

# **PERFORMANCE AGREEMENT**

**Evaluation Year 2002**

Between

The Office of Surface Mining  
Indianapolis Field Office

and

The Illinois Department of Natural Resources,  
Office of Mines and Minerals  
Land Reclamation Division

September 2001

# Performance Agreement Between OSM and OMM-LRD EY 2002

## Part I. Purpose

**Background:** The Surface Coal Mining and Reclamation Act of 1977 (SMCRA) provides that the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface coal mining and reclamation operations, subject to the Act, should rest with the States. SMCRA also creates the framework within which States carry out the mandates of the Act through approved programs. The Office of Surface Mining's (OSM) involvement (oversight role) with State primacy programs is to support the States in accomplishing this objective and assist in assuring State program provisions are maintained within the overall requirements of the Act.

The purpose of this Performance Agreement is to establish a mutually acceptable scope of work for oversight of the approved program administered by Illinois, and to provide programmatic and technical support and assistance to the State. This effort is to ensure that the Illinois Program is appropriately addressing SMCRA requirements as it develops and administers its laws, regulations and program. Oversight is an ongoing process which allows for timely identification and resolution of program issues, and serves to identify areas where OSM needs to clarify its expectations of how SMCRA requirements are to be implemented.

**Objective:** The goals of this Performance Agreement are to:

- S foster mutual respect in carrying out the requirements of SMCRA,
- S assure that oversight topics reflect State/OSM priorities,
- S use on-the-ground results as a measure of program success,
- S provide timely follow-up on identified program needs, and
- S enhance and encourage the State's own performance evaluation.

This agreement will be available in the Indianapolis Field Office's evaluation files for public review.

## **Part II. Annual Evaluation Plan**

**Background:** OSM's Directive REG-8 establishes the framework for carrying out annual State program oversight. The directive provides flexibility to OSM Field Offices in designing an annual oversight plan consisting of specific program reviews and areas for program/technical support or assistance to the State regulatory, abandoned mine lands and grants programs. REG-8 gives States the opportunity to be involved in developing and carrying out the plan and reporting on the results.

Oversight topics in the Annual Evaluation Plan reflect the highest priority areas for review and/or assistance determined by the State and the Field Office. The selection of topics and assistance needs should also be developed with input from other parties, including citizens, representatives of interest groups and the coal industry in so far as practicable. The annual agreement may be modified as issues are resolved, as new issues arise, or as work priorities change.

This evaluation plan incorporates the three required national measurement elements: off-site impacts, reclamation success, and customer service. In addition to these *national review topics*, the plan includes other oversight activities, or *selected programmatic review topics*, mutually developed by the Illinois Office of Mines and Minerals, Land Reclamation Division, and the IFO.

REG-8 requires that specific data be gathered during the evaluation year, much of which is gathered via mine site evaluations or site visits. This evaluation year the IFO's inspection plan involves complete mine site evaluations, and reclamation success mine site evaluations. The objectives of complete mine site evaluations will include gathering both on-site and off-site impact information, with emphasis on on-the-ground effects and prevention of problems.

## **Part III. National Review Topics**

REG-8 national review topics for which information is to be gathered are as follows:

### **A. Off-site Impacts.**

The IFO will continue to evaluate and report on the effectiveness of the Illinois Program in protecting the public and the environment from off-site impacts resulting from surface and underground coal mine operations. For the purposes of Illinois Program oversight the definition of off-site impact and other guidance pertaining to off-site impacts described in OSM Directive REG-8 will be used. The IFO's oversight target in EY 2002 will be to conduct complete inspections on 35 inspectable units in Illinois.

The EY 2002 Off-Site Work Plan relating to this Performance Agreement describes the objectives, methodology, measurement elements, and reporting requirements for evaluation of Illinois Program success in preventing off-site impacts.

**B. Reclamation Success.**

The IFO will evaluate and report on the effectiveness of the Illinois Program in ensuring successful reclamation of lands affected by surface mining. A determination of reclamation success will be based on the number of acres that meet bond release standards and have been released by the Land Reclamation Division. The IFO will gather information to measure program performance in the following areas:

- a. Land form/AOC
- b. Land capability
- c. Hydrologic reclamation
- d. Contemporaneous reclamation

For this evaluation the IFO will use the definitions of successful reclamation for each phase of reclamation described in REG-8.

Directive REG-8 defines contemporaneous reclamation to be the difference between the time lands are disturbed and when they achieve final phased bond release. Illinois has information available concerning affected acreage and acres of bond released each year. The attached work plan explains that IFO will make a comparison of affected acres with bond released acres to obtain a general assessment of contemporaneous reclamation. The IFO will conduct mine site evaluations on a sample of 10 bond releases recommended or made by the LRD to verify the bond releases represent successful achievement of reclamation.

**C. Customer Service:**

In EY 2002 the IFO will evaluate the effectiveness of customer service provided by the state in responding to written citizen complaints, and analyze any complaint trends noted. This aspect of customer service was selected for oversight evaluation because no review had been made since 1994. The EY 2002 review will consider timeliness and appropriateness of LRD responses, as well as documentation and any trends which may be evident.

A work plan setting forth the scope and methodology of this evaluation will be developed prior to initiation of the review.

## **Part IV. Selected Programmatic Review Topics for EY 2002**

### **A. Groundwater Monitoring Study Follow-Up**

A joint OSM/State groundwater monitoring evaluation was completed in EY 2000 from which specific recommendations were made for improvement. In EY 2001 the IFO evaluated the State's implementation of those recommendations.

In EY 2002 a State/OSM team will conduct a follow-up review. This review will determine completion of LRD input of ground water monitoring requirements into its ground water database and whether LRD inspectors are making use of the tracking sheets to ensure permittee compliance with groundwater monitoring requirements.

### **B. Wetland Mine Site Mitigation Review**

The purpose of this review is to evaluate LRD performance to ensure that coal mine permittees are successfully completing wetland mitigation in accordance with their reclamation plan and Corp of Engineers Section 404 permits. Whether this review will be conducted just by the IFO or as a team effort with the LRD will be determined by mutual agreement prior to review initiation.

### **C. Temporary Cessation of Operations and Grading Deferrals**

Selection of this review topic was prompted by a desire by the IFO and the LRD to bring some closure to temporary cessation of operations and grading deferrals that have been in effect for a long time. However, reporting on grading deferrals will be kept separate from temporary cessation of operations.

This review/survey will be conducted by an LRD/IFO team consisting of an IFO employee and two or three LRD employees from the Benton, Illinois office. The team will develop a review work plan for management approval prior to beginning the review.

## **Part V. Abandoned Mine Land Program Oversight**

Oversight and assistance activities relating to the Illinois Abandoned Mine Land Program in EY 2001 are addressed under a separate Performance Agreement.

**Part VI. Signatures**

The following parties consent to this agreement:

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Scott Fowler, Supervisor  
Land Reclamation Division  
Office of Mines and Minerals  
Illinois Department of Natural Resources

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Date

\_\_\_\_\_  
Andrew R. Gilmore, Director  
Indianapolis Field Office  
Office of Surface Mining Reclamation and Enforcement

\_\_\_\_\_  
Date