

STATEMENT OF
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BEFORE THE

COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ON THE
FISCAL YEAR 2013 BUDGET REQUEST

MARCH 6, 2012

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify on the Fiscal Year 2013 budget request for the Office of Surface Mining Reclamation and Enforcement (OSM).

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Office of Surface Mining Reclamation and Enforcement for two basic purposes: First, to assure that the Nation's coal mines operate in a manner that protects citizens and the environment during mining operations and restores the land to productive use following mining; and second, to implement an Abandoned Mine Lands (AML) program to address the hazards and environmental degradation remaining from two centuries of unregulated mining. These tasks are vital to public health and safety, and the environmental and economic well-being of the United States.

Congress charged OSM through SMCRA to ensure that the Nation strikes a balance between the protection of the environment and the Nation's need for coal energy. Nearly 35 years after the passage of SMCRA, coal remains an important fuel source for our country, providing about half of our Nation's electricity. In the continued drive to decrease our Nation's dependence on foreign oil, coal will continue to be part of our domestic supply of energy for the foreseeable future.

While new energy frontiers are being explored, including the development of clean coal, the coal supply (conventional coal production) is essential to the Nation's energy requirements. In order to ensure that coal is produced in an environmentally conscious and responsible way, OSM is committed to carrying out the requirements of SMCRA in cooperation with States and Tribes. Of the almost 2,400 employees involved in carrying out these two responsibilities on a daily basis, less than 25 percent are employed by OSM. The rest are State and Tribal employees who implement programs approved by the Secretary of the Interior with assistance from OSM. States permit and regulate 97 percent of the Nation's coal production. States and Tribes also complete well over 90 percent of the abandoned mine land reclamation projects.

The major tasks for OSM are to ensure that States and Tribes successfully address coal mining activities by ensuring they have high-quality regulatory and AML frameworks and to oversee implementation of their programs. Importantly, OSM also provides technical assistance, funding, training, and technical tools to the States to support their regulatory and reclamation programs.

Currently, 24 States have approved regulatory programs in place pursuant to Title V of SMCRA. There are 25 States and three Tribes that administer approved AML programs pursuant to Title IV of SMCRA.

Since enactment of SMCRA in 1977, OSM has provided more than \$3 billion in grants to States and Tribes to clean up mine sites abandoned before passage of SMCRA. In the course of addressing health, safety and environmental hazards, about 265,000 acres of Priority 1 and 2 abandoned coal mine sites have been reclaimed under OSM's AML Program, though many sites still remain.

The authority to collect and distribute the AML reclamation fee was revised by the Tax Relief and Health Care Act of 2006, which included the 2006 Amendments to SMCRA (Public Law 109-432). Among other things, these amendments extended the authority for fee collection on mined coal through September 30, 2021, and changed the way that State and Tribal reclamation grants are funded, beginning in FY 2008. State and Tribal grants are funded by permanent appropriations that are derived from current AML fee collections and the general fund of the U.S. Treasury. With these amendments, funding to States and Tribes increased from \$145.3 million in FY 2007 to the most recent distribution made available of \$485.5 million for FY 2012.

The budget includes a legislative proposal to reform the AML reclamation program to reduce unnecessary spending and ensure the Nation's highest priority abandoned sites are reclaimed. First, the budget proposes to eliminate the unrestricted payments to certified States and Tribes that have completed their abandoned coal mine reclamation. Terminating these payments will save taxpayers \$1.1 billion over the next decade. Second, the budget proposes to reform the allocation of grants for coal AML reclamation to a competitive process. The current production-based formula allocates funding to States that have the most coal production and not necessarily States with the most critical reclamation needs. A competitive process would ensure that funding addresses the highest priority and the most environmentally damaging AML coal sites across the Nation, regardless of which State they are located in and how much coal is currently produced.

Third, the budget proposes to create a parallel hardrock AML program, with fees collected by OSM and distributed competitively by the Bureau of Land Management. The coal AML reclamation program would operate in parallel to the proposed hardrock AML fee and reclamation program, as part of a larger effort to ensure that the Nation's most dangerous coal and hardrock AML sites are addressed by the industries that created the problems. The mandatory distribution to the United Mine Workers of America (UMWA) health benefit plans, estimated at \$230.6 million in FY 2013, will not be

affected by this proposal.

Fiscal Year 2013 Budget Request Overview

The FY 2013 budget request for OSM totals \$140.7 million in discretionary spending and supports 528 equivalent full-time positions. Compared with the 2012 enacted level of \$150.2 million, this represents a net decrease of \$9.5 million. The budget request contains a programmatic increase of \$4.2 million for improved implementation of existing laws and support to States and Tribes, and monitoring of AML projects. Reductions include \$10.9 million in discretionary spending for State regulatory program grants to be offset with increased user fees for services provided to the coal industry; \$3.4 million in Federal programs, including the Federal program for Indian lands, to be offset with cost recovery of fees for services, and \$0.3 million for watershed cooperative agreements. The budget includes a net increase of \$0.9 million for fixed costs and continues to support administrative savings and efficiencies.

OSM's budget also contains an estimated \$537.2 million in permanent appropriations. This spending includes \$306.6 million for reclamation grants to non-certified States and Tribes (those with remaining abandoned coal mine problems); and \$230.6 million for the UMWA for specified health benefits plans. This spending is derived from both the AML and U.S. Treasury funds. The estimates, as contained in the budget submission, are projections based on information current as of the end of the 2011 calendar year and subject to change since they are based on fee collections and requests from the UMWA.

Regulation and Technology Appropriation

The OSM's overall FY 2013 request includes \$113.1 million for the Regulation and Technology appropriation, \$9.7 million below the 2012 enacted level. This includes an increase in funding and staff to support improved implementation of existing laws and support to States and Tribes, and reductions for regulatory grants, and Federal programs where OSM is the regulatory authority. The FY 2013 budget request will enable OSM to provide financial and technical support, and training to the 24 States with approved regulatory programs. It will also enable OSM to continue to administer Federal regulatory programs in States that do not operate their own programs and on Federal and Indian lands.

The requested programmatic increase of almost \$4.0 million and 25 FTE will support improved implementation of existing laws and support to the States and Tribes. Scientific developments have identified areas in need of improvement to more completely implement SMCRA. Annual performance agreements developed for each State, with stakeholder input, outline the responsibilities and activities of both the State and OSM. The increase in funding and FTE will strengthen OSM's skill base to assist in resolving issues, while continuing to provide the technical support and training that States and Tribes need to maintain program effectiveness.

A large portion of the regulatory and technology funding appropriated to OSM is distributed to the States and Tribes in the form of regulatory grants. These grants account

for 51 percent of this proposed appropriation. For FY 2013, the request includes \$57.7 million for regulatory grants, \$10.9 million below the 2012 enacted level. States are encouraged to offset the decrease in Federal funding by increasing cost recovery fees for services to the coal industry, therefore there should be no reduction in regulatory performance. The decrease supports the Administration's commitment to reduce subsidies to fossil-fuel industries.

In addition, a decrease of \$3.4 million for Federal regulatory programs where OSM is the regulatory authority is proposed, which will be covered by an equal amount of proposed offsetting collections for the review, administration and enforcement of coal mining permits.

The remaining portion of the budget provides funding for OSM's regulatory operations on Federal and Indian lands, evaluation and oversight of State regulatory programs, technical training and other technical assistance to the States and Tribes as well as administrative and executive activities.

Abandoned Mine Reclamation Fund Appropriation

The request includes \$27.5 million for the AML appropriation, which is a net increase of \$149,000 from the 2012 enacted level. The budget supports OSM's program evaluations and reclamation operations, watershed cooperative agreement projects, fee compliance and audits, technical training and other technical assistance to the States and Tribes as well as administrative and executive activities. Increases are proposed for project monitoring of AML projects. Reductions are proposed for watershed cooperative agreements due to the anticipated number of projects in FY 2013 and available carryover funding to support them.

Permanent Appropriations

The OSM will continue to distribute mandatory funding to States and Tribes under the AML program and make payments to the UMWA health benefit plans. The budget request includes a legislative proposal discussed earlier to eliminate payments to certified States and Tribes and restructure AML coal payments from a production-based formula to a competitive process, allocating \$306.6 million in 2013 for reclamation of the highest priority coal AML sites in the Nation. This proposal will save an estimated \$1.1 billion over the next decade while ensuring that the Nation's highest priority abandoned coal mines are addressed.

Offsetting Collections and Fees

OSM's budget continues an offsetting collection initiated in FY 2012, allowing OSM to retain coal mine permit application and other fees for the work performed as a service to the coal industry. The fee will help ensure the efficient processing, review, and enforcement of the permits issued, while recovering some of the regulatory operations costs from the industry that benefits from this service. Section 507 of SMCRA

authorizes this fee. It is estimated that \$3.4 million will be generated in offsetting collections.

Conclusion

The FY 2013 budget is a disciplined, fiscally responsible request that lowers the cost to the American taxpayer while ensuring coal production occurs in an environmentally responsible way.

Thank you for the opportunity to appear before the Committee today and testify on the FY 2013 budget request for OSM. This concludes my written statement. I am happy to answer questions that you may have on the budget proposal.