight reviews have found that LQD is highly receptive to the concerns of public, industry and citizen groups. DEQ also has an internet website at: <http://deq.state.wy.us/> with information for the public on permits, current rules, proposed rule changes and contact information.

CFO monitors DEQ's and LQD's meetings and outreach efforts and believes the State does a good job interacting with citizens.

IV. Major Accomplishments/Issues/Innovations in the Wyoming Program

A. Accomplishments

Although the State has not addressed all the outstanding regulatory program deficiencies, the State of Wyoming continues to administer an excellent Title V program (See VII. General Oversight Topic Reviews, B. Monitoring, Program Maintenance). Wyoming actively works to improve its program. Under the State's permitting functions, plans for

an intranet system and modifying the format for reporting data in the permit Annual report are examples of these efforts and achievements.

The Wyoming Department of Environmental Quality, Land Quality Division (LQD) has addressed the majority of the outstanding program deficiencies. LQD has submitted and received approval for four program amendments since 1995. There are six remaining program amendments addressing 36 program deficiencies. Two amendments have been submitted to OSM for review, and one amendment is in the final stages of the State's rulemaking process. One of the remaining amendment packages contains "Ownership & Control rules" (18 deficiencies). WRCC has suggested that LQD delay working on these rules to the last due to OSM's current rule litigation.

The LQD has installed a State intranet -- electronic communications system -- to allow ease of simultaneous permit review and data sharing by three geographically separate LQD offices (Lander, Sheridan and Cheyenne). The intranet is comprised of an LQD file directory accessible only to staff, administered through a Windows NT server in Cheyenne. The employees received training and manuals for using the intranet system in October 2000. LQD has allowed OSM limited access to its data base through its intranet.

The intranet system moves Wyoming one step closer to implementation of electronic permitting. This allows staff in all offices (three districts and technical support) to review simultaneously all electronic documents received from mine operators using one simple interface. Since the system was implemented, improvements have been identified. LQD has contracted the company that designed the intranet system to refine the operating system to be more efficient.

During the 2002 evaluation period, the State's computer system was compromised by illegal entry. As a result, the intranet system was shut down during the initial investigation and data was not entered. Also external users such as the Casper Field Office are excluded from access.

LQD continues to implement its electronic permitting program. Last year, OSM provided funds for a HP DesignJet 800PS color printer. Since then the State has purchase software to assist in its efforts. However, security has become an issue as mentioned above. Progress on electronic permitting has been slowed to assure that the website is secure from hackers. This has made some simple processes complicated and time consuming. The State is confident once security issues are addressed, progress will continue as before.

B. Issues

1. Blasting / NOx Gas Issue

The LQD closely monitors efforts the mining industry is taking to protect the public from NOx gas. The mining industry, coordinated through the Wyoming Mining Association (WMA) continues to institute the protocols initiated two years ago to protect the public as well as, test new measures to reduce the

generation of NOx gas. During the evaluation period, neither LQD nor OSM received any citizen complaints regarding NOx gas.

Under the leadership of the WMA, the mines involved in the Black Thunder and Powder River Basin studies continue to monitor blasts and collect data for reducing NOx. The Black Thunder Study and recommendations for blasting protocols were submitted to the Director of the Department of Environmental Quality (DEQ) for approval. The Director of DEQ requested EPA to review and comment on the report. The EPA's comments highlighted what the EPA believed were serious flaws in the study and recommendations. Before the Director could make a decision regarding accepting the recommendations of the study, RAG Coal (Eagle Butte mine) appealed a permit decision made by the Director and requested elimination of some safety protocols and reduction in others for its blasting operations. RAG is using the Black Thunder Study and recommendations as rationale for these changes to the permit. The Director of DEQ has deferred a decision on the Black Thunder Study pending the outcome of RAG's appeal before the EQC

2. Cooperative Agreement

On December 7, 1999, CFO hosted a forum to discuss Federal land coordination which included participants from four BLM and three LQD offices, the U.S. Forest Service (USFS), WRCC, and CFO. A work group was assembled to establish a Working Agreement under the Wyoming Cooperative Agreement.

The group developed a document outlining the coordination between the LQD and the Federal agencies including the procedures for coordinating between LQD, USFS, BLM and OSM as it relates to each agency's area of responsibilities.

C. Innovations

LQD has established and uses an intranet system, linking all of the district offices. See A. Accomplishments above.

V. Success in Achieving the Purposes of SMCRA as Determined by Measuring and Reporting End Results

To further the concept of reporting "end results," the findings from performance standards and public participation evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts, the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation, and the effectiveness of customer service provided by the State. Individual topic reports are available in the Casper Field Office providing additional details on how the following evaluations and measurements were conducted.

A. Off-Site Impacts:

For the purpose of oversight, 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 people, land, water, or structures. 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.

LQD conducted 132 complete inspections and 243 partial inspections resulting in 10 Notices of Violation (NOVs) and 0 Cessation Orders (COs) being issued. The CFO conducted five complete random sample inspections and ten partial / focused inspections of coal mining operations in Wyoming.

A review of each of these inspections and enforcement actions by LQD and CFO staff indicates no negative off-site impacts were observed (see Table 4).

In addition to this review the CFO conducted a mine specific review of the blasting procedures and dust suppression activities at ten mine sites inspected by the CFO. All operations inspected were conducting their blasting and dust suppression activities in accordance with their approved permits and no negative off – site impacts as defined by REG-8 have occurred.

B. Bond Release

Wyoming LQD completed 2 bond release actions during this evaluation period. There was one phase I release of 1396.61 acres, and one phase III release of 34.3 acres (Table 5).

OSM evaluates the effectiveness of the Wyoming program based on the number of acres that meet bond release standards and have received bond release (Table 5 and Table 6). The CFO believes this measure may not capture the total effectiveness of the Wyoming program in part due to the type of mining operations, the large size of western mining operations and company policies (not to apply for release until large management units are eligible for final bond release). The number of acres released from bond is relatively small in Wyoming when compared to those acres that have been graded, topsoiled and revegetated. Currently in Wyoming approximately 100,000 acres have been disturbed, 35,000 acres have been backfilled and graded and of those acres 3,186 have received Phase I release, 711 Phase II release and 571 Phase III released. Also, records indicate that approximately 7,258 acres have been reclaimed for a minimum of 10 years and may be eligible for full Phase III release. As defined by OSM Directive REG-8 (Oversight of State Regulatory Programs) it appears that the Wyoming program is not effective in facilitating and encouraging bond release, as indicated by the small number of acres released from bond compared to the large quantity of acreage available for release.

The Wyoming coal regulatory program has an approved alternative bonding system. Wyoming's bonding system consists of an "area bond" and an "incremental bond." The

area bond moves each year with the pit progression, which is adjusted through the submission and review of the permit annual report. The incremental bond covers the entire permit area.

Wyoming's alternative bonding system was reviewed as an oversight topic by OSM in 1998. The State was complying with its approved program. It was also noted that public notice was conducted, as the area bond moved/ rolled with the pit progression onto unmined lands. This was accomplished in the permit annual report. By the area bond moving /rolling each year to include new lands, the State is accepting those lands previously part of the area bond as "backfilled and graded," a phase I bond release as defined under the federal regulations. As mentioned above, there are very few bond releases, yet thousands of acres are backfilled and graded, and much of that is topsoiled and permanently seeded.

CFO will be reviewing the permit annual reports during the next evaluation period to determine the acres that have been backfilled and graded that are considered by OSM to be phase I bond releases. Table 5 will show reflect those acres in the EY 2003.

C. Reclamation Success and Program Performance

OSM evaluates and reports annually on the effectiveness of State programs in ensuring successful reclamation on lands affected by surface coal mining operations. Success is determined based on the number of acres that meet the bond release standards and have been released by the State. In addition, Field Offices conduct specific evaluations to evaluate the State's performance.

Using the number of acres released from bonds as the criteria, the Wyoming program has not achieved a large amount of reclamation success. However, as described above, bond release does not adequately reflect the performance of the program. To measure this, the CFO reviewed hydrologic reclamation and contemporaneous reclamation during this evaluation year. Tables 5 and 6 summarize reclamation activity within the State.

Information was collected to measure program performance in the following areas four performance areas.

1. Reclamation Success As Measured By Bond Release

Backfilling and grading achievements are measured by the acres of phase I bond release (OSM Directive REG-8, pg.I-9). The proper placement of soil resources and vegetation stability are measured by the acres released under phase II release (REG-8, pg I-10). The success of postmining land use, successful revegetation , and the restoration of surface and ground water quality and quantity are measured by the acres of phase III bond release (REG-8, pg. I-11-12).

Chart 1. Bond Release –as a Measurement of Reclamation Success

Measurement of Reclamation Success	Acres available for bond release	Acres of Bond Released		
		Phase I / %	Phase II & %	Phase III & %
Backfill & Grade	35,081	3,186 / 9.1%	NA	NA
Soil Replacement	33,403		3,186 / 9.5%	NA
Revegetation	33,403		711 / 2.1%	NA
Achieve Postmining Use, Hydrologic Reclamation, and Timeliness of Reclamation	7,258			571 / 7.9%

2. Program Performance

a) Hydrologic Reclamation

Groundwater recharge quality and quantity are measured in terms of acreage of Phase III release. The State in the Phase III Bond Release documents and determines whether ground water recharge and restoration of the hydrologic balance has been achieved. Only 7.9 % of those lands eligible have received phase III bond release. In addition to the review required by REG-8, the CFO evaluated the reconstruction of Alluvial Valley Floors at four mining operations (North Antelope/Rochelle Complex, Belle Ayr, Buckskin and Eagle Butte) and found that all operations have and are reconstructing the AVF’s in accordance with their approved reclamation plans, and groundwater recharge capacity and ground water quantity and quality restoration is occurring and will continue to occur.

b) Contemporaneous Reclamation

Although not an on-the-ground measure of reclamation success reported in Table 5 and Table 6, contemporaneous reclamation 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.

The intent of this measurement is to provide an overall general picture of how

successfully reclamation is staying current with mining in the State. Information provided to complete Table 5 and Table 6 in the annual reports summarizes mining and reclamation activity and should be considered a source for this measurement.

While the CFO believes this measure may not capture the total effectiveness of the State program in part due to the type of mining operations, the large size of western mining operations and company policies (not to apply for release until large management units are eligible for final bond release). The number of acres released from bond is relatively small in Wyoming when compared to those acres that have been graded, resoiled and revegetated. As defined by OSM Directive REG-8 (Oversight of State Regulatory Programs) the CFO believes that the Wyoming program is not effective in its goal of having all disturbed lands reclaimed to the approved postmining land use as contemporaneously as possible thereby, facilitating bond release.

In addition to the review as required by REG-8 the CFO reviewed the contemporaneous reclamation / backfilling and grading schedules for nine operations. The intent of this measurement is to provide an overall general picture of how successfully reclamation is staying current with mining progression in Wyoming. The following charts and graphs are used to highlight the CFO's concern that the rate at which lands are being reclaimed in Wyoming is decreasing when compared to the rate of disturbance, approximately 3 to 1, thereby creating a backlog of lands needing reclamation, contributing to a delay in contemporaneous reclamation and subsequent bond release. The CFO will continue to evaluate this portion of the Wyoming program.

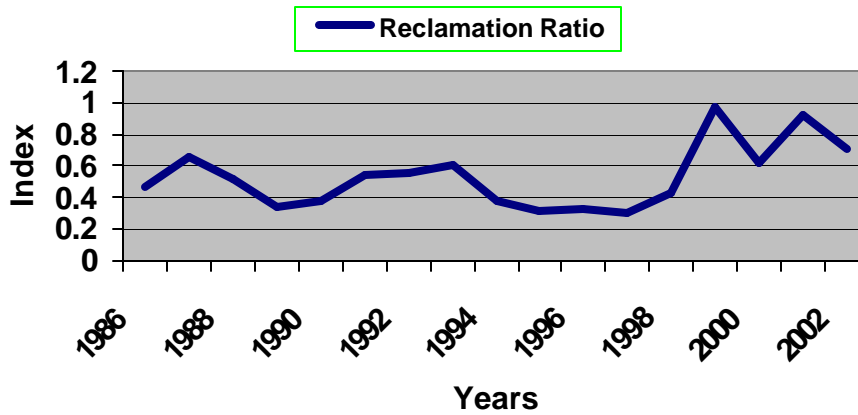
Chart 2. WYOMING STATEWIDE RECLAMATION SUMMARY

YEAR	ACRES DISTURBED	ACRES RECLAIMED	RATIO OF RECLAMATION VS DISTURBED
1986	3152	1456	.46
1987	2521	1630	.65
1988	2610	1355	.52
1989	2967	994	.34
1990	2833	1068	.38
1991	2807	1517	.54

YEAR	ACRES DISTURBED	ACRES RECLAIMED	RATIO OF RECLAMATION VS DISTURBED
1992	2919	1641	.56
1993	3173	1888	.60
1994	3327	1219	.37
1995	3873	1234	.31
1996	3954	1311	.33
1997	3613	1098	.30
1998	4303	1973	.43
1999	3868	3541	.97
2000	5185	3174	.62
2001	3564	3295	.92
2002	4067	2857	.70

Total acres disturbed equaled 100,096 and total acres reclaimed equaled 33,403 for a Ratio of .34 on a statewide basis.

Graph 1. Reclamation Index



Graph 2. Disturbed vs Reclaimed

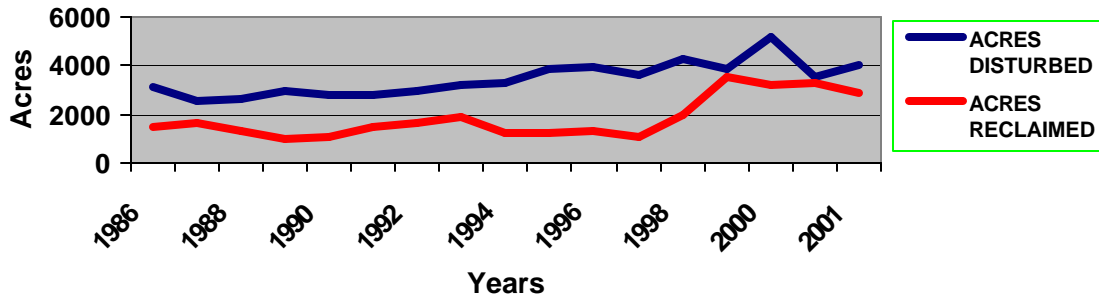


Chart 3 lists the nine operations that were used to review contemporaneous reclamation / backfilling and grading schedules. The intent of this measurement is to provide an overall general picture of the reclamation trends in relation to the mining progression. Table 6 shows the cumulative trends of all mines in Wyoming. Table 6 does not address the trends of individual mines, where problems may exist.

Chart 3. MINE SPECIFIC RECLAMATION SUMMARY

COMPANY	ACRES DISTURBED	ACRES BACKFILLED, GRADED & SEEDED	RATIO OF BACKFILLED, GRADED & SEEDED VS DISTURBED
<i>Kemmerer Mine</i>	2806	1219	.43
<i>North Antelope/Rochelle Complex</i>	8496	750	.08
<i>Black Butte Mine</i>	10477	3619	.35
<i>North Rochelle Mine</i>	1991	35	.02
<i>Codero Mine</i>	5283	1650	.31

COMPANY	ACRES DISTURBED	ACRES BACKFILLED, GRADED & SEEDED	RATIO OF BACKFILLED, GRADED & SEEDED VS DISTURBED
<i>Caballo Rojo Mine</i>	3068	913	.30
<i>Belle Ayr Mine</i>	4184	1607	.38
<i>Buckskin Mine</i>	2392	757	.32
<i>Eagle Butte Mine</i>	2934	371	.13

Approximately 335,220 acres are currently bonded (Table 5). By end of the evaluation period, approximately 4067 acres were permanently reclaimed with a permanent seed mixture and ready for application for phase I and phase II bond release. Table 6 contains data collect from 1986 to 2002, giving a long overview of the mining and reclamation activities in Wyoming.

Graph 3. Reclamation Ratio

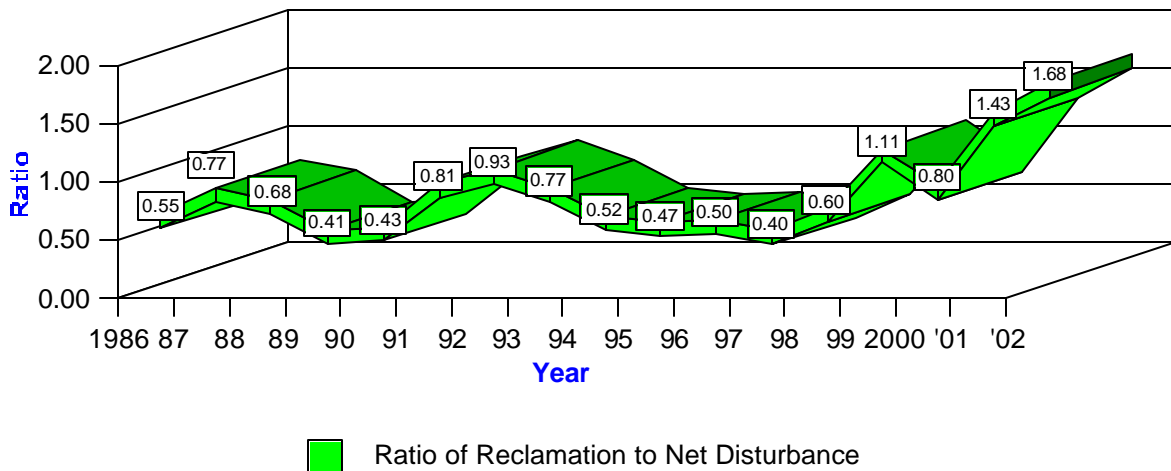


Figure 3. illustrates the ratio of the yearly permanent reclamation compared with the net disturbance found in Table 6. The net disturbance are all areas available for reclamation that are not being used for long-term approved disturbances such as: stockpiles, active pits, access roads, haul roads, railroad right-of-ways, coal preparation and loading sites, offices, shops, sediment ponds, and other approved uses. The 2002 ratio shows a 17 percent increase of reclamation, as well as, a 14 percent increase of newly disturbed lands. However, most of that newly disturbed area was for long-term facilities. The ratio of reclamation to net disturbance for EY 2002 is 1.68. A ratio of 1.0 indicates that the reclamation and net disturbance are equal. A ratio higher than 1.0 indicates that the reclamation is greater than the net disturbance, while a ratio less than 1.0 indicates the opposite.

c) Inspection and Enforcement

The LQD continues to conduct frequent and thorough inspections. The LQD conducted 137 complete inspections and 242 partial inspections. This is three fewer inspections than is required for the Wyoming Program. The Casper Field Office conducted five complete random sample inspections and ten partial / focused inspections of coal mining operations in Wyoming.

LQD inspection reports are complete, accurately document site conditions and mine activity, and give the status of any violations. The inspection reports have continuity with previous reports. All LQD performance standards were reviewed and documented during complete inspections and the reports contain a discussion of the current mine status.

In addition, Wyoming Water Quality Division (WQD) only conducted 135 inspections less than the required 140 inspections. Each partial inspection report documented performance standards reviewed and permit requirements reviewed as well as the portions of the mine site inspected.

LQD maintains an inspectable units list and a inspection database sufficient to meet its program requirements. LQD has made this database available to the CFO.

LQD issued 10 Notices of Violation and 0 Imminent Harm or Failure to Abate Cessation Orders during this evaluation period. No pattern of violation exists or show cause hearings / alternative enforcement action (bond forfeiture) were initiate during this evaluation period.

The CFO did not issue any Ten-Day-Notices (TDNs) during this review period.

VI. OSM Assistance

A. TRAINING

OSM offers training courses to State regulatory authority employees at no expense to the State (other than salary and benefits) or the attendee. OSM's technical training program

provided a wide range of courses (listed below). Fourteen Wyoming LQD employees received training from OSM's technical training program at a cost of \$12,433.45 during EY2002.

The fourteen LQD employees participated in the following National Technical Training Program (NTTP) sponsored training:

Erosion & Sediment Control-	5 staff
Enforcement Procedures -	1staff
Principles of Inspection -	1 staff
SMCRA Biological Assessment	1 staff
Bonding: Cost Estimation -	2 staff
Surface/Groundwater workshop -	1 staff
Advanced Blasting Workshop (pilot) -	1 staff
Evidence Preparation and Testimony -	1 staff
Permit Findings Workshop -	1 staff

B. Office of Technology Transfer (OTT)

During the 2002 Evaluation Year an OSM representative meet several times with Wyoming staff as part of ongoing assistance in development of technical vegetation success standards. The OSM representative was also involved in discussions on the development of criteria for evaluating vegetative diversity and the selection and description of vegetation sampling techniques. Wyoming's goal is to revise and update its revegetation regulations to include appropriate success standards and statistically valid sampling techniques. As part of this assistance the OSM representative attended several meetings with Wyoming staff from the three regions within the State and one meeting with State and industry representatives. OSM continues to provide technical assistance in this area at the request of the State.

C. COMPUTER SUPPORT (TIPS)

TIPS Training Summary:

Chart 4. TIPS Training Summary

NAME	COURSE NAME	COURSE DATE	TRAINING SITE
Foster, Michael	ArcGIS 8.x for Mapping and Reclamation	11/06-09/01	Denver
Bautz, Melissa	ArcGIS 8.x for Mapping and Reclamation	11/06-09/01	Denver
Ross, Pam	ArcGIS 8.x for Mapping and Reclamation	11/06-09/01	Denver
Bilbrough, Carol	StatGraphics Plus for Windows	12/04-06/01	Denver

NAME	COURSE NAME	COURSE DATE	TRAINING SITE
Bilbrough, Carol	ArcView 3.2 GIS	11/27-29/01	Denver
Boyle, Amy	ArcView 3.2 GIS	11/27-29/01	Denver
Robb, Ernie	ArcView 3.2 GIS	11/27-29/01	Denver
Simon, Kent	ArcView 3.2 GIS	11/27-29/01	Denver

Seven (7) people were trained in 3 software packages in 3 training courses. The training courses and software package for which training was received included ArcView 3.2a, ArcGIS 8.1 for Mapping and Reclamation, and Statgraphics Plus for Windows. Four (4) of the clients trained from Wyoming were women. Training took place in Denver, Colorado.

TIPS Software Distribution

Wyoming has received the TIPS new software & upgrades distribution in January 2002. This software included: AutoDesk Map 5, AutoCAD 2002 Learning Assistance, StratiFact 5.2, and SDPS 5.1Z. North Dakota is accessing the KeyServer, FlexLM, and ADLM - FlexLM license Servers and Managers.

TIPS Hardware

Wyoming received one GeoExplorer III GPS unit in FY 2002.

C. CULTURAL RESOURCES

The CFO continues to coordinate the National Historic Preservation Act, Section 106 cultural resource compliance for the State of Wyoming. The CFO cultural resource coordinator works closely with the OSM Archaeologist in WRCC, Wyoming Department of Environmental Quality (DEQ), Bureau of Land Management (BLM), Wyoming State Historic Preservation Office (SHPO), the Advisory Council on Historic Preservation (ACHP), U. S. forest Service (USFS) and the affected mining companies to process cultural resource clearances on new mining lands and previously permitted areas that have not been surveyed for cultural resources. This detailed involvement is necessary because the Wyoming DEQ does not have a qualified archaeologist on staff and therefore, the SHPO will not accept cultural resource work from them. The Director of the DEQ has taken the position that, by law, the Section 106 process is the responsibility of the lead Federal agency and that requires that OSM be responsible for this work on any mines under permit. Prior to OSM involvement with a parcel of land, the land managing agency (BLM or USFS) would be the lead Federal agency and would initiate the Section 106 process. The DEQ has indicated that they have no plans to place an archaeologist on staff since all Section 106 clearances are covered by Federal agencies. During this

reporting period, action was taken on 9 projects in Wyoming, which included 4 Memorandum of Agreements with the various agencies mentioned above.

D. Revegetation Success Standards

During the 2002 Evaluation Year an OSM representative meet several times with Wyoming staff as part of ongoing assistance in development of technical vegetation success standards. The OSM representative was also involved in discussions on the development of criteria for evaluating vegetative diversity and the selection and description of vegetation sampling techniques. Wyoming's goal is to revise and update its revegetation regulations to include appropriate success standards and statistically valid sampling techniques. As part of this assistance the OSM representative attended several meetings with Wyoming staff from the three regions within the State and one meeting with State and industry representatives. OSM continues to provide technical assistance in this area at the request of the State.

VII. General Oversight Topic Reviews

This section contains a brief description of the topics reviewed during the evaluation year. Major accomplishments, issues and innovations are addressed in Section IV of this report. The detailed documentation of all reviews are available in the central files at the Casper Field Office.

TOPICS

A. Program Maintenance (Amendments)

Wyoming's Coal Regulatory Program contains unresolved program issues identified in OSM's letters issues pursuant to 30 CFR 732.17 and subsequent required program amendments and disapprovals identified under 30 CFR 950. Wyoming and OSM has identified all of the program deficiencies and established a schedule for submitting program amendments to OSM. OSM nation-wide has set a goal to resolve all outstanding program deficiencies by December 31, 2001.

Wyoming has not been successful in meeting its schedule for rule changes. There have been bureaucratic and political barriers within the State's rulemaking process hindering progress in recent years. Many amendments are heard before the Land Quality Advisory Board and Environmental Quality Council several times without passing through to final rulemaking and submission to OSM for review and final decision.

The Casper Field Office continues to work with the LQD to revise schedules and to provide technical assistance. However, the Wyoming rulemaking process is such that it is highly unlikely that all remaining program amendments will be submitted to OSM by December 31, 2001. As of October 2002, LQD will be losing it's principle rulemaking specialist. This individual will be difficult to replace due to her specialized background and institutional memory. LQD plans to recruit another State employee to fill the position

CFO and LQD have thoroughly reviewed the outstanding program deficiencies. CFO has concluded, on the basis of its review and field monitoring, that there were no immediate potential environmental problems or threats attributed to the program deficiencies.

Of the original 126 deficient rules identified in 1994; 52 have been approved, 37 are in amendment packages (either being reviewed by OSM or within the LQD's rulemaking process), and 36 remain to be addressed (18 of these are Ownership & Control rules). Wyoming has completed four program amendments since 1995 and submitted them to OSM for approval. There are six remaining program amendments. Two amendments have been submitted to OSM for review, and one amendment is in the final stages of the State's rulemaking process. The following is the current schedule for submitting amendments to OSM as proposed by LQD and approved by CFO:

Hydrology	Submitted July 20, 2002
Permit Processing and Administration	Submitted April 30, 2002
Roads	December 2002
Coal Exploration	May 2003
Bond Release and Vegetation	March 2004
Non Coal Waste	March 2005
Valid Existing Rights	Postponed at OSM request
Ownership and Control	Postponed at OSM request

In the three years, the LQD has stepped up its efforts to eliminate deficiencies. One new amendment package was initiated into its rulemaking process. The Wyoming LQD Administrator and DEQ Director have discussed the problem of processing amendments with the Land Quality Advisory Board and Environmental Quality Council.

In May 2002, CFO and WRCC met with the Administrator for the LQD and discussed the O&C and VER rules. It was OSM's recommendation to postpone address these program deficiencies until last, due to the OSM situation with these rules. This way if OSM changes their rules due to current litigation, the State will only have to make one change to the most current standards.

The Casper Field Office continues to support and monitor Wyoming's efforts to eliminate program deficiencies.

B. Financial Administration

CFO conducted financial oversight during the evaluation period. CFO visited DEQ offices in Cheyenne, Wyoming and reviewed financial information. Specifically, drawdowns, timeliness of grant applications and reports, program income, travel, Federal lands documentation, accounting, audits and property were reviewed.

A drawdown analysis was conducted for the existing Administration and Enforcement (A&E) grant. There had been 5 draws. Each was sampled. Wyoming drew the correct amounts for each draw and the draws followed appropriate expenditures.

DEQ was timely regarding both reporting financial status of the existing Administrations and Enforcement grant and filing their grant application.

All program income earned under the A&E grant is being reported and applied to the grant. Permit fees are the sources. No problems were found.

Wyoming has new travel policies and procedures. Travel vouchers were sampled to ensure that DEQ is following their own travel policies and procedures. Authorization, per diem and other cost allowances were found to meet the requirements of the policies and procedures.

Because the State permits substantial Federal lands, a review was made of the documentation of Federal lands currently permitted. This review helps assure that the State/Federal split of the A&E grant is accurate. No problems were found.

DEQ's accounting system was reviewed to ensure that hours charged to the A&E grant were legitimate and not being directed by management. Interviews were conducted. No problems were found.

Wyoming DEQ is has completed an A-133 Audit for one year ended June 30, 2001. There were no findings. There are no outstanding findings for any previous A-133 Audits. A current audit is being conducted for the year ended June 30, 2002.

DEQ continues to report property and transfer property in a timely matter. A new property inventory was taken during the Spring of 2001, meeting Common Rule requirements.

Appendix A:
**Tabular Summary of Core Data to Characterize the
Program**

Appendix B:
State Comments on the Report

Appendix C:
CFO Response to State Comments



The State
of Wyoming

DEC 13 2002



Jim Geringer, Governor

Department of Environmental Quality

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7388 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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December 13, 2002

Guy Padgett
Office of Surface Mining
Federal Building
100 East "B" Street
Casper, Wyoming 82601-1918

RE: OSM Draft Evaluation Report for EY 2002

Dear Mr. Padgett:

I have reviewed the draft report and have several comments. Most are minor or editorial in nature.

The cover of the report lists the dates as October 1, 2000 to September 30, 2001. It should be October 1, 2001 to September 30, 2002.

RE: II. Overview of the Wyoming Coal Mining Industry

The first paragraph states that by the late 1960's surface coal mining production became a major contributor to the Nation's total coal production. Should this be the late 1970's because only three mines were producing significant quantities of coal until the late 1970's?

RE: IV. Major Accomplishments/Issues/Innovations in the Wyoming Program

A suggestion could be the number of program deficiencies either addressed or being processed in the last several years.

RE: V. Success in Achieving the Purposes of SMCRA as Determined by Measuring and Reporting End Results

2.c) Inspection and Enforcement

The WQD has accounted for all but five of the required inspections. The inspector is on vacation and will be checked with upon his return.

RE: VI OSM Assistance

A. Training

The first paragraph states that fourteen LQD employees received training and the second states sixteen received training.

C. Cultural Resources

The middle of the paragraph states "The State has taken the position..." To clarify it should state the SHPO has taken the position.

RE: VII. General Oversight Topic Reviews

A. Program Maintenance (Amendments)

The third paragraph uses plural 'specialists' when it should be singular.

The middle paragraph on page 17 states that one new program amendment packages was initiated into its rulemaking process. Either more than one was initiated or 'packages' should be singular.

RE: Table 3

The table lists 84 incidental boundary revisions when there were only 3 IBRs. There were 84 surface non-substantial revisions and 4 underground non-substantial revisions.

If you have questions, I can be reached at 307-777-7046.

Sincerely,



Richard A. Chancellor
Administrator
Land Quality Division

RAC:sg

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