



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Summary Report

for the

Regulatory and AML Programs

Administered by the State

of

MARYLAND

for

Evaluation Year 2004

(July 1, 2003, through June 30, 2004)

August 2004

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I. Introduction/Summary

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 OSM has approved as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Maryland Program and the effectiveness of the Maryland Program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of July 1, 2003, through June 30, 2004. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Pittsburgh Field Division (PFD).

Summary



Shallmar Title IV Reclamation Project

For the evaluation year, oversight data and studies indicate that the Maryland Program has been effective in meeting the goals of SMCRA. Maryland has conducted a program where active mining sites are, with few exceptions, in compliance with planning, mining, and reclamation standards. Reclamation has been thorough and has proceeded in a contemporaneous fashion. A study of the three most recently issued permits indicates that, on average, seventy three percent of the affected area has been backfilled and planted at any time.¹ Ninety-three percent of sites reviewed exhibit no off-site impacts.

Maryland has made significant progress in assuring the solvency of their alternative bonding system by cutting existing unreclaimed forfeitures in half. It is estimated that the



Oak Hill Acid Mine Drainage Project

funding deficit noted in EY02 will be eliminated by August of this year.

¹ 64 % in 1998 study, 68 % in 1999 study, 87 % in 2000 study, 75% in 2001, 78% in 2002, 91% in 2003 study.

Maryland has also successfully addressed seven of the nine program amendments which were outstanding at the beginning of the evaluation year, with an eighth program amendment expected to be completed before the end of the calendar year.

In addition to mining and reclamation efforts, the Maryland Department of the Environment (MDE) has continued to involve the public through programs such as the Appalachian Clean Streams Initiative and Watershed Cooperative Agreements.

This year=s evaluation has identified some concerns which are addressed in more detail under the “Regulatory Program Issues” and “AML Program Issues” subsection. The concerns include lands unsuitable database updates, Lien requirements for Clean Streams Projects, and the Abandoned Mine Land Information System (AMLIS) data entry and maintenance issues. Maryland has already begun measures to address all of the above concerns. OSM will work with MDE to resolve these issues and others addressed in the evaluation year 2005 Performance Agreement between MDE and OSM. This will help ensure the continuation of a strong and viable program in the State of Maryland.

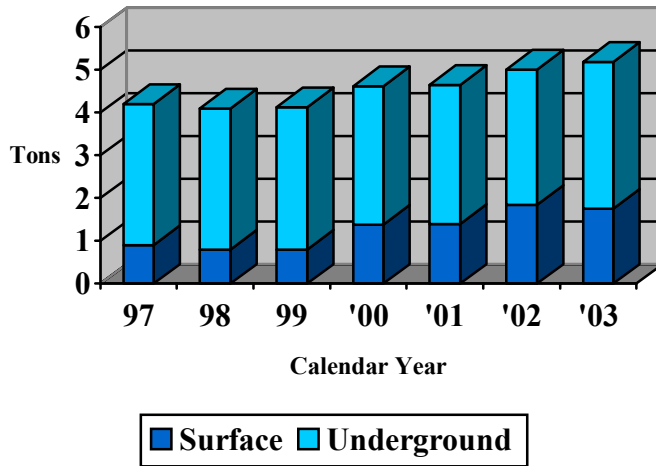
The sections which follow provide additional detail on program successes and issues identified in the 2004 evaluation year. Below is a list of acronyms used in this report:

ABS	Alternative Bonding System
ACSI	Appalachian Clean Streams Initiative
AMD	Acid Mine Drainage
AML	Abandoned Mine Lands
AMLIS	Abandoned Mine Land Information System
AOC	Approximate Original Contour
APS	Allegheny Power System
BOM	Maryland Bureau of Mines
COMAR	Code of Maryland Regulations
EPA	Environmental Protection Agency
LRC	Maryland Land Reclamation Committee
NOVO	Notice of Violation and Order
NRCS	Natural Resources Conservation Service
MDE	Maryland Department of the Environment
NEPA	National Environmental Policy Act
OSM	Office of Surface Mining Reclamation and Enforcement
PFD	Pittsburgh Field Division
SMCRA	Surface Mining Control and Reclamation Act of 1977
SOAP	Small Operator Assistance Program

II. Overview of the Maryland Coal Mining Industry

Coal mining in western Maryland began in the early 1700's, accounting for some of the earliest coal ever to be mined in the eastern United States. By 1820, several mines were operating in the Eckhart, Frostburg, and Vale Summit areas. Between 1900 and 1918, deep mine production peaked between four and five million tons annually with an historical high of 5.5 million tons in 1907. Most of these mines were developed up-dip to drain water away from the mines. As a result of this, water high in acid and iron drained into streams. Today, acid mine drainage from abandoned coal mines is Western Maryland's most serious water pollution problem. After World War II, underground mining declined in Maryland. By 1977, surface mining accounted for 91 percent of the total production. Since then, production at underground mines has recovered and surpassed surface production, accounting for approximately 65 percent of the total production in 2002, down by 5

Maryland Coal Production - Millions of tons (gross)



percent from the previous year.² During the 1980's, the amount of coal mined in Maryland fluctuated between three and four million tons, with the greatest production occurring in 1981 (4.5 million tons). Since that time, as shown graphically on the chart at the left, the tonnage mined has been generally increasing over the last five calendar years to a production of over five million short tons for 2003.

The increase is attributable primarily to surface coal mine production. Since 1999, there has been a one hundred twenty percent increase in surface coal production while underground production has remained nearly constant. The continued increased production in surface mined coal in Maryland is primarily attributed to the continued operation of the AES Electric Cogeneration plant located near Cumberland in Allegany County.

Coal production in Maryland accounted for .41 percent of total U.S. coal production in 2002³ ranking eighteenth nationally in coal production of the 26 states reporting coal production. Production is expected to remain stable.

²Source – Energy Information Administration, U.S. Department of Energy, 2002 Annual Coal Report, Table 2, Coal Production and Number of Mines by State, county, and Mine Type, 2002. The majority of underground coal production in Maryland is generated from one mine employing approximately 250 people.

³Source - Energy Information Administration, U.S. Department of Energy, 2001 Annual Coal Report, Table 6, Coal Production and Number of Mines by State and Coal Rank

The AES Warrior Run Cogeneration facility came on line near Cumberland in Allegany County in 1999. It has a net power output capacity of 180 megawatts that is sold to Allegheny Power Systems (APS) under a 30-year power purchase agreement. The plant was constructed to burn only western Maryland coal with a clean coal technology using a circulating fluidized bed boiler. Approximately 600,000 tons of coal are burned each year. Limestone used in the cogeneration process is also mined locally. In

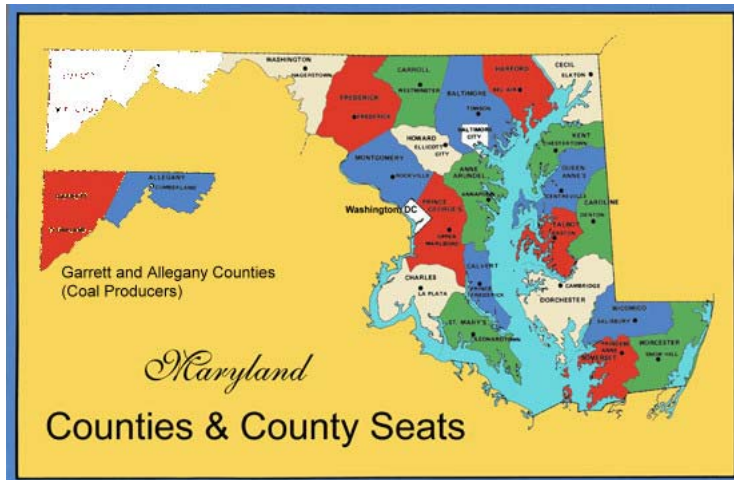


addition to electric generation, the plant produces liquid carbon dioxide (CO₂) that is sold commercially. Statewide, Maryland consumed approximately 12.4 million tons of coal in 2002⁴ and ranks twenty-third nationally in total coal energy consumption.⁵ Consumption has decreased by 1.1 percent over the past year. Maryland employs approximately 511 coal miners (year 2002 statistic), an increase of 8.7% during the past year.⁶

⁴ Source – Energy Information Administration, Annual Coal Report. 2001, Table 27, U.S. coal Consumption by Census Division and State.

⁵ Source – Energy Information Administration, Table 26, U.S. Coal Consumption by End Use Sector, by Census Division and State, 2002.

⁶ Source – Energy Information Administration, Table 18, Average Number of Employees by State and Mine Type, 2002, 2001.



Today coal mining in Maryland is confined to Garrett and the western portion of Allegany County. The topography in this area comprises gently rolling terrain with occasional steep slopes. Maryland State law prohibits surface mining on steep slopes. The Conemaugh and Allegany geologic formations contain five major minable fields or basins in the State. These include the Upper Youghiogeny, Lower Youghiogeny, Casselman, Upper Potomac, and Georges Creek. The Georges Creek

Basin contains the most recoverable coal reserves in the State, followed by the Upper Potomac and the Casselman. There is no mining in the Upper Youghiogeny field. The recoverable coal reserves in Maryland are approximately 65 million tons,⁷ which ranks Maryland sixteenth nationally.

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

There are numerous opportunities for citizens, the industry, and environmental groups to participate in the Maryland Regulatory and Abandoned Mine Lands (AML) programs. Opportunities for public involvement include outreach efforts, organizational involvement, and formal regulatory participation.

Outreach

Outreach is the interaction on a routine, periodic basis of OSM with state and local coal associations, businesses, citizens and environmental organizations to actively seek out and determine their areas of concern and suggestions.

During the evaluation year, representatives from OSM, the Maryland Fisheries Program, Vista, Westmar Middle School students, and Garrett Community



Westmar Middle School Arbor Day Tree Planting

⁷Source - Energy Information Administration, U.S. Department of Energy, Recoverable Coal Reserves and Average Recovery Percent



Water Testing, Westmar Middle School

college students participated in an Arbor Day program by planting trees and conducting stream surveys on coal mine sites in Allegany County, Maryland, to promote public awareness and involvement in mining reclamation activities.

In addition, three watershed groups and two community action agencies take an active role in mining and reclamation activities in cooperation with Maryland.

OSM continues to involve the public, state, and others in the oversight of the Maryland program. MDE routinely provides opportunities for public participation in both the Title IV and Title V programs. These meetings also involve OSM representation. All hearings and public meetings provide a forum for the public, industry, the university community, and local politicians to voice their opinions on various issues. In addition, OSM provides the public the opportunity to participate in the annual performance agreement and keeps them abreast of program activities via a monthly newsletter.

Organizational/Public Involvement

Organizational involvement in restoring Maryland's mined lands continues to grow in both the regulatory and abandoned mine lands program. Maryland continues to broaden its involvement with such groups as watershed associations, National Park Service, Natural Resource Conservation Service, Trout Unlimited, and others. Through increased partnering opportunities with various groups and agencies, Maryland is able to leverage additional funds and take on additional land reclamation projects.

Regulatory Program

The Land Reclamation Committee (LRC) was formed in 1967 through legislation enacted by the State of Maryland. The Committee is composed of 13 members representing the mining industry, soil conservation districts, counties, citizens, and State agencies. The Committee studies, recommends, and approves procedures to reclaim, conserve, and replant land affected by coal mining in Maryland. This includes the review of mining and reclamation plans, progress reports, and final reports. It establishes plans and procedures, as well as practical guidelines, for prompt and satisfactory reclamation, conservation, and revegetation of all lands disturbed by coal mining within the State. The Committee meets periodically and OSM representatives attend the meetings along with members of the public, industry consultants, and coal operators.

Under the Code of Maryland Regulations (COMAR), the public can formally participate in the regulatory program by requesting hearings on the issuance of permits and bond releases; petitioning to have areas declared unsuitable for mining; requesting inspections of active coal mine operations where there is reason to believe a violation is occurring (citizen complaints); requesting pre-blast surveys if living within one half mile of the permit area; and appealing

Departmental decisions through the appeal process.

Abandoned Mine Land Program

Maryland continues to be an active participant with local communities, watershed groups, and State and Federal agencies in accomplishing mutual Abandoned Mine Land Program goals. These goals usually involve the clean-up of acid mine drainage (AMD) problems that impact local streams. The Watershed Cooperative Agreement Program is a part of the Appalachian Clean Streams Initiative (ACSI) and is intended as a means of funding not-for-profit groups, especially small watershed groups that undertake local AMD reclamation projects. Cooperative agreements are signed between OSM and these groups at the time of the grant award. Grants can range from \$5000 to \$125,000 and there is a two-year performance period to complete the particular project. An integral part of the Cooperative Agreement program is the requirement that the proposed project be done by a group of partners and these partners must provide a substantial portion of the total resources needed to complete the project.

Some of the more active partners Maryland works with include:

Allegany County Public Works
Appalachian Environmental Lab
Braddock Run Watershed Association
EPA
Garrett County Community Action Agency
Garrett County Public Works
Georges Creek Watershed Association
MD DNR
MD Small Streams & Estuaries Program
NRCS
Western MD RC & D
Yough River Watershed Association

These groups have become increasingly important for funding larger scale AMD projects when Maryland's funds are limited due to its minimum program status. Maryland personnel actively participate in speaking at public forums and watershed meetings. They are also active in Earth Day activities and speaking to schoolchildren.

Maryland actively assists OSM interns and AmeriCorps Volunteers who work with local watershed groups.

Impacts/Results of Public Participation

Regulatory

There were seventeen public requests for pre-blast surveys during the evaluation year. There

were nine LRC meetings held during the period. Four of the meetings were regularly scheduled office meetings, one was to review reclamation plans for new permits and four were for evaluating revegetation eligible for phase II and/or III bond release. There were no public petitions for designating lands unsuitable for mining and reclamation operations in Maryland during the evaluation year, nor were there any citizen complaint Ten Day Notices (TDN's) issued by OSM. No hearings were requested on the issuance of permits or bond releases.

AML

During the 2004 Evaluative Year the State of Maryland continued to work with watershed groups and local development agencies and county governments to promote AMD abatement efforts.

In Western Maryland, pollution as a result of past coal mining practices continues to be the major problem impacting the area's streams and rivers. Through the Appalachian Clean Stream's program and the Watershed Cooperative Grant Program, Maryland partners with the public in doing AMD remediation projects. Since program inception in 1999, Maryland has partnered with private groups and agencies to complete nine ACSI/Watershed Cooperative projects. Presently, there is one project underway on the Casselman River that involves the restoration of the habitat for the Hellbender salamander. Two projects are funded but have yet to start in the Youghiogheny River watershed. In addition, there are three applications pending from the Western Maryland RC&D and the Garrett County Community Action Agency. Both of these agencies work cooperatively with the State of Maryland, the Georges Creek Watershed Association and the Youghiogheny Watershed Association and others to develop and implement AMD projects.

IV. Accomplishments/Issues in the Maryland Program.

MDE continues to be successful in achieving the purposes of SMCRA. The Maryland program is firmly established, the public's rights and interests are being protected, mining is being conducted effectively, efficiently, and in an environmentally sound manner, and abandoned mine lands are being reclaimed. In addition to these general measures of success, MDE has been actively involved in several program improvement initiatives and activities. These are discussed below, along with outstanding issues and concerns that are being addressed in a mutual effort to maintain a high level of quality in the Maryland program.

Regulatory Program Accomplishments

MDE's Title V program has remained effective in the planning, mining, and reclamation of active sites. A study of the three most recently issued permits indicates that, at any time, on average, seventy-three percent of the affected area has been backfilled and planted.⁸

Ninety-two percent of sites reviewed exhibited no off-site impacts during this evaluation year.

MDE continues to work toward refining and improving existing processes and procedures under their approved program, as well as taking innovative measures in establishing new programs. During this evaluation period, MDE resolved several existing topical study issues, improving the Maryland program in the following areas:

- **Impoundments Design and Maintenance** – Submitted and had approved a program amendment which improves safety factors in the design and maintenance of impoundments.
- **Off-Site Impacts** – Instituted control measures to assure all off-site impacts are noted and recorded.
- **Enforcement** – Instituted control measures to assure all violations are cited and abated.
- **Permitting** – Added NPDES agency and Soil Conservation District to list of agencies which are notified of permit applications, increasing consultation opportunities.
- **Remining** – Submitted and had approved a program amendment which strengthened required remining findings
- **Augering** – Submitted and had approved a program amendment which strengthens required augering findings.

In addition to the program amendments mentioned above, Maryland also had a program amendment approved regarding the handling of topsoil and submitted amendments designed to improve the program in the areas of valid existing rights and application review procedures.

In a continuing effort to reduce the number of unclaimed forfeitures, Maryland worked on

⁸ 68 % in 1999 study, 87 % in 2000 study, 75% in 2001 study, 78% in 2002, and 91% in 2003 study.

two forfeiture projects during the evaluation period. The Oliver Mining 233 bond forfeiture project, a 20 acre site, was reclaimed at a cost of \$182,250. The T.D. Mining 403 forfeiture, consisting of 38 acres of unreclaimed spoil and associated highwall, was designed and put out for bid. A portion of the site (10 acres) will be reclaimed as part of an active mining operation approved for the site.

Regulatory Program Issues

During this review period, MDE and OSM identified one issue that impacts full implementation of the approved MDE program.

The concern involved the lands unsuitable database requirements. Maryland has not fully maintained the database required for assisting in making decisions on lands unsuitable petitions. This concern is tempered by the fact that there have been only two lands unsuitable petitions filed in Maryland since program inception, and none within the past seventeen years. Maryland has already begun steps to consolidate and update the database.

This issue is being addressed through ongoing communication and coordination between OSM and Maryland.

AML Program Accomplishments

Maryland's AML program continues to make effective use of its Title IV funding as one of seven minimum program states nationwide. Maryland has completed several standard AML program projects during this evaluation year. The Clean Streams Initiative program that is designed to reclaim land damaged by past mining practices and to alleviate the associated AMD problems has been producing measurable results. The following represents some of the accomplishments under the Title IV program:

Standard AML Projects - Maryland is one of seven minimum program states that receive \$1.6 million in Title IV funds annually from OSM for standard AML projects.

Maryland is allowed to deposit up to \$1 million of this amount into an interest bearing account each year for addressing AMD problems. Maryland uses approximately \$65,000 annually from this source to purchase limestone for use in seven limestone dosers that treat AMD in the two county area. An eighth doser is to be installed at the Shallmar Reclamation site that will treat AMD that was collected from two sealed abandoned mine entries. During the evaluation period, Maryland completed the Kitzmiller, Bear Hill and Oak Hill projects under the standard Title IV program.

The Kitzmiller Coal Waste Stabilization Project consisted of the reclamation of 16 acres of steeply sloping, burning refuse material with AMD flowing over and around the pile. The base of the pile was situated in the Potomac River. A road to the top of the pile provided a convenient location for errant residential waste disposal. The pile was removed, the fire extinguished and the AMD directed toward a lime doser treatment facility. With the completion of the Kitzmiller project at a cost of \$1,775,566 and the \$1.1 million Shallmar project last year, Maryland has reclaimed the two largest coal refuse piles in the State.

The Bear Hill Title IV AML Project was reclaimed by MDE at a cost of \$78,135. The site

consisted of three acres of abandoned coal refuse, AMD, and open entry and dangerous equipment. The project was situated in a flood plain. Equipment access to the site was made via a portable bridge that MDE will utilize in doing future projects located in areas where streams must be crossed.

The Oak Hill Slide Reclamation Project, near the town of Lonaconing, Maryland involved the removal and reclamation of six areas of refuse and spoil associated with an underground mining operation. The project was done as a joint project with NRCS. Initial design plans, which involved stabilizing the material “in-place,” had to be modified and the material removed to an approved disposal site. The project also involved treating AMD coming from the mine entry above the slide area by passing it through a passive treatment system.

During the latter part of the evaluation period MDE began work on the Jackson Mountain Mine Fire Control Project. The project involves the installation of a cut-off trench to prevent an underground mine fire from spreading. The fire is situated in the shallow abandoned workings of the Pittsburgh coal seam. The fire threatens a natural gas pipeline that serves several communities in the area. This project was also the first project undertaken through State emergency procurement procedures, which allowed for project approval in 60 days.

Maryland submitted and received approval for two NEPA evaluations as well as obtaining approval for four hydrologic units as part of the 10% AMD set-aside program.

Appalachian Clean Streams Initiative Projects - Maryland receives annual funding for the Appalachian Clean Streams Initiative (ACSI) to use in partnering with other funding sources to clean up AMD problems in Maryland. One of the more successful projects has been the Cherry Creek Project. The Cherry Creek limestone doser was installed in the summer of 2001 as the most recent of nine projects within the Cherry Creek watershed. It is the first privately funded cooperative project in the Cherry Creek drainage system. The MDE secured private funding estimated at \$150,000, from The Sprenger-Lang Foundation to construct the doser. Besides the Sprenger-Lang Foundation, project partners included the Rock Lodge Trust, Trout Unlimited, and the Maryland Fisheries Program. The doser, using a gravity-feed system triggered by the weight of water flowing into a container mounted on an axle, dumps “doses” of pulverized limestone into Cherry Creek where it intermixes through high flow and turbulence. The doser is not designed to treat any particular AMD source but rather increases alkalinity in the creek itself. The creek is expected to become the major spawning stream for Brown Trout in Deep Creek Lake.



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Cherry Creek Doser

A recent stream survey by the Maryland Department of Natural Resources yielded rainbow trout, brown trout, smallmouth bass, rock bass, chain pickerel, and a yellow bullhead in Cherry Creek, which just a few years ago was mostly devoid of native fish species. As a result of this survey Maryland intends to relocate more native stream fish species (mottled sculpin, creek chub, and blacknose dace) into Cherry Creek.



Smallmouth Bass - lower station
Cherry Creek

(Photo courtesy of Maryland DNR)



Brown Trout - just below doser
Cherry Creek

(Photo courtesy of Maryland DNR)

AML Program Issues

Lien requirements were identified as an AML program issue during the evaluation year. It was found that Maryland had not been applying all necessary lien requirements to projects under the Clean Streams program. This concern is tempered by the fact that clean stream projects rarely qualify for establishment of liens. Maryland has since committed to carrying out required procedures for all new clean streams projects.

A second issue is related to the Abandoned Mine Land Information System (AMLIS). Maryland's AMLIS was found to contain inaccuracies in several areas, though none appeared to be systemic problems. The inaccuracies appeared largely due to

misunderstandings on procedures as a result of evolving changes to the AMLIS. Program additions, institution of new forms, and multi-funding sources have been added to AMLIS over the course of its development, and these are the primary source of inaccuracies. Maryland is now in the process of updating the entire AMLIS, which should address all concerns.

These issues are being addressed through ongoing communication and coordination between OSM and Maryland.

V. Success in Achieving the Purposes of SMCRA as Measured by the Number of Observed Off-Site Impacts and the Number of Acres Meeting the Performance Standards at the Time of Bond Release

OSM collects the findings from inspections and other evaluations for a perspective of the number and extent of observed off-site impacts. These findings also include the number of acres that have been mined and reclaimed that meet the bond release requirements for the various phases of reclamation. Individual topic reports that provide additional details on how the following evaluations and measurements were conducted are available in the Pittsburgh Field Division.

Off-Site Impacts

Off-Site Impacts - OSM's directive governing the oversight of approved State programs, REG-8, includes among its objectives measuring and reporting the number and extent of offsite impacts occurring on active and reclaimed mine sites. Off-site impacts are anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on resource (people, land, water, structures).

Maryland conducted 350 complete, routine, compliance inspections on Maryland's sixty inspectable units.⁹ Off-site impacts were observed and recorded on the off-site impacts sheet (Exhibit 5).¹⁰ In order to verify inspection results, OSM accompanied Maryland on twenty six of the inspections covering twenty three permits. These joint inspections included general oversight inspections¹¹, citizen complaint inspections¹², bond release inspections¹³, and Acid Mine Drainage Inventory (AMD) inspections.¹⁴ Some of the permit sites were reviewed for more than one type of inspection (See Exhibit 4). For each joint inspection, an MDE inspector accompanied the OSM inspector. At the conclusion of each completed inspection, a Mine Site Evaluation Report (MER) was completed. As an attachment to the MER, a data sheet titled "Off-Site Impacts" was also completed, as well as a Performance Tracking Evaluation (PTE) form which includes off-site impact information. This

⁹ Per BOM permit list as of 6/28/04

¹⁰ For State-only inspections, Off-site impacts were recorded only those sites for which a formal violation was issued

¹¹ eighteen randomly selected permit sites which were reviewed for all aspects of planning, mining, and reclamation

¹² There were no formal complaints resulting in inspections by OSM

¹³ Five sites reviewed for final reclamation prior to bond release

¹⁴ Three sites due to unanticipated acid discharges which are reviewed semi-annually

data was used to characterize the nature and extent of off-site impacts found during the course of the investigation as well as enumerating the number of instances observed.

The data collected, evaluated, and reported consists of the following information:

1. The number and types of impacts
2. Resources impacted (land, water, people, or structures); and
3. The degree of impacts (minimal, moderate, or major).

The data is shown in exhibit 4 .

Findings were recorded, compiled, and the results analyzed for trends.

Of the sixty inspectable units, fifty-five (92%) of the permits exhibited no off-site impacts.

Of the five sites with impacts, three impacts were associated with permit SM-02-441 where spoil was pushed off the permit resulting in a minor encroachment violation affecting land. A Notice of Violation and Order (NOVO) was written and the violation was abated.

Two impacts were associated with permit SM-98-430 where two impacts were observed. These impacts were for pumping water off permit and discharging water from a sediment pond, both which were exceeding effluent limits for suspended solids. A State NOVO was written and the violations were abated.

One impact was associated with permit DM-84-101. This impact resulted from a sediment pond discharging low pH water which resulted in minor off-site impact on the hydrology. The impact was reparable and was mitigated immediately by the operator via treatment. Maryland issued a Notice of Violation and Order and the violation was abated. The off-site impact was categorized as a minor hydrology impact affecting water.

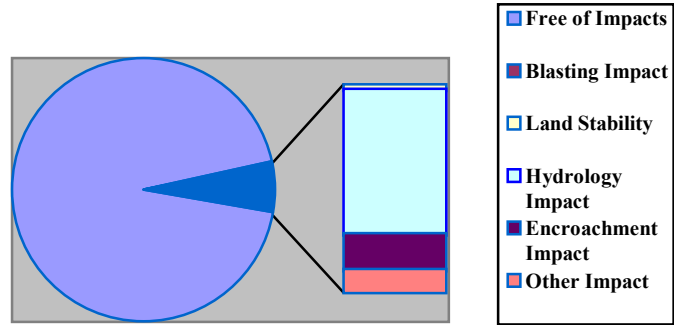
Two impacts were associated with permit SM-92-422. One resulted from a pond discharge not meeting effluent limitations for pH and Manganese. This impact was reparable and was mitigated during the inspection by closing the discharge pipe until treatment measures take place. The off-site impact was categorized as a minor hydrology affecting water. The other impact resulted from contamination of a water well. Maryland issued a NOVO for this violation as well. The off-site impact was categorized as a major hydrology impact affecting people (well water). The violation was abated by providing a replacement water well.

DM-92-110 had seven impacts associated with it. These impacts all involved ground water pollution which affected two private water supplies, a stream and underground mine pool. Three NOVO's and two Cessation Orders (CO's) were written. The violations remain unabated and the permit is undergoing forfeiture proceedings. Maryland is coordinating efforts to address the hydrologic problems.

Joint inspections of twenty-three of the sixty inspectable units support the state inspection results with twenty-one (91%) exhibiting no off-site impacts.

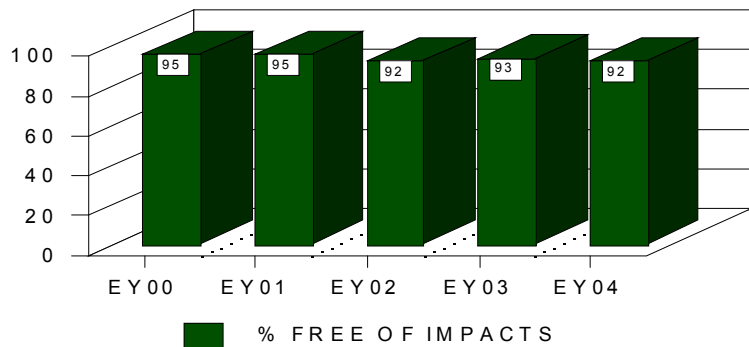
Off-Site Impacts Distribution '00 to '04

Historical Comparison In addition to the current year evaluation, historic trends over the last five years were evaluated as to the number and types of impacts, resources impacted, and severity of impacts. Results indicate that off-site impacts in Maryland are generally minor in nature and occur infrequently. Ninety-two percent of permit sites were found free of off-site impacts for the current evaluation year (Table 1). Historically, this has held fairly constant over the last five years with an average of 94%. When impacts do occur, water and land are the most frequently impacted resources (Table 2). The severity of impacts has been predominantly minor in nature with six major impacts over the last five years. All six of those impacts occurred during the current year and were all hydrology impacts. Five of the six affected people and one affected water resources. The people were affected by contamination of water wells.



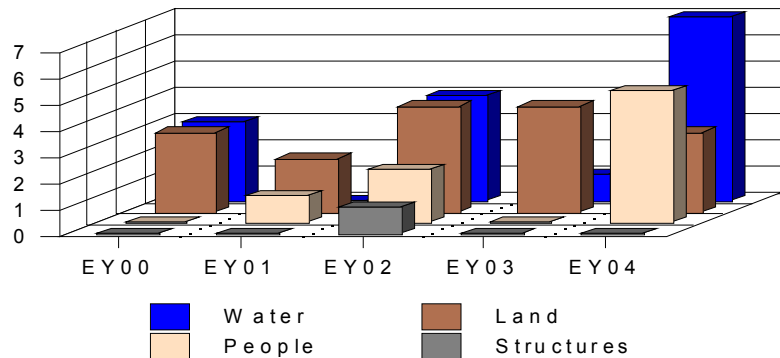
SITES FREE OF IMPACTS (All Inspections)

Table 1



IMPACTED RESOURCES (All inspections)

Table 2

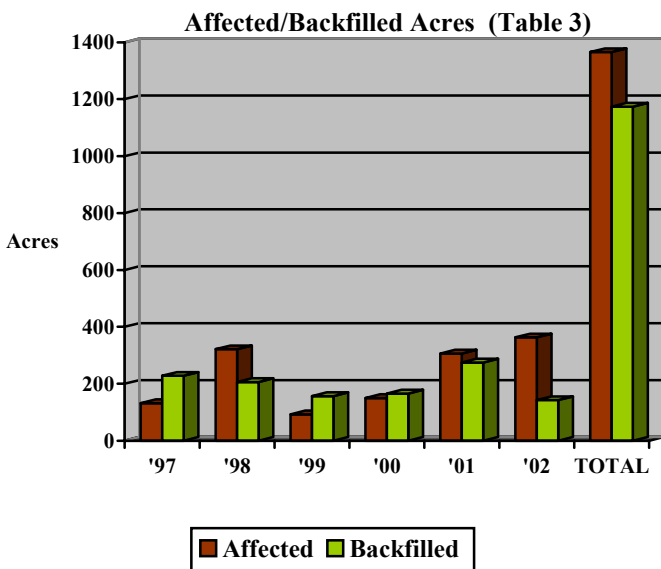


Reclamation Success

OSM conducted a study to evaluate the effectiveness of ensuring successful reclamation on lands affected by surface coal mining operations.¹⁵ The study revealed that reclamation is effective and successful under the Maryland State Program. Maryland operations continue to improve post mining land capability by removing and reclaiming highwalls, abandoned underground mines and spoil piles. Four reclamation parameters were evaluated: land form/approximate original contour (AOC), land

capability, hydrologic reclamation, and contemporaneous reclamation. All sites reviewed complied with all criteria for all four parameters. All bond release inspections were conducted within the appropriate season. All but one of the inspections was completed within the thirty day limit stipulated by regulation.

As shown in table 3, the ratio of affected to backfilled acres for the period 1997 through 2002 is 86 acres backfilled for every 100 affected, with backfilled acreage exceeding the affected acreage in three of the six years.¹⁶



During the evaluation year, Maryland's LRC and BOM jointly approved 127 acres and disapproved 44 acres of phase II reclamation, and BOM approved 118 acres and disapproved 120 acres of phase III reclamation.¹⁷

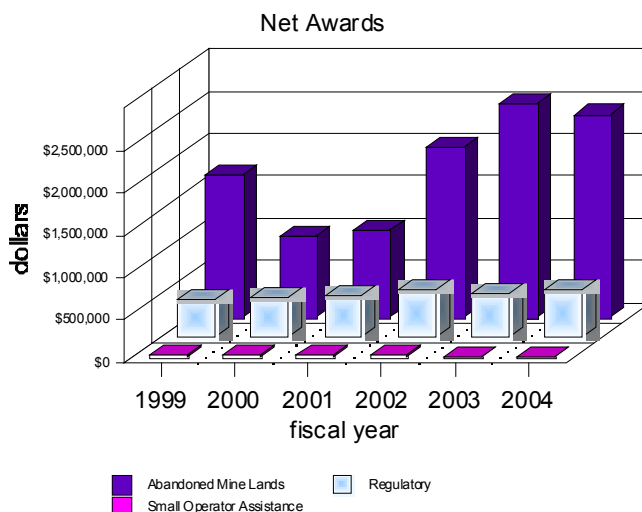
VI. OSM Assistance

Upon request, OSM provides various types of assistance to MDE in the form of financial, technical, managerial, and training assistance. OSM provided the following assistance to MDE during the evaluation period:

Financial Assistance

As shown in table 9 (Appendix A), OSM awarded \$557,922 in Title V regulatory assistance funding during evaluation year 2004. This is in addition to the

Table 4 - Historical Funding Levels



¹⁵ Reclamation Success study, Evaluation Year 2004; Available upon request from the Pittsburgh PFD Office.

¹⁶ Source – Maryland Bureau of Mines annual reports, 1997-2002.

¹⁷ This approval constitutes the go-ahead for the permittee to apply for bond release inspection.

\$2,398,052 awarded for the Title IV abandoned mine lands reclamation program. No funds were awarded for the SOAP program as sufficient funds were still available in the FY02 SOAP grant. Table 4 shows comparative grant awards for the three program areas over the last five fiscal years.

Technical Assistance

During the review period OSM provided a thermal imaging camera to Maryland for use in locating and identifying areas symptomatic of problems related to coal mining operations. Such problems may include underground mine fires, acid-forming reactions in mine spoil, warm discharges from underground mining operations into cooler streams on the surface, or other exothermic conditions.

During the review period OSM also coordinated with Maryland on their request for technical services in providing assistance for predictive modeling of subsidence in the Frostburg area. Training and modeling assistance are to be provided at a yet to be determined future date.

OSM also provided assistance for procedures in adding watershed co-ops to AMLIS via the WCA program. While adding watershed co-op projects is an OSM responsibility, Maryland has decided it would be to their benefit to input data since they are involved in almost all watershed projects, and are used to inputting information for other projects.

OSM assisted Maryland by reviewing two NEPA submissions and approving four hydrologic units.

Two emergency projects, the Galbraith slide and the Violante Mine Drainage blowout were approved and one project completed by OSM in close coordination with MDE.

OSM has also assisted MDE in the Clean Streams Initiative Program by participation in quarterly meetings.

VII. General Oversight Topic Reviews

In addition to the studies to assess off-site impacts and evaluate the effectiveness in achieving successful reclamation, OSM conducted seven additional studies during the evaluation period in accordance with the OSM/MDE evaluation year 2004 work plan. This year OSM combined three studies (Performance Monitoring, Off-Site Impacts, and NPDES Monitoring) into one report to address State concerns and increase efficiency. The results of the studies are discussed separately below. OSM will work with MDE in the next evaluation period to resolve issues raised as a result of these studies.

Customer Service

OSM Directive REG-8 stipulates that OSM conduct a yearly oversight evaluation of an area of the State program that involves customer service. To meet this requirement, PFD conducted a

study¹⁸ to review the implementation of the Maryland Department of Environment (MDE) regulations relating to lands unsuitable petitions, to assure proper processes and procedures are in place to address petitions, and to affirm that petitions are handled in accordance with the approved Maryland program. The study concluded that Maryland has had no petitions for designation of lands unsuitable, or reversing a designation of lands unsuitable since 1987. There have only been two petitions filed since 1982, and neither resulted in a designation of lands unsuitable for mining.

The study also found that Maryland does not presently have an up-to-date centralized database and inventory as required in the approved plan. This has not been an issue to date since there has been so little activity in the lands unsuitable program. However, the regulations are designed to assure that prompt and informed action may be taken on any petitions that may be filed, so it is necessary that such a database is available for use in the program. Maryland has demonstrated a willingness to cooperate in updating and developing the required database information, as well as the forms and procedures needed to meet program requirements.

Performance Monitoring Study

OSM conducted a study during the evaluation period¹⁹ to assess the general impact of planning, mining, and reclamation activities on the effectiveness of the Maryland Program in controlling adverse environmental impacts during and after mining. Eighteen complete inspections were conducted jointly with MDE Inspectors to evaluate compliance with twenty-two standards involving the Permitting, Mining, and Reclamation phases for achieving the goals of SMCRA. Based on the inspections, the study found that:

- Maryland's approved program is successful in planning for and controlling adverse environmental impacts both during and after mining .
- Maryland has been especially effective in working with the mining industry to reclaim previous mining features such as highwalls, underground mines, and spoil piles, resulting in significant savings for reclamation of features which might otherwise require funding under the Abandoned Mine Lands program.

NPDES Monitoring

OSM conducted a study²⁰ during the evaluation period to review policies, procedures, and regulatory requirements for the operation and maintenance of the National Pollution Discharge Elimination System (NPDES) monitoring program to assure all program requirements are being met for application and monitoring of discharges, and that proper coordination is occurring among responsible agencies. The study concluded that Maryland was in compliance with NPDES program requirements but could improve coordination among operators and government agencies by implementing revisions to the permit

¹⁸ Lands Unsuitable study, Evaluation Year 2004. Copies available from the Pittsburgh PFD office upon request

¹⁹ Maryland Performance Monitoring, Off-Site Impacts, and NPDES Permit Study combined report, Evaluation Year 2004. Copies available from the Pittsburgh PFD office upon request.

²⁰ Maryland Performance Monitoring, Off-Site Impacts, and NPDES Permit Study combined report, Evaluation Year 2004. Copies available from the Pittsburgh PFD office upon request.

application and bond submittal notice documents, and sending copies of the Notice of Intent for the NPDES permit to Maryland's Bureau of Mines Permitting Section.

Liens

During the evaluation year, OSM conducted a study²¹ to determine whether requirements for establishing liens, determining increase in market value, and crediting of funds are being followed in accordance with Maryland's approved State Reclamation Plan. The study found that Maryland has not placed liens on any project undertaken since program inception. Most projects have been exempted either due to land ownership prior to 1977, or primarily benefiting the health, safety, or environmental values of the general community. The study concluded, with one exception, that Maryland has implemented processes that assure lien requirements are being addressed under the approved Maryland State Reclamation Plan. The exception is Clean Streams (CS) Projects, for which lien requirements are not being addressed.

Also, changes were suggested to improve support for decisions on lien exemptions, and to clarify the procedure used in determining when land "may be" subject to a lien.

AMLIS

During the evaluation year, PFD conducted a study to review Maryland's processes for adding, updating, and maintaining information in The Office of Surface Mining's (OSM) Abandoned Mine Land Inventory System (AMLIS) to assure conformance with OSM Directive AML-1 and associated law, rules, policy, and procedure.²² Accuracy, conformance with directive requirements, and timeliness of data entry were reviewed. The study found that Maryland generally follows the requirements found in OSM Directive AML-1 for making entries, updating, and maintaining the AMLIS system. Cost estimates are generally accurate and have a logical basis, though the format of the AMLIS system lends itself to inherent problems involving distribution of funds which are outside Maryland's control. The study also concluded that areas which need further attention include:

- Assuring that problem areas are entered under the correct AMLIS Program
- Assuring that priority documentation form records are maintained for each problem
- Using separate program PADS for multi-program funded problem areas
- Assuring that non-OSM program funding sources are recorded separately
- Assuring Problem Areas are not duplicated among programs
- Assuring that updates are entered in a timely manner

Maryland is in the process of updating the entire inventory database included in AMLIS. This update will include taking advantage of technological advancements through use of geographic positioning systems (GPS) and the global information system (GIS), as well as gathering more detailed data on existing problem areas to better reflect an accurate inventory. When complete, the updated files will be entered into AMLIS. The expectation for completion of this effort is eight months to one year. PFD will monitor the progress and implementation of this effort.

²¹ Liens; EY2004. Copies available from the Pittsburgh PFD Office upon request.

²² Abandoned Mine Land Information System study; EY2004. Copies may be obtained by contacting the Pittsburgh PFD office.

Forfeiture Reclamation/ABS Update

During the evaluation year the PFD conducted a status review of Maryland's bond pool liability and Alternative Bonding System (ABS)²³ to determine a schedule for reclaiming the remaining forfeitures in Maryland and review changes in the Maryland bonding program since EY 2002. The review was conducted as a follow-up to a study conducted during the 2002 evaluation year which revealed the Maryland ABS system carried an estimated \$524,760 deficit for reclaiming existing bond forfeiture sites in the state.²⁴ The earlier study recommended that Maryland review the flat bond rate and income to the supplemental reserve to assure sufficient bond is available to cover costs for all current and anticipated forfeitures, that Maryland consider measures to "speed up" the reclamation of all forfeiture sites, and that Maryland should initiate a plan, within their overall bonding program, to address catastrophic events such as multiple bond forfeitures at one time. The status review concluded that Maryland has made significant progress toward addressing the issues identified in the 2002 study:

- The 2002 ABS deficit of \$524,760 has been reduced to \$143,098
- Maryland is on schedule to eliminate the ABS deficit by August, 2004
- Unreclaimed forfeiture sites have been reduced 50 percent , from four to two

The study also noted that two issues remain. Maryland's ABS still does not address catastrophic forfeitures, an issue identified in the original actuarial study of the system and in the 2002 study. Also, the time to begin reclamation of forfeiture sites remains high, diluting the buying power of forfeiture dollars through inflation. These areas will be monitored during the next evaluation year.

Drawdown Analysis and Audit

The OSM Appalachian Regional Coordinating Center Grants Staff conducted three Quarterly Drawdown Analyses at the MDE during evaluation year 2004. They were conducted in accordance with the Department of Treasury Fiscal Requirements Manual 6-2080.20, which requires that periodically, but not less than each calendar quarter, the Federal program agency shall review each recipient's use of funds advanced. To satisfy this requirement, we determined that there was no difference between the total amount of funds drawn via the Drawdown Express and disbursements related to the Federal program; and that cash was being withdrawn in accordance with program disbursement needs.

Treasury Circular 1075 (31 CFR 205) requires that cash advances to a recipient organization shall be limited to the minimum amounts needed, and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization. There were no discrepancies related to this requirement.

MDE=s drawdown activities were therefore found to comply with both of these requirements.

²³ Alternative Bonding System Status Update study; EY2004. Copies may be obtained by contacting the Pittsburgh PFD office.

²⁴ Maryland Alternative Bonding System Analysis, EY2002

There were no audit findings referred to OSM for disposition by MDE during this evaluation year.

APPENDIX A (REG-8 tables)

These tables present data pertinent to mining operations and State and Federal regulatory activities within Maryland. They also summarize funding provided by OSM and MDE staffing. Unless otherwise specified, the reporting period for the data contained in all tables is October 1, 2003, to June 30, 2004. Additional data used by OSM in its evaluation of MDE=s performance is available for review in the evaluation files maintained by the Pittsburgh PFD Office.

TABLE 1 – Coal Production

Maryland; Evaluation Year 2004

TABLE 1

COAL PRODUCTION (Millions of short tons)			
Period	Surface mines	Underground mines	Total
Coal production ^A for entire State:			
Annual Period			
2001	1.399	3.290	4.689
2002	1.835	3.172	5.007
2003	1.759	3.433	5.192
Total	4.993	9.895	14.888

A Coal production as reported in this table is the gross tonnage which includes coal that is sold, used or transferred as reported to OSM by each mining company on form OSM-1 line 8(a). 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 States or other sources due to varying methods of determining and reporting coal production. **Provide production information for the latest three full calendar years to include the last full calendar year for which data is available.**

TABLE 2 – Inspectable Units

Maryland; Evaluation Year 2004

TABLE 2

INSPECTABLE UNITS													
As of June 30, 2004													
Coal mines and related facilities	Number and status of permits								Insp. Units^D	Permitted acreage^A (hundreds of acres)			
	Active or temporarily inactive		Inactive Phase II bond release		Abandoned		Totals						
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	Total	
	STATE AND PRIVATE LANDS REGULATORY AUTHORITY: STATE												
Surface mines		46		3		0	0	49	49		50.58	50.58	
Underground mines		6		0		0	0	6	6		9.36	9.36	
Other facilities		5		0		0	0	5	5		1.09	1.09	
Subtotals	0	57	0	3	0	0	0	60	60	0	61.03	61.03	
FEDERAL LANDS REGULATORY AUTHORITY: STATE													
Surface mines						0	0					0	
Underground mines						0	0					0	
Other facilities						0	0					0	
Subtotals	0	0	0	0	0	0	0	0	0	0	0	0	
ALL LANDS^B													
Surface mines		46		3		0	0	49	49		50.58	50.58	
Underground mines		6		0		0	0	6	6		9.36	9.36	
Other facilities		5		0		0	0	5	5		1.09	1.09	
Totals	0	57	0	3	0	0	0	60	60	0	61.03	61.03	
Average number of permits per inspectable unit (excluding exploration sites)									<u>1</u>				
Average number of acres per inspectable unit (excluding exploration sites)									<u>100</u>				
Number of exploration permits on State and private lands:									<u>3</u>		On Federal lands ^C :		<u> </u>
Number of exploration notices on State and private lands:									<u>4</u>		On Federal lands ^C :		<u> </u>
IP: Initial regulatory program sites PP: Permanent regulatory program sites ^A When a unit is located on more than one type of land, include only the acreage located on the indicated type of land. ^B Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. ^C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management. ^D Inspectable Units includes multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.													

TABLE 3 – State Permitting Activity

Maryland; Evaluation Year 2004

TABLE 3

STATE PERMITTING ACTIVITY												
As of June 30, 2004												
Type of Application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres^A	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	2	2	158	0	1	32	0	0	0	2	3	190
Renewals	14	12	1,452	2	2	833	0	0		16	14	2,285
Transfers, sales and assignments of permit rights	0	0		0	0		0	0		0	0	
Small operator assistance	1	0		0	0		0	0		1	0	
Exploration permits	3	3		0	0		0	0		3	3	
Exploration notices ^B		4			0			0			4	
Revisions (exclusive of incidental boundary revisions)		19			3			0			22	
Incidental boundary revisions		4	11		1	0		0	0		5	11
Totals	20	44	1,621	2	7	865	0	0	0	22	51	2,486
OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions.												
^A Includes only the number of acres of proposed surface disturbance.												
^B State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.												

TABLE 4 – Off-Site Impacts

TABLE 4

OFF-SITE IMPACTS													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting												
	Land Stability												
	Hydrology	14		5	2			3	3	1			
	Encroachment	1			1								
	Other												
Total	15	0	0	5	3	0	0	3	3	1	0	0	0
Total number of inspectable units:					<u>60</u>								
Inspectable units free of off-site impacts:					<u>55</u>								
OFF-SITE IMPACTS ON BOND FORFEITURE SITES													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting												
	Land Stability												
	Hydrology												
	Encroachment												
	Other												
Total	0	0	0	0	0	0	0	0	0	0	0	0	0
Total number of inspectable units:					<u> </u>								
Inspectable units free of off-site impacts:					<u> </u>								

TABLE 5 – Annual State Mining and Reclamation Results

Maryland; Evaluation Year 2004

TABLE 5

ANNUAL STATE MINING AND RECLAMATION RESULTS		
Bond release phase	Applicable performance standard	Acreage released during this evaluation period
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	26.00
Phase II	- Surface stability - Establishment of vegetation	58.00
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored	59.00
	Bonded Acreage Status^A	Acres
	Total number of acres bonded at end of last review period (June 30, 2003) ^B	5,943.00
	Total number of acres bonded during this evaluation year	201.00
	Number of acres bonded during this evaluation year that are considered remining, if available	N/A
	Number of acres where bond was forfeited during this evaluation year (also report this acreage on Table 7)	0.00

^A Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.

^B Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).

TABLE 7 – State Bond Forfeiture Activity

Maryland; Evaluation Year 2004

TABLE 7

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)		
Bond Forfeiture Reclamation Activity by SRA	Number of Sites	Acres
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2003 (end of previous evaluation year) ^A	4	283.00
Sites with bonds forfeited and collected during Evaluation Year 2004 (current year)	0	0.00
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2004 (current year)	0	0.00
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2004 (current year)	2	161.00
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2004 (end of current year) ^A	2	122.00
Sites with bonds forfeited but uncollected as of June 30, 2004 (end of current year)	0	0.00
Surety/Other Reclamation (In Lieu of Forfeiture)		
Sites being reclaimed by surety/other party as of June 30, 2003 (end of previous evaluation year) ^B	0	
Sites where surety/other party agreed to do reclamation during Evaluation Year 2004 (current year)	0	
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2004 (current year)	0	
Sites with reclamation completed by surety/other party during Evaluation Year 2004 (current year) ^C	0	
Sites being reclaimed by surety/other party as of June 30, 2004 (current evaluation year) ^B	0	
^A Includes data only for those forfeiture sites not fully reclaimed as of this date ^B Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date ^C This number also is reported in Table 5 as Phase III bond release has been granted on these sites		

TABLE 8 – State Staffing Levels

Maryland; Evaluation Year 2004

TABLE 8

(Full-time equivalents at the end of evaluation year)	
Function	EY 2004
Regulatory Program	
Permit review	3.44
Inspection	4.54
Other (administrative, fiscal, personnel, etc.)	3.40
Regulatory Program Total	11.38
AML Program Total	4.80
TOTAL	16.18

TABLE 9 – Grant Funding

Maryland; Evaluation Year 2004

TABLE 9

FUNDS GRANTED TO MARYLAND BY OSM (Millions of dollars) EY 2004		
Type of Grant	Federal Funds Awarded	Federal Funding as a Percentage of Total Program Costs
Administration and Enforcement	\$511,238.00	50
Small Operator Assistance	\$35,000.00	100
Totals	\$546,238.00	

TABLE 10 – State Inspection Activity

Maryland; Evaluation Year 2004

TABLE 10

STATE OF MARYLAND INSPECTION ACTIVITY		
PERIOD: JULY 1, 2003 - JUNE 30, 2004		
Inspectable Unit Status	Number of Inspections Conducted	
	Complete	Partial
Active*	350	576
Inactive*		
Abandoned*		
Total	350	576
Exploration		

* Use terms as defined by the approved State program.

State should provide inspection data to OSM annually, at a minimum, and maintain inspection data on a continual basis. OSM offices responsible for Federal and Indian Programs need not complete this table since data will be queried from the I & E Tracking System.

TABLE 11 – State Enforcement Activity

Maryland; Evaluation Year 2004

TABLE 11

STATE OF MARYLAND ENFORCEMENT ACTIVITY		
PERIOD: JULY 1, 2003 - JUNE 30, 2004		
Type of Enforcement Action	Number of Actions*	Number of Violations*
Notice of Violation	14	17
Failure-to-Abate Cessation Order	2	2
Imminent Harm Cessation Order	1	2

* Do not include those violations that were vacated.

State should provide enforcement data to OSM annually, at a minimum, and maintain data on a continuous basis. OSM offices responsible for Federal and Indian Programs need not complete this table since data will be queried from the I & E Tracking System.

TABLE 12 – Lands Unsuitable Activity

Maryland; Evaluation Year 2004

TABLE 12

LANDS UNSUITABLE ACTIVITY			
PERIOD: JULY 1, 2003 - JUNE 30, 2004			
Number of Petitions Received	0		
Number of Petitions Accepted	0		
Number of Petitions Rejected	0		
Number of Decisions Declaring Lands Unsuitable	0	Acreage Declared as Being Unsuitable	0
Number of Decisions Denying Lands Unsuitable	0	Acreage Denied as Being Unsuitable	0

State should provide lands unsuitable data to OSM annually if there is any activity in this program area. OSM OFFICES RESPONSIBLE FOR FEDERAL AND INDIAN PROGRAM STATES MUST ALSO COMPLETE THIS TABLE.

APPENDIX B

Maryland Comments and Disposition

Maryland provided one comment on the Annual Evaluation Summary Report. Page 16 of the report was revised to reflect the proper permit number, DM-92-110, in the next to last paragraph.