



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

The Office of Surface Mining Reclamation and Enforcement Made Progress in Implementing Corrective Actions To Improve Its Oversight of the Abandoned Mine Lands Program, but Some Recommendations Remain Outstanding



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

MAR 28 2023

Memorandum

To: Glenda H. Owens
Deputy Director, Office of Surface Mining Reclamation and Enforcement

Tonya R. Johnson
Deputy Chief Financial Officer and Director of the Office of Financial Management

From: Kathleen Sedney *Kathleen Sedney*
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Inspection Report – *The Office of Surface Mining Reclamation and Enforcement Made Progress in Implementing Corrective Actions To Improve Its Oversight of the Abandoned Mine Lands Program, but Some Recommendations Remain Outstanding*
Report No. 2022–CR–022

This memorandum transmits our inspection report on the Office of Surface Mining Reclamation and Enforcement’s (OSMRE’s) Abandoned Mine Lands Program. Our objective was to determine the status of the 11 recommendations made in our evaluation report titled, *Office of Surface Mining Reclamation and Enforcement’s Oversight of the Abandoned Mine Lands Program* (Report No. 2016–EAU–007, issued March 30, 2017). The Office of Policy, Management, and Budget reported to the OIG that the OSMRE believed that Recommendations 1–6, 8, 9, and 11 from our prior report should be closed. We concur that these recommendations have been implemented and closed. Recommendations 7 and 10 will remain resolved but not implemented until the Office of Policy, Management, and Budget provides us with closure documentation with evidence that these actions have been taken.

In addition, we will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please call me at 202–208–5745.

Contents

Results in Brief 1

Introduction..... 3

 Objective 3

 Background 3

Results of Inspection..... 8

 The OSMRE Strengthened Reclamation Plans and Prioritization 8

 Progress Made To Improve AML Data Integrity 13

Conclusion and Recommendations..... 18

 Conclusion..... 18

 Response Summary 18

Appendix 1: Scope and Methodology..... 20

 Scope 20

 Methodology 20

Appendix 2: Status of Recommendations From 2017 Evaluation..... 22

Results in Brief

What We Reviewed

The Office of Surface Mining Reclamation and Enforcement (OSMRE) is responsible for ensuring abandoned mine land (AML) grants provided to States under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) are used consistently with the Act's requirements. The OSMRE upholds SMCRA requirements by overseeing AML regulation and reclamation to address hazards and environmental degradation. In March 2017, we issued an evaluation report, *Office of Surface Mining Reclamation and Enforcement's Oversight of the Abandoned Mine Lands Program* (Report No. 2016–EAU–007), which identified weaknesses in the OSMRE's AML Reclamation Program.¹ This report reviews the extent to which the OSMRE implemented the 11 recommendations made in 2017.

What We Found

We found that the OSMRE has made progress in strengthening its AML Reclamation Program oversight by implementing 9 of our 11 previous recommendations. Specifically, the OSMRE implemented procedures requiring certified States to include reclamation project details and prioritization with grant applications, verify that new projects to reclaim AML features align with prioritization, and obtain authorizations to proceed for all projects. The OSMRE also issued policies that required States to complete coal projects and update reclamation plans, and it developed an enforcement plan to ensure reclamation plans are carried out. Additionally, the OSMRE required States to enter non-coal projects into the Abandoned Mine Land Inventory System (e-AMLIS), the OSMRE's national inventory of AML sites. Finally, it improved reporting of engineering and design subaccounts and reconciled funds spent on coal and non-coal projects.

Two recommendations, however, remain unimplemented, even though they were issued more than 5 years ago. These recommendations related to the accuracy and reliability of e-AMLIS data. The OSMRE has made progress in enhancing e-AMLIS data by providing training to State users and updating the e-AMLIS project entry process to require data verification. However, the OSMRE has not yet completed updating legacy project data in e-AMLIS, enhancing system design to ensure data reliability, or revising its AML manual to address these two remaining recommendations. It has stated that it expects to fully implement both recommendations by September 2023.

¹ Our previous report related to the five certified State programs in Louisiana, Mississippi, Montana, Texas, and Wyoming. A "certified State" has certified completion of all priority coal reclamation projects under SMCRA § 411(a). Tribes with eligible lands from which coal is produced are considered a "State" for the purposes of State reclamation programs, with the exception of the Navajo, Hopi, and Crow (Apsáalooke) Tribes (SMCRA § 405(k)).

Why This Matters

The OSMRE plays a key role in restoring the environment from damage caused by abandoned mines. By overseeing State and Tribal AML reclamation programs, the OSMRE can enhance safety and address the hazards and environmental degradation posed by legacy coal mines. In addition to annual grant distributions of more than \$140 million to States, the OSMRE must oversee \$11.3 billion in new funding from the Infrastructure Investment and Jobs Act of 2021 from fiscal years 2022 through 2036. These significant investments in AML reclamation and our previous recommendations for the OSMRE's accounting of AML hazards highlight the OSMRE's duty to provide effective oversight, system tools, and guidance to State AML programs. By continuing to improve reclamation processes for both certified and non-certified States, the OSMRE can protect public and environmental health and safety and promote effective and appropriate use of taxpayer dollars.

Introduction

Objective

Our objective was to determine the status of the 11 recommendations made in our evaluation report, *Office of Surface Mining Reclamation and Enforcement's Oversight of the Abandoned Mine Lands Program* (Report No. 2016–EAU–007, issued March 30, 2017).

See Appendix 1 for our scope and methodology.

Background

Coal has been mined in the United States for centuries, and millions of Americans live less than a mile from an abandoned coal mine. According to the Federal Mining Dialogue, a partnership of Federal environmental and land management agencies, abandoned mine lands (AMLs) present serious threats to human health and the environment. Communities built above or near coal mines are at risk for property damage due to subsidence that may occur in the mines below them. AMLs also pose health risks due to sediment contamination, water and air pollution, and risks to threatened and endangered species that live near abandoned mines.

Before the passage of the Surface Mining Control and Reclamation Act (SMCRA) of 1977, there was no Federal regulatory oversight of coal operators or the environmental effects of coal mining. SMCRA established the Office of Surface Mining Reclamation and Enforcement (OSMRE) to administer programs for controlling the impacts of surface coal mining operations.

Office of Surface Mining Reclamation and Enforcement

The OSMRE works with States and Tribes to reclaim AMLs and regulate coal mines. The OSMRE's primary objectives are to ensure that coal mines are operated in a manner that protects citizens and the environment during mining, the land is restored after mining, and the effects of past mining are mitigated. The OSMRE oversees the implementation of and provides Federal funding for State and Tribal regulatory and AML reclamation programs.² The OSMRE also administers AML grant funding to each State with an approved reclamation program under SMCRA Section 405.³ In addition to overseeing approved programs, the OSMRE provides technical assistance, training, and technology development related to coal production and environmental protection. These activities support and enhance the technical skills that States need to effectively operate their regulatory and reclamation programs.

² Pub. L. No. 100–71 authorized the Navajo, Hopi, and Crow Tribes to administer AML reclamation programs on Indian lands without first having approved regulatory programs. The Tribes subsequently obtained approval of their AML reclamation plans between 1988 and 1989.

³ The OSMRE will approve a State AML reclamation program if it determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of SMCRA. The OSMRE may withdraw approval if the State program is not in compliance with regulations (SMCRA § 405(d)).

The OSMRE's AML Reclamation Program is funded by fees paid by present-day coal mining companies on each ton of coal produced. Those funds are used to reclaim land and water resources adversely affected by coal mines abandoned before August 3, 1977. The OSMRE collects the fees and annually distributes grants to States and Tribes for reclamation activities based on a statutorily prescribed formula. In FY 2022, the OSMRE distributed approximately \$144 million in AML grants to 24 States and 2 Tribes.

During the first 40 years of the AML Reclamation Program, Louisiana, Mississippi, Montana, Texas, and Wyoming completed reclamation of all known coal-related AML features (e.g., highwalls, mine shafts, subsidence) within their jurisdictions and certified to that fact in accordance with SMCRA Section 411(a). Because of this certification, these States are known as "certified" States. Once certified, the source of the State's funds from the OSMRE changes; instead of receiving funds sourced from AML fees, the State receives funds from the U.S. Treasury. These funds can be used for a wider range of purposes beyond coal mine reclamation, including reclaiming abandoned hardrock mine sites.⁴ A certified State may discover new coal features after certification, but the State must address those issues in accordance with SMCRA prioritization requirements. SMCRA requires States to prioritize reclamation of the most serious AML features that pose an immediate threat to health, safety, and general welfare of people.

Supplemental Funding for AMLs

We previously reported that the OSMRE's oversight and data management of reclamation projects and its accounting of AML hazards could be improved. Implementation of these recommendations is increasingly important because supplemental AML funding for States is partly based on the OSMRE's unfunded inventory of coal hazards. The AML Reclamation Program received significant supplemental funding through the Infrastructure Investment and Jobs Act of 2021 (IIJA), which authorized \$11.3 billion in new funding for OSMRE's existing AML reclamation fund from fiscal years (FYs) 2022 through 2036 (see Figure 1). In addition to extending the OSMRE's AML fee collection authority from 2021 through 2034, the IIJA provided funds for States and Tribes for coal-related AML projects.

⁴ Hardrock mines, which are primarily ore or metal mines, are hazardous because they could include unsecured tunnels and toxic waste piles. The U.S. Department of the Interior manages approximately 62,000 abandoned hardrock mine land features on Federal land.

Figure 1: IIJA Authorized Funds To Address AMLs

Purpose	Amount (\$)
Grants to Eligible States and Tribes	10,872,745,000
OSMRE Operations (Up to 3%)	338,790,000
Office of Inspector General Operations	56,465,000
Financial and Technical Assistance*	25,000,000
Total	\$11,293,000,000

* Funds made available to the Secretary of the Interior to provide States and Tribes with the financial and technical assistance necessary to make amendments to the inventory (such as updates on project estimates and new sites and features) maintained under SMCRA Section 403(c).

Source: OSMRE.

The OSMRE will distribute \$10.9 billion of the \$11.3 billion appropriated IIJA funds for AML projects through grants to 22 eligible States and the Navajo Nation on an annual basis. It will distribute approximately \$725 million a year over a 15-year period.

Together, the IIJA and AML grant distributions⁵ help fund projects to address AML hazards. For example, in FY 2022, the OSMRE distributed approximately \$49.8 million to the five certified States through both IIJA and AML grant distributions (see Figure 2).

Figure 2: FY 2022 IIJA and AML Grant Distributions to Certified States

State	IIJA Distribution (\$)	AML Distribution (\$)	Total Distribution (\$)
Louisiana	0	25,279	25,279
Mississippi	0	99,709	99,709
Montana	4,601,049	3,287,963	7,889,012
Texas	986,367	732,134	1,718,501
Wyoming	9,697,442	30,415,503	40,112,945
Total	\$15,284,858	\$34,560,588	\$49,845,446

Source: OSMRE.

⁵ Funding for AML grants comes from coal receipts collected and deposited into the AML fund and from general Treasury funds.

Reclamation and Expenditure Data

The OSMRE relies on information provided by States and Tribes to determine the allocation of grants; therefore, accurate information is vital to track AML priorities and make funding decisions. Pursuant to SMCRA,⁶ the OSMRE maintains a national inventory of AML sites in the Abandoned Mine Land Inventory System (e-AMLIS). The inventory contains information on the location, type, and extent of AML impacts as well as associated reclamation costs. The e-AMLIS inventory is updated when new features are identified and existing features are reclaimed. Grant distribution amounts are based in part on the inventory of AML features in e-AMLIS; therefore, e-AMLIS data must be complete and accurate for States to receive funding to address AML concerns. The IIJA also provided the OSMRE with \$25 million to provide financial and technical assistance to States and Tribes to update their respective AML inventories in e-AMLIS, a significant concern that we address in more detail below.

Despite its importance, there are certain limitations to e-AMLIS. According to the OSMRE, e-AMLIS is not a comprehensive database of all AML features or all AML grant activities. The system only provides limited information on non-coal AML features, and it does not include indirect costs, such as those associated with planning, design, or permitting. Additionally, the system includes different information than the Financial and Business Management System (FBMS), which is the OSMRE's system of record that contains information on AML grant allocations and expenditures for the AML Reclamation Program. We also previously found that States did not record all AML features in e-AMLIS, and, as a result, the e-AMLIS inventory for State AML features did not match the State's own inventories.⁷

AML Project Prioritization and State Spending

The AML inventory data is maintained by local OSMRE offices and the States and Tribes that manage their own AML programs. The most serious, high-priority AML features are those posing an immediate threat to health, safety, and general welfare of people. The OSMRE categorizes these as Priority 1 (extreme effects) and Priority 2 (adverse effects) features and requires States to include these features in e-AMLIS. Priority 3 AML features are those affecting the environment. Although SMCRA § 403(c) does not require the OSMRE to inventory every unreclaimed Priority 3 feature, the information is required when reclamation activities are funded. The cost of addressing the remaining Priority 1 and 2 coal-related sites is estimated by the OSMRE at \$8.1 billion. In addition, there is an estimated \$5 billion of Priority 3 features, for a total of \$14.1 billion of unfunded AML features.

The OSMRE oversees a national inventory for high-priority and environmental AML features, which is recorded in e-AMLIS. New features are continually added to the AML inventory.

Generally, States must reclaim all Priority 1 and 2 coal sites before using AML funds on Priority 3 coal sites, but several exceptions exist. In addition to scheduled reclamation projects, States can use AML funds for costs of administering and enforcing their AML reclamation

⁶ SMCRA § 403(c), as amended through Pub. L. No. 177-58 (2021).

⁷ *Flash Report: Abandoned Mine Lands Program*, Report No. 2022-INF-037, dated January 2023.

programs, funding emergency AML reclamation projects, or allocating funding for acid mine drainage.⁸ State AML reclamation programs also use funds to prepare for reclamation through permitting, environmental assessments, site surveys, and the development of reclamation plans.

To expend AML grant funds for an individual project and begin construction, the OSMRE is required to provide the State an authorization to proceed (ATP).⁹ This authorization ensures that the State enters the project into e-AMLIS and that construction activities align with projects approved in the AML grant application. It also ensures compliance with the National Environmental Policy Act of 1969¹⁰ and any other applicable laws, permits, or requirements.

Summary of Findings From Our 2017 Evaluation

Our March 2017 report, *Office of Surface Mining Reclamation and Enforcement's Oversight of the Abandoned Mine Lands Program* (Report No. 2016–EAU–007), evaluated the OSMRE's AML Reclamation Program for certified States and made 11 recommendations to help the OSMRE improve its oversight and data management for the AML Reclamation Program and to ensure that coal-related hazards are given reclamation priority. The report identified weaknesses in the OSMRE's oversight of reclamation projects and its accounting of AML hazards facing certified States.

Specifically, the OSMRE had not ensured that certified States were giving coal projects the priority required by SMCRA. Instead, States had determined the order for undertaking reclamation projects with little or no input from the OSMRE. Moreover, we found that States were not properly prioritizing coal reclamation projects and, in some cases, not completing any reclamation projects despite receiving hundreds of thousands of dollars in AML grant expenditures.

Additionally, we reported that the OSMRE had not enforced provisions of State reclamation plans to ensure States meet agreed-upon expectations or required States to update these plans. Outdated State reclamation plans undermined the OSMRE's ability to oversee and hold States accountable for carrying out program priorities.

Furthermore, we found that the OSMRE was unable to provide a comprehensive accounting of the AML hazards facing certified States due to inaccuracies and incomplete information in its data management tools. For example, e-AMLIS did not include a full inventory of coal and non-coal hazards that would enable the OSMRE to make determinations about the prioritization methods States used. FBMS accounting of AML grants also did not match State program narratives for reclamation expenditures.

⁸ Acid mine drainage is acidic water discharged from an area affected by surface coal mining and reclamation operations.

⁹ 30 C.F.R. § 885.16(e).

¹⁰ Pub. L. No. 91–190 (1970, as amended).

Results of Inspection

In this inspection, we reviewed and analyzed the actions the OSMRE took to address the previous recommendations. We found that the OSMRE addressed many of the issues identified in our 2017 evaluation report and has taken steps to strengthen its AML Reclamation Program oversight. The OSMRE implemented 9 of 11 recommendations.

We note specifically that the OSMRE updated the e-AMLIS project entry process to require data verification, and it continues to provide e-AMLIS training to State users. We also found, however, that important followup actions have not occurred. In particular, the OSMRE has not yet completed updating legacy project data in e-AMLIS, enhancing system design to ensure data reliability, or updating its *Abandoned Mine Land Inventory Manual*. Accordingly, two of our recommendations from our previous evaluation related to data integrity remain open and unimplemented. The OSMRE stated that it plans to complete necessary implementation steps required to close these recommendations by September 2023.

The OSMRE Strengthened Reclamation Plans and Prioritization

We found that the OSMRE addressed the reclamation planning and prioritization issues identified in our previous report. Specifically, we confirmed that the OSMRE:

- Implemented procedures requiring certified States to include project details, such as prioritization and ore type, with grant applications to ensure priority is given to coal reclamation projects (Recommendation 1).
- Required States to provide a prioritization approach (Recommendation 3) and obtain ATPs for all projects (Recommendation 4).
- Required States to update reclamation plans (Recommendation 2) and developed an enforcement plan to ensure reclamation plans are carried out (Recommendation 6).
- Required Mississippi to complete coal reclamation projects (Recommendation 5).

In light of these actions, we consider Recommendations 1 through 6 closed and implemented.

Implemented Procedures To Prioritize Coal Reclamation—Recommendation 1

We previously found that certified States did not give coal-related reclamation projects priority over non-coal projects, and some States did not complete any reclamation projects or diverted funds to non-coal projects. We recommended that the OSMRE:

Recommendation 1: Ensure that States are properly giving first priority to coal-related reclamation projects.

In response to this recommendation, the OSMRE required certified States to include project details with grant applications, such as prioritization, ore type, estimated costs, and proposed goals. The OSMRE issued a memorandum to each certified State that, beginning in FY 2020, required a project listing supplement to each AML grant application package. The OSMRE provided States a template in which each State was required to provide basic information about projects proposed for funding and demonstrate that the allocation and future expenditure of AML grant funding aligns with the objectives of SMCRA and priority is given to coal projects over non-coal or non-reclamation projects.

To further ensure that States give priority to coal-related reclamation projects, the OSMRE required its staff to include in the official grant file an approved ATP for each project. Specifically, the OSMRE issued a policy memorandum, effective July 30, 2021, requiring all OSMRE offices with oversight of certified States' AML grants to upload ATPs in the applicable grant file for both coal and non-coal projects. By confirming that projects align with approved ATPs, OSMRE staff verified that States gave priority to coal-related projects.

In addition, the OSMRE updated the e-AMLIS project entry process to require certified States to verify that projects met prioritization requirements set forth in the State's reclamation plan. The OSMRE required written justification for all project funding that did not satisfy the requirements of the State's reclamation plan (i.e., priority given to coal projects). State and OSMRE personnel must confirm that prioritization goals have been met before a project is eligible for funding.

To determine whether these actions resolved the coal prioritization issues that led to Recommendation 1, we sampled 3 of 27 new AML projects entered into e-AMLIS between July 30, 2021, and May 23, 2022, and reviewed associated grant applications for Montana, Texas, and Wyoming. We verified that the grant documentation included reclamation details such as planned projects, prioritization, and distinction between coal and non-coal projects. We also confirmed that the funded projects we sampled aligned with approved ATPs. In addition, we verified that the OSMRE certified that each of the 27 new AML projects entered between July 30, 2021, and May 23, 2022, met prioritization requirements of the State's updated reclamation plan.

Based on actions the OSMRE took to address prioritization of coal-related reclamation projects, we consider Recommendation 1 implemented and closed.

Required Updated Reclamation Plans—Recommendation 2

We previously reported that the OSMRE had not ensured that States updated reclamation plans in accordance with regulatory requirements (namely, 30 C.F.R. § 884.15). Congress amended SMCRA in 2006 to increase the funds available for reclamation of AML features and the flexibility that States have in using those funds. The law also required Treasury payments to certified States instead of payments from the AML fund. Despite these changes to the sources and uses of AML funding, we previously found that the OSMRE did not require States to update their reclamation plans. These plans should include policies and procedures to be followed when identifying projects to be funded. However, four of the five certified States' reclamation plans (Wyoming, Texas, Louisiana, and Montana) predated the 2006 amendments to SMCRA, with Texas and Louisiana's plans dating back to the early 1980s. Therefore, we recommended that the OSMRE:

Recommendation 2: Require certified States to update their reclamation plans and continue to do so at periodic intervals.

To address this recommendation, the OSMRE updated its procedures in March 2019 for requiring, reviewing, and processing amendments to State reclamation plans. Specifically, the OSMRE revised Directive STP-1¹¹ to establish policy and procedures for reviewing and processing State and Tribal AML reclamation plans. The directive also required States to amend their reclamation plans following revisions of Federal statutes or regulations or identification of programmatic deficiencies or significant changes.

The OSMRE also issued letters to each certified State in March 2019, requiring updated plans. These letters referenced the findings of our 2017 report and provided a summary of the statutory and regulatory programmatic changes and a timeline for these State submissions.

We obtained and reviewed the five certified States' AML reclamation plans and verified that the plans were updated following the March 2019 guidance and procedures. We also concluded that the OSMRE required States to update plans at periodic intervals (e.g., following revisions of regulations or program changes), based on the letters to States and Directive STP-1.

Based on actions the OSMRE took to revise its procedures and require States to update reclamation plans, we consider Recommendation 2 implemented and closed.

¹¹ Directive STP-1, *Processing of Proposed State/Tribal Regulatory Programs and Abandoned Mine Land Reclamation Plans; Amendments; and Part 732 and Part 884 Notifications*, dated March 20, 2019.

Prioritization Matrices Implemented—Recommendation 3

We previously found that the OSMRE allowed certified States to spend AML grant funds on non-coal projects while hazardous coal projects remained unfunded. Therefore, we recommended that the OSMRE:

Recommendation 3: Develop and implement an agreed-upon prioritization matrix and goals with timelines that will ensure coal hazards are addressed first and clearly defines when a non-coal project may be selected ahead of a coal project.

As part of the updated State reclamation plans (Recommendation 2), the OSMRE required States to provide a prioritization approach that will be used to reclaim any existing or newly discovered coal sites. Specifically, the OSMRE confirmed that three of the five certified States—Montana, Texas, and Wyoming—had existing prioritization matrices that the OSMRE found adequately aligned with the prioritization requirements of SMCRA Section 403 and Federal regulations,¹² which all prioritize reclamation that addresses the effects of coal mining. According to the OSMRE, Louisiana and Mississippi adopted OSMRE-approved matrices.

We requested the five certified States' reclamation plans and verified that the plans included prioritization matrices, goals, and distinctions that coal projects will be completed before non-coal projects. We found that the matrices prioritized coal projects and demonstrated how projects will be individually scored, based on site parameters, to determine when a non-coal project may be selected ahead of a coal project.

Based on the actions the OSMRE took to standardize project prioritization, we consider Recommendation 3 implemented and closed.

Required Authorization for All Projects—Recommendation 4

We also previously reported that the OSMRE was not always aware of AML grant funds spent on non-coal work until after the projects were completed because States were not required to obtain OSMRE permission before undertaking non-coal projects. In contrast, we found that, for coal reclamation projects, States were required to submit ATPs to the OSMRE for approval prior to starting work and expending funds. Therefore, we recommended that the OSMRE:

Recommendation 4: Require ATPs for all projects and approve in accordance to [a] prioritization matrix.

To address this recommendation, the OSMRE updated its *Federal Assistance Manual* to highlight the requirements of 30 C.F.R. § 885.16(e) to issue ATPs for both coal and non-coal reclamation projects. It also issued a policy memorandum, effective July 30, 2021, to require staff to include approved ATPs in the official AML program grant file of each certified State. All

¹² 30 C.F.R. §§ 874–75.

OSMRE offices having oversight of AML grants for certified States were made subject to this policy.

Additionally, the OSMRE stated that it met with the National Association of Abandoned Mine Land Programs and the Interstate Mining Compact Commission to clarify ATP regulatory requirements. According to the OSMRE, it also trained its regional staff and certified State representatives in 2018 and 2019 about the requirements to issue ATPs for both coal and non-coal reclamation projects.

To determine whether the OSMRE's actions addressed our recommendation, we verified that the manual and policy included the ATP documentation requirements. We also tested whether the OSMRE approved and included ATPs in grant files for our sampled projects. We confirmed that OSMRE divisions signed ATPs for the two funded projects in our sample. An ATP did not exist for the third project in our sample because the project had not been funded. By authorizing the State to proceed on the projects, the OSMRE confirmed that the projects were entered into e-AMLIS and aligned with prioritization requirements.

Based on the actions the OSMRE took to require ATPs for all projects, we consider Recommendation 4 implemented and closed.

Required Completion of Coal Projects in Mississippi—Recommendation 5

We also previously reported that the OSMRE did not require Mississippi to complete State reclamation projects. Instead, Mississippi spent its AML grant funding on administrative and consulting costs without completing any reclamation projects. Therefore, we recommended that the OSMRE:

Recommendation 5: Require Mississippi to complete coal reclamation projects in its State certification plan and establish new deadlines for completion.

To address this recommendation, the OSMRE worked with Mississippi in April 2019 to identify the status of four remaining AML projects. The OSMRE confirmed that Mississippi has completed reclamation on all the sites to which access was granted.

We obtained e-AMLIS Mississippi inventory data and interviewed OSMRE personnel to understand Mississippi AML open projects and expenditures. We confirmed that, as of July 20, 2022, the only coal project Mississippi had open was a Priority 3 project that could not be completed due to landowner refusal.

Based on the actions the OSMRE took to require Mississippi to complete coal reclamation projects, we consider Recommendation 5 implemented and closed.

Enforcement Procedures Implemented—Recommendation 6

We previously reported that the OSMRE had not utilized existing regulations that give the OSMRE authority to suspend or revoke a State's certification if the State failed to address coal issues after certification. To ensure States meet agreed-upon expectations, including

prioritization of coal reclamation projects over non-coal reclamation projects, we recommended that the OSMRE:

Recommendation 6: Develop and implement an enforcement plan to ensure updated reclamation plans are carried out.

To address this recommendation, the OSMRE developed *OSMRE Standard Operating Procedure (SOP) for the Enforcement of Reclamation Plans for Certified States*, effective August 27, 2021, to enforce certified State reclamation plans. This SOP refers to relevant Federal regulations that give the OSMRE authority to require amendments to, or suspend, a State reclamation plan or use grant regulations to withhold awards for projects when the State is not conducting its program in accordance with the approved State reclamation plan.¹³

We reviewed the SOP and determined that enforcement measures were clearly defined. We also verified that States' plans were updated (Recommendation 2). Based on this information, we consider Recommendation 6 implemented and closed.

Progress Made To Improve AML Data Integrity

The OSMRE has improved oversight of State and Tribal AML reclamation programs by including non-coal hazards in e-AMLIS and establishing new cost accounts and reconciliations. Specifically, we confirmed that the OSMRE:

- Ensured that States entered non-coal projects into e-AMLIS (Recommendation 8).
- Developed and defined subaccounts for engineering and design costs (Recommendation 9).
- Established a policy to complete subaccount reconciliations and validate AML expenditures (Recommendation 11).

We consider Recommendations 8, 9, and 11 closed and implemented. The OSMRE has also started addressing the e-AMLIS data integrity concerns set forth in our previous report (Recommendations 7 and 10). However, because it has not completed those actions, these recommendations will remain open until the OSMRE and States certify e-AMLIS data is accurate and reliable.

e-AMLIS Data Verification Not Completed—Recommendation 7

Our 2017 evaluation found that e-AMLIS inventory data was not complete and did not provide a comprehensive accounting of the AML hazards facing certified States due to inaccuracies and incomplete project data. Both State and OSMRE staff reported that e-AMLIS data entry and

¹³ 30 C.F.R. §§ 884–85; 2 C.F.R. § 200.

queries were unreliable. We recommended that the OSMRE:

Recommendation 7: Require States to review and certify that coal projects in e-AMLIS are accurate and complete.

We found that the OSMRE has made progress toward requiring States to verify e-AMLIS data, but the recommendation has still not yet been fully implemented.

In May 2022, the OSMRE described its corrective actions to date, which included e-AMLIS trainings, a new data entry process, and data verification steps. According to the OSMRE, it conducted data entry trainings in each of its three regions to ensure new data are accurate and complete, and it required all new users to complete training prior to gaining access to e-AMLIS.

The OSMRE also updated its e-AMLIS project entry process to require confirmation and verification of the information entered into e-AMLIS. Specifically, all e-AMLIS account holders are required to confirm that the data they have entered are accurate and complete when adding a site feature to e-AMLIS. After the data are entered, the OSMRE's approving officials must also verify accuracy and completeness. We verified that the preparer and approver must confirm that the project data are accurate and complete in e-AMLIS.

OSMRE officials stated that they are working with States to develop "a systematic approach to standardize and modernize older/legacy e-AMLIS project data for certified States." According to the OSMRE, it is also updating its *Abandoned Mine Land Inventory Manual* to clarify cost estimation requirements for more accurate reporting by certified States. The OSMRE relies on standardized, engineering cost estimation to develop site-specific costs for each reclamation activity. Along with the manual update, the OSMRE stated that it plans to consult with certified States about calculating reclamation costs and updating estimates where necessary.

The OSMRE's original target implementation date for updating older project data and cost estimation requirements was September 2023. However, we recently reported that officials from the five States receiving the most FY 2022 IJA funding for AML projects told us that there are AML site features they have recorded in their State systems that are not recorded within e-AMLIS. As a result, the e-AMLIS system does not match the States' own inventories of site features.¹⁴ This information suggests that there are ongoing concerns regarding data consistency. Given the significant influx of funding to the AML Reclamation Program, it is imperative that the OSMRE finalize implementation of this recommendation. We acknowledge that the target date is still several months away and that the U.S. Department of the Interior has not requested closure of this recommendation. We emphasize, though, that Recommendation 7 will remain open until the OSMRE updates legacy data and cost estimation requirements and provides our office with closure documentation with evidence that these actions have been taken.

Non-Coal Data Entry Requirements Clarified—Recommendation 8

We previously reported that States were not required to enter non-coal AML projects and construction estimates into e-AMLIS or obtain the OSMRE's approval prior to reclaiming

¹⁴ *Flash Report: Abandoned Mine Lands Program*, Report No. 2022-INF-037, dated January 2023.

non-coal sites. Without a full inventory of coal and non-coal hazards, the OSMRE was unable to make determinations about the propriety of the States' prioritization methods. Therefore, we recommended that the OSMRE:

Recommendation 8: Require States to enter non-coal projects into e-AMLIS.

To address this recommendation, the OSMRE stated that it trained its staff and certified State representatives in each region on data entry requirements for non-coal projects. The OSMRE stated that this training is a prerequisite to gain access to e-AMLIS.

Additionally, the OSMRE's requirement that ATPs be issued for both coal and non-coal reclamation projects helped ensure that States entered non-coal projects into e-AMLIS. By authorizing the States to proceed on the projects, the OSMRE also confirmed that States entered the projects into e-AMLIS. The OSMRE's *Abandoned Mine Land Inventory Manual* also required that States enter non-coal features in e-AMLIS during the ATP process and update data after project completion.

We reviewed 27 new projects entered from July 30, 2021, through May 23, 2022, and confirmed that States entered each of the new non-coal projects into e-AMLIS. Based on the actions the OSMRE took to require States to enter all projects in e-AMLIS, including non-coal projects, we consider Recommendation 8 implemented and closed.

Defined and Implemented New Cost Categories—Recommendation 9

We previously found that e-AMLIS only tracked estimated and actual construction costs associated with projects but did not include planning and engineering costs. Therefore, decision makers using e-AMLIS as the basis for funding decisions had incomplete information regarding the funding needed to complete these projects. We recommended that the OSMRE:

Recommendation 9: Ensure all appropriate information for program management is collected and tracked to include engineering and design costs.

To address Recommendation 9, the OSMRE stated that it collaborated with the National Association of Abandoned Mine Land Programs and the Interstate Mining Compact Commission to define new cost categories for engineering and design subaccounts. The OSMRE expanded AML cost categories in the FBMS and revised its *Federal Assistance Manual* to define the new subaccounts. The OSMRE also sent notifications to certified States in October 2019 to require the States to allocate and expend funds using these new subaccounts. Effective January 31, 2020, the two new engineering and design cost subaccounts for the AML Reclamation Program were applicable to all FY 2020 and future AML grant distributions. The OSMRE defined the new cost categories for the subaccounts, which include all costs associated with project preparation prior to award.

We reviewed the cost categories of the new subaccounts and confirmed the subaccounts included any planning costs associated with project preparation, such as identifying and mapping hazards, surveying design, and preparing environmental and endangered species reports. We also verified

that the OSMRE tracked and included engineering and design costs in its most recent FY 2022 subaccount drawdown analysis.

Based on the actions the OSMRE took to update and use new engineering and design subaccounts, we consider Recommendation 9 implemented and closed.

e-AMLIS Data Reliability Remains a Concern—Recommendation 10

We previously reported that e-AMLIS contained incomplete or outdated project cost estimates, and both State and OSMRE staff reported that e-AMLIS was unreliable in data retrieval. In particular, OSMRE staff reported that identical database queries yielded different results and that they were not confident in e-AMLIS' ability to deliver accurate accounting for AML projects. Therefore, we recommended that the OSMRE:

Recommendation 10: Assess the data integrity issues identified by OSMRE staff and ensure that the e-AMLIS data [are] reliable and consistent.

In May 2022, the OSMRE described its corrective actions to date, which included e-AMLIS trainings and an AML working group to prioritize e-AMLIS upgrades and the data verification steps associated with Recommendation 7.

According to the OSMRE, it is working with its e-AMLIS contractor and certified States to develop a standardized approach to enter and validate e-AMLIS project data. The OSMRE also stated that it plans to update its *Abandoned Mine Land Inventory Manual* to clarify requirements for documentation and cost estimates. The OSMRE also stated that it continues to work with States to maintain and update legacy cost data to ensure accurate e-AMLIS project data and queries.

We found that, with these steps, the OSMRE has made progress toward training users and requiring States to verify e-AMLIS data but that its actions are not yet complete. As noted previously, we recently reported information suggesting that AML data reliability continues to be a concern,¹⁵ and given the significant influx of funding, the OSMRE should promptly finalize implementation of this recommendation. The OSMRE's original target implementation date for reliable e-AMLIS reporting was designated as September 2023. As with Recommendation 7, we acknowledge that the target date is still several months away and that the Department has not requested closure of this recommendation. We emphasize, though, that Recommendation 10 will remain open until the OSMRE revises documentation requirements, cost estimation, and e-AMLIS data verification procedures and provides our office with closure documentation with evidence that these actions have been taken.

Subaccount Analyses and Reconciliations Implemented—Recommendation 11

In our 2017 evaluation report, we also found that FBMS accounting for AML grants did not accurately report funds spent on coal and non-coal projects. We recommended that the OSMRE:

¹⁵ *Flash Report: Abandoned Mine Lands Program*, Report No. 2022-INF-037, dated January 2023.

Recommendation 11: Reconcile FBMS subaccounts with program narratives and ensure [the] FBMS accurately reports funds spent on coal and non-coal projects.

To address this recommendation, the OSMRE issued policy to its regional offices to ensure that funds spent on coal and non-coal projects are accurately reported in grant files. Effective September 20, 2021, the policy requires that, before closing out an AML grant file, the program manager and grants management officer must use a review checklist to document that FBMS subaccounts align with the expenditures for coal and non-coal projects. If the OSMRE's review demonstrates that Federal funds were not drawn from the appropriate FBMS subaccount or subaccounts, the grant office must resolve any issues with the grant recipient before closeout.

The OSMRE's policy also referenced the findings of our 2017 report and established annual drawdown analyses for AML grants beginning in FY 2022. As part of this drawdown review, both the program office and the grants management office must evaluate and certify, as part of the official grant file, whether the Federal funds expended to date align with FBMS subaccounts for expenditures on coal and non-coal projects.

To determine whether FBMS accounts were reconciled, we interviewed the OSMRE official responsible for monthly reconciliation of FBMS and Treasury data, and we performed a walkthrough of the reconciliations. In addition to monthly reconciliation of accounts, we verified that the OSMRE sent its regional offices a memorandum, *Request for FY 2022 Subaccount Drawdown Analyses for Title IV Grants*, dated June 21, 2022. In response to the memorandum, the OSMRE's regional office performed a drawdown analysis of a random sample of open grants to certify that Federal expenditures aligned with FBMS subaccounts on coal and non-coal projects. We reviewed the results of the drawdown analyses for the FY 2022 Arkansas and Texas grants but did not perform detailed analysis.

We reviewed the OSMRE's actions to analyze and reconcile grant expenditures and consider Recommendation 11 implemented and closed.

Conclusion and Recommendations

Conclusion

We found that the OSMRE implemented 9 of the 11 recommendations made in our previous report and has made progress in strengthening its AML Reclamation Program. Specifically, the OSMRE:

- Implemented procedures requiring certified States to include project details, such as prioritization and ore type, with grant applications to ensure priority is given to coal reclamation projects (Recommendation 1).
- Required States to provide a prioritization approach (Recommendation 3) and obtain ATPs for all projects (Recommendation 4).
- Required States to update reclamation plans (Recommendation 2) and developed an enforcement plan to ensure reclamation plans are carried out (Recommendation 6).
- Required Mississippi to complete coal reclamation projects (Recommendation 5).
- Ensured that States entered non-coal projects into e-AMLIS (Recommendation 8).
- Developed and defined subaccounts for engineering and design costs (Recommendation 9).
- Established a policy to complete subaccount reconciliations and validate AML expenditures (Recommendation 11).

We accordingly agree that Recommendations 1 through 6, 8, 9, and 11 are appropriately designated as resolved and implemented. However, the OSMRE has not yet implemented Recommendations 7 and 10 from our previous report, even though it was issued more than 5 years ago. We acknowledge that the OSMRE has represented that it is actively updating legacy project data in e-AMLIS, enhancing system design to ensure data reliability, and updating its *Abandoned Mine Land Inventory Manual* to address the two remaining recommendations from our previous evaluation related to data integrity. The OSMRE, however, has stated that it does not expect to completely implement Recommendations 7 and 10 until September 2023. Accordingly, these recommendations will continue to be designated as not implemented. See Appendix 2 for the status of each recommendation from our previous evaluation.

Response Summary

We provided a draft of this report to the OSMRE for review. The OSMRE did not provide a formal, signed response to the report, but an OSMRE program director sent an email that

acknowledged the two outstanding recommendations associated with our March 2017 report, and stated:

OSMRE continues to make progress on both Recommendation 7 and Recommendation 10 and is on schedule to meet the targeted implementation date of September 23, 2023, for each.

Among other things, the e-AMLIS technical contractor has developed, tested, and deployed new features to the entire e-AMLIS user group (state/tribal Preparers). These new features and enhancements are specifically designed and targeted at reducing opportunities for data entry errors as well as minimizing mathematical errors by users. Moreover, these features will greatly improve the reliability and integrity of e-AMLIS datasets. The e-AMLIS Coordinator and a team of course design technologists from NTTP [National Technical Training Program] have developed several eLearning modules with voiceovers and documents that can be deployed to DOI Talent or used in classroom or conference learning environments. The e-AMLIS contractor has installed a multi-step procedure to validate and verify certified states' entries and their alignment with approved state reclamation plans. These steps record states' agreement and conformity to approved reclamation plans as well as date/time stamps confirming their alignment. Lastly, a multi-step procedure is also in place for OSMRE Approvers who must verify that the state entries align with their reclamation plans. In short, the front-end user and the back-end user must both verify and agree to the alignment of state e-AMLIS data entries to their approved reclamation plans.

The contractor has completed the new "Manage PA [Problem Area]" enhancements (also referred to as "Beta version") and they have been deployed to the full system. Users will be trained on how to use the new Beta features throughout 2023. The e-AMLIS contractor is developing/testing and getting ready to deploy an online tool that will enable OSMRE to assess the integrity and robustness of data on any given PAD [Problem Area Description]. OSMRE plans to use this online tool to assess the PADs of certified states first, then utilize it for other states. OSMRE is conducting an online training workshop on February 28, 2023. OSMRE is conducting an in-person training workshop on April 25-26, 2023.

The syllabus for these workshops has been adapted to include new sections on BIL [Bipartisan Infrastructure Law] related topics and all the system enhancements that have been deployed over the past year. OSMRE estimates that these recommendations are 65% complete. OSMRE plans to complete this recommendation by the established date of September 30, 2023.

Appendix 1: Scope and Methodology

Scope

The scope of our inspection included the Office of Surface Mining Reclamation and Enforcement's (OSMRE's) actions taken to address the 11 recommendations made in our evaluation report titled, *Office of Surface Mining Reclamation and Enforcement's Oversight of the Abandoned Mine Lands Program* (Report No. 2016–EAU–007, issued March 30, 2017). As a result of the COVID–19 pandemic and associated limitations on our ability to travel, we performed this inspection virtually and did not conduct site visits or observe reclamation oversight activities.

Methodology

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

To accomplish our objective, we:

- Gathered and reviewed background information about the OSMRE's Abandoned Mine Lands (AML) Reclamation Program and documentation the OSMRE provided to close 9 of the 11 previous recommendations.
- Accessed and reviewed the previous Office of Inspector General evaluation file, including documentation supporting the findings and recommendations of Report No. 2016–EAU–007.
- Obtained and reviewed applicable laws and regulations.
- Identified and reviewed OSMRE guidance related to its AML Reclamation Program.
- Interviewed OSMRE personnel about the office's actions to address previous recommendations.
- Determined the status of each previously issued recommendation, including whether the OSMRE's actions met the intent of the recommendation.
- Analyzed new project entries and the associated grant files, authorizations to proceed (ATPs), and annual evaluation reports for the certified States' AML reclamation programs to identify corrective actions related to reclamation plans and prioritization.

- Identified the universe of 27 new projects entered into the Abandoned Mine Land Inventory System (e-AMLIS) between July 30, 2021 (the date the OSMRE issued new ATP policy), and May 23, 2022, for certified States (Louisiana, Mississippi, Montana, Texas, and Wyoming).
- Judgmentally selected and analyzed a sample of three new projects entered into e-AMLIS between July 30, 2021, and May 23, 2022.
- Reviewed the results of the OSMRE's fiscal year 2022 subaccount drawdown analyses for Title IV grants.

Appendix 2: Status of Recommendations From 2017 Evaluation

Status of Recommendations From Prior Evaluation

Recommendation	Closure Requested (Date)	Status	Actions Taken
1. Ensure that States are properly giving first priority to coal-related reclamation projects.	Yes (09/2021)	Implemented	The Office of Surface Mining Reclamation and Enforcement (OSMRE) required certified States to include project details, including prioritization, ore type, and authorizations to proceed (ATPs) in grant files. The OSMRE certified that each project met prioritization requirements of the State's reclamation plan.
2. Require certified States to update their reclamation plans and continue to do so at periodic intervals.	Yes (01/2020)	Implemented	The OSMRE required each certified State to update its abandoned mine lands (AML) reclamation plans after March 2019.
3. Develop and implement an agreed-upon prioritization matrix and goals with timelines that will ensure coal hazards are addressed first and clearly defines when a non-coal project may be selected ahead of a coal project.	Yes (09/2021)	Implemented	The OSMRE required States to provide the description of a prioritization approach in their reclamation plans to reclaim any existing or newly discovered coal sites.
4. Require ATPs for all projects and approve in accordance to [a] prioritization matrix.	Yes (08/2021)	Implemented	The OSMRE updated its manual, issued policy, and provided training on the ATP documentation requirements.
5. Require Mississippi to complete coal reclamation projects in its State certification plan and establish new deadlines for completion.	Yes (09/2021)	Implemented	Mississippi has completed reclamation on all the sites to which access was granted, as of May 2022.

Recommendation	Closure Requested (Date)	Status	Actions Taken
6. Develop and implement an enforcement plan to ensure updated reclamation plans are carried out.	Yes (08/2021)	Implemented	The OSMRE implemented a standard operating procedure (SOP), SOP 3000-01-01, which details its authority to amend or suspend a State reclamation plan or withhold awards for projects when the State does not conduct its program in accordance with the approved reclamation plan.
7. Require States to review and certify that coal projects in e-AMLIS [the Abandoned Mine Land Inventory System] are accurate and complete.	No	Not Implemented	During our review, OSMRE informed us that it was actively providing e-AMLIS trainings, implementing a new data entry process, and including data verification steps to standardize e-AMLIS project data. Its target implementation date is September 2023.
8. Require States to enter non-coal projects into e-AMLIS.	Yes (08/2021)	Implemented	The OSMRE required ATPs for all projects (including non-coal) for which e-AMLIS project entry is a prerequisite. It provided training to OSMRE staff and certified State representatives on data entry requirements.
9. Ensure all appropriate information for program management is collected and tracked to include engineering and design costs.	Yes (08/2021)	Implemented	The OSMRE developed new Financial and Business Management System (FBMS) subaccounts for engineering and design costs, applicable for all grant distributions after January 31, 2020.
10. Assess the data integrity issues identified by OSMRE staff and ensure that the e-AMLIS data [are] reliable and consistent.	No	Not Implemented	During our review, OSMRE informed us that it is working with certified States to standardize e-AMLIS project data entry and validation. In addition, the OSMRE plans to update its manual to clarify requirements for priority documentation and cost estimates. Its target implementation date is September 2023.

Recommendation	Closure Requested (Date)	Status	Actions Taken
11. Reconcile FBMS subaccounts with program narratives and ensure [the] FBMS accurately reports funds spent on coal and non-coal projects.	Yes (09/2021)	Implemented	The OSMRE issued policy in September 2021 to require its regions to accurately report funds spent on coal and non-coal projects, perform grant closeout and monthly reconciliations, and complete annual drawdown analyses for active AML grants.



REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

The Office of Inspector General (OIG) provides independent oversight and promotes integrity and accountability in the programs and operations of the U.S. Department of the Interior (DOI). One way we achieve this mission is by working with the people who contact us through our hotline.



If you wish to file a complaint about potential fraud, waste, abuse, or mismanagement in the DOI, please visit the OIG's online hotline at www.doioig.gov/hotline or call the OIG hotline's toll-free number: **1-800-424-5081**

Who Can Report?

Anyone with knowledge of potential fraud, waste, abuse, misconduct, or mismanagement involving the DOI should contact the OIG hotline. This includes knowledge of potential misuse involving DOI grants and contracts.

How Does it Help?

Every day, DOI employees and non-employees alike contact the OIG, and the information they share can lead to reviews and investigations that result in accountability and positive change for the DOI, its employees, and the public.

Who Is Protected?

Anyone may request confidentiality. The Privacy Act, the Inspector General Act, and other applicable laws protect complainants. Section 7(b) of the Inspector General Act of 1978 states that the Inspector General shall not disclose the identity of a DOI employee who reports an allegation or provides information without the employee's consent, unless the Inspector General determines that disclosure is unavoidable during the course of the investigation. By law, Federal employees may not take or threaten to take a personnel action because of whistleblowing or the exercise of a lawful appeal, complaint, or grievance right. Non-DOI employees who report allegations may also specifically request confidentiality.