United States General Accounting Office

GAO

Report to the Chairman, Committee on Interior and Insular Affairs, House of Representatives

August 1989

DEBT COLLECTION

Interior Is Acting to Improve Its Collection of Civil Penalty Fees

139537

RESTRICTED — Not to be released outside the General Accounting Office unless specifically approved by the Office of Congressional Relations.

RELEASED

546247

GAO/AFMD-89-73

GAO

United States
General Accounting Office
Washington, D.C. 20548

Accounting and Financial
Management Division

B-225149

August 16, 1989

The Honorable Morris K. Udall
Chairman, Committee on Interior and
Insular Affairs
House of Representatives

Dear Mr. Chairman:

You asked us to determine the status of civil penalty fees owed to the Department of the Interior's Office of Surface Mining Reclamation and Enforcement (OSMRE) and what actions have been taken to improve its collection of these receivables. Past collection problems have been recognized by the agency and highlighted in numerous congressional and audit reports.

We found that OSMRE has acted to strengthen debt collection of civil penalty fees. Improvements include (1) monitoring the collection process through development of collection processing standards and a comprehensive automated case tracking report, (2) assessing interest, penalties, and administrative costs on delinquent civil penalty debt, (3) using private debt collection contractors, (4) developing written civil penalty collection procedures, and (5) initiating the referral of civil penalty delinquent debtor information to credit bureaus.

While improvements have been initiated, due to the nature of OSMRE's receivables—which is explained later—OSMRE may never experience a high rate of collection of civil penalty fees.

Background

The Surface Mining Control and Reclamation Act (SMCRA) of 1977 (30 U.S.C. 1201 et seq.) created OSMRE within the Department of the Interior and gave it the responsibility for implementing and administering programs to control mining operations. In carrying out its responsibilities, OSMRE is authorized to assess civil penalties against coal companies for violations under SMCRA, such as failing to adequately restore mining sites. If a violation is not corrected prior to a deadline set by OSMRE, a penalty of up to $5,000 may be assessed. Additional penalties of not less than $750 per day, up to 30 days, must be assessed for each day the operator fails to correct a violation after the prescribed deadline.

OSMRE, which is also authorized to collect the penalties, records the penalty in its accounting system as a receivable when the formal notification of the penalty (final order) is sent to the violator. Those penalties not paid within 30 days after the date of the notification are considered by OSMRE to be delinquent.

OSMRE is responsible for performing the initial debt collection efforts for civil penalties. If these efforts are unsuccessful, the cases are either referred to the Department's Office of the Solicitor for legal action or, as has been done more recently, to a private collection contractor prior to referral to the Office of the Solicitor.

OSMRE's collection efforts can be delayed by a lengthy, administrative appeals process which occurs if a conference or hearing is requested by a mine operator who has been cited for a mining violation. Under SMCRA, civil penalties may only be assessed after the cited mine operator has been given an opportunity for a public hearing. One result of this is that the time that elapses from when the site was inspected to when there is a final order and OSMRE can initiate its collection efforts can exceed 195 days.

Over the past 5 years, numerous reports critical of OSMRE's collection efforts have been issued by the House Committee on Government Operations, the Internal Revenue Service (IRS), and GAO. Among the problems noted were the need to better monitor the collection process and the need to take a number of actions required by Office of Management and Budget (OMB) guidance and authorized by the Debt Collection Act of 1982. Over the years, OSMRE has cited debt collection problems as material weaknesses in its reports under the Federal Managers' Financial Integrity Act.[1]

Objectives, Scope, and Methodology

The objectives of our review were to determine the status of OSMRE's civil penalty receivables and what actions it has taken to improve its procedures for collecting civil penalties. We reviewed the operations of OSMRE's Division of Debt Management, which is primarily responsible for

[1]The Federal Managers' Financial Integrity Act of 1982 (31 U.S.C. 3512 (b) and (c)) requires executive agencies to establish and maintain adequate systems of internal control and accounting. The act requires agency heads to report annually to the President and the Congress on the status of these systems and holds managers responsible for correcting identified deficiencies.

the collection functions. As agreed with your office, we concentrated on the collection of civil penalties.[2]

We met with OSMRE officials at the Washington, D.C., headquarters to discuss actions to improve the collection process. We examined proposed and published collection procedures. We reviewed collection records, internal collection reports, including OSMRE's Collection Management Information System (CMIS) reports as of June 30 and September 30, 1988, and Interior's reports under the Federal Managers' Financial Integrity Act. OSMRE's fiscal year receivable balances were taken from reports provided to the Department of the Treasury, and we did not independently verify the amounts.

To gain an understanding of past problems and needed actions, we reviewed external studies related to the collection process, including the IRS study and House Committee on Government Operations reports issued in 1984, 1985, and 1987.

We performed our review from February through December 1988, in accordance with generally accepted government auditing standards. At the request of the Chairman, we did not request official comments on this report. We did, however, discuss the matters in this report with OSMRE officials during the course of our review and have considered their comments in preparing this report.

Status of Receivables

OSMRE faces a difficult challenge in collecting civil penalty fees. The majority of those receivables relate to inactive mine sites or mining operators who are either bankrupt or no longer mining. As of September 30, 1988, OSMRE reported it had $38 million in outstanding civil penalty receivables, of which 99 percent were delinquent.

OSMRE believes that much of this debt may ultimately have to be written off. About 83 percent of the receivables have been delinquent for over 360 days. OSMRE established an allowance of about $35 million for uncollectible accounts as of September 30, 1988, representing over 90 percent of the total civil penalty receivables. (See appendixes I and II for additional details.)

[2]OSMRE also collects coal production reclamation fees under its Abandoned Mine Land program. This subject is being reviewed by Interior's Office of Inspector General.

As shown in appendix I, overall civil penalty collection rates during the 3 years ended September 30, 1988, ranged from 0.6 to 1 percent despite OSMRE's efforts. Thus, due to the nature of these receivables, OSMRE may never be able to achieve a high rate of collection.

Actions to Strengthen Collection of Civil Penalty Fees

OSMRE has completed or has underway a number of actions to strengthen debt collection of civil penalty fees. These include an improved capability to monitor case processing; the assessment of interest, penalties, and administrative costs on delinquent debt; the use of private sector collection contractors; the development of a civil penalty collection procedures manual; and the referral of delinquent debtor information to credit bureaus. These actions are highlighted below.

Collection Case Processing Can Now Be Monitored

OSMRE has increased its oversight of the collection process. Effective June 30, 1988, it implemented a new automated collection tracking report which is produced by its CMIS. It expanded the information available in CMIS and developed case processing time standards.

Cases of collection monitoring problems were cited in previous House Committee on Government Operations reports. The reports criticized OSMRE for not adequately tracking the status of individual collection cases through the entire collection process to ensure that they are processed promptly.

In conjunction with the development of the new case tracking report, 11 new collection steps were established and the information added to CMIS. The collection steps tracked by the system are listed in appendix III. In addition, OSMRE developed specific time standards for each step in the collection process. These enhancements have improved OSMRE's ability to (1) track each case, (2) identify how long a case has been in a particular phase, and (3) measure collection performance against a preestablished standard.

We looked at the initial tracking report, which was prepared as of June 30, 1988. The report was easy to follow and enabled a reader to pinpoint processing delays. At that time, three processing phases contained the greatest dollar value of delayed cases. They were: (1) mailing a debt collection letter within 15 days of the final order, (2) receiving a case from the field office within 10 days of mailing a final demand letter, and (3) referring a case to the Solicitor within 30 days of receipt of a net worth determination from the contractor. Information such as this

enables OSMRE to focus on particular problems and provides needed case information for day-to-day collection actions. It also helps reduce future delays. It is very important that this information be fully utilized in the collection process.

Interest, Penalties, and Administrative Costs Now Assessed on Delinquent Debt

Effective June 30, 1988, CMIS automatically assesses interest, penalties, and administrative costs on all delinquent civil penalty debt. Under the Debt Collection Act of 1982, the Federal Claims Collection Standards, and OMB Circular A-129, federal agencies are to assess such charges on all delinquent debt.

Until last June, OSMRE had been unable to automatically assess these charges because of CMIS software programming limitations. OSMRE reprogrammed CMIS to permit the automatic computation and assessment of such charges on all civil penalty receivables beginning June 30, 1988. As a result, for fiscal year 1988, OSMRE assessed $6.4 million in interest, penalties, and administrative costs, which included previously uncharged amounts from prior fiscal years. This compares to the $133,000 that was assessed in fiscal year 1987.

Using Private Debt Collection Contractors to Collect Debts

OSMRE began using private debt collection firms in December 1985, under a governmentwide collection contract awarded by the General Services Administration. Except for a few months when the contracts were up for renewal, OSMRE has continued to do so. Prior to December 1987, OSMRE referred almost $48 million to private debt collection contractors. Data available for the period from January 1, 1988, to June 2, 1989, disclosed that OSMRE referred $2.5 million to private sector collection firms which collected about $25,000. These results point out the difficulty in collecting these debts.

Collection Procedures Manual Completed

OSMRE has finalized a civil penalty collection procedures manual. This manual will provide collection staff needed guidance and help ensure consistent and uniform application of collection policies.

In 1985, an IRS report on OSMRE's civil penalty collection activities recommended development of a procedures manual describing the collection staff's roles and responsibilities. Subsequently, in its 1986 and 1987 Financial Integrity Act reports, OSMRE reported the lack of a collection procedures manual as a control weakness and projected that the manual would be published in December 1986 and July 1987, respectively. In

February 1989, OSMRE completed a draft civil penalty procedures manual, and the final version was approved in May 1989.

Delinquent Debtor Information Now Referred to Credit Bureaus

The Debt Collection Act of 1982, the Federal Claims Collection Standards, and OMB Circular A-129 provide for federal agencies to refer information on their delinquent debtors to commercial credit bureaus. Such referrals are intended to encourage delinquent debtors to make their accounts current, to discourage current debtors from becoming delinquent, and to provide information to credit granting entities to identify applicants who are already delinquent.

In its Financial Integrity Act reports in 1986 and 1987, OSMRE reported its failure to refer delinquent debtors to credit bureaus as a material weakness and promised corrective action in 1987 and 1988, respectively.

OSMRE advises a debtor that such action will be taken, and OSMRE began making credit bureau referrals in February 1989. OSMRE attributed the delays in making credit bureau referrals to higher priority work. Most of the mining operations currently owing delinquent civil penalties are no longer in business; therefore, their credit ratings might not be affected by such referrals.

Conclusions

OSMRE has strengthened debt collection for its civil penalty fees. It now has the ability to monitor its collection performance and has standards with which to measure collection actions. It is now fully assessing interest, penalties, and administrative costs on delinquent civil penalty debt and is using private debt collection contractors. Civil penalty debt collection procedures have been developed, and referrals of delinquent debtors to credit bureaus have begun.

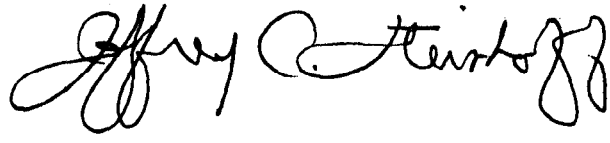
Because a number of these actions have been implemented in recent months, management oversight is especially important to ensure that actions are effective and consistent with applicable debt collection laws. We are not making recommendations at this time because OSMRE has either completed or is finalizing needed debt collection improvements.

Unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time, we will send copies of the report to the Director of the Office of Management and Budget, the Secretary of the Interior, the Director of OSMRE, and other

interested parties. We will also make copies available to others upon request.

The major contributors to this report are listed in appendix IV.

Sincerely yours,



Jeffrey C. Steinhoff
Director, Financial Management
Systems Issues

Contents

Letter 1

Appendix I Changes in Civil Penalty Receivables From Fiscal Years 1986 Through 1988 10

Appendix II Aging of Civil Penalty Receivables as of September 30, 1988 11

Appendix III Case Processing Steps Tracked by CMIS 12

Appendix IV Major Contributors to This Report 13

Abbreviations

CMIS	Collection Management Information System
IRS	Internal Revenue Service
OMB	Office of Management and Budget
OSMRE	Office of Surface Mining Reclamation and Enforcement
SMCRA	Surface Mining Control and Reclamation Act of 1977

Changes in Civil Penalty Receivables From Fiscal Years 1986 Through 1988

Dollars in millions

	Fiscal year		
	1986	**1987**	**1988**
Beginning receivables	$105.0	$119.3	$55.7
New receivables[a]	32.1	19.4	21.1
Collections	(1.4)	(0.9)	(0.7)
Reclassified[b]	(16.4)	(82.1)	(38.1)
Write-offs	(0.0)	(0.0)	(0.0)
Ending receivables	**119.3**	**55.7**	**38.1**
Allowance for uncollectible accounts	(82.1)	(44.6)	(34.5)
Receivables, net of allowance	**$37.2**	**$11.1**	**$3.6**
Current receivables not delinquent	3.9	1.5	0.2
Delinquent	115.4	54.2	37.9
Noncurrent receivables	0.0	0.0	0.0
Rate of collections[c]	1.0%	0.6%	0.9%

Note: Amounts may not total due to rounding.

[a]In addition to receivables generated during the fiscal year, new receivables may also include amounts for previously unassessed penalties.

[b]According to OSMRE officials, the reclassified amounts are those for which OSMRE is terminating collection activities because the amounts are considered uncollectible.

[c]Since, in fiscal years 1986 through 1988, OSMRE reclassified amounts considered uncollectible (see note b), the collection rates for those years were calculated by dividing collections by the sum of the beginning receivables balance and the new receivables.

Aging of Civil Penalty Receivables as of September 30, 1988

Dollars in millions

Age	Amount	Percent of total
Not delinquent	$0.2	0.5
Delinquent:		
1 to 30 days	0.1	0.3
31 to 60 days	0.2	0.5
61 to 90 days	0.5	1.3
91 to 180 days	2.3	6.0
181 to 360 days	3.3	8.7
Over 360 days	31.5	82.7
Total	**$38.1**	**100.0**

Case Processing Steps Tracked by CMIS

1. Inspection date
2. Service date
3. Notice of Proposed Assessment - Issue[1]
4. Notice of Proposed Assessment - Serve[1]
5. Conference request received
6. Informal conference approval[1]
7. Conference held
8. Review hearing request received
9. Review hearing held
10. Review hearing results received
11. Review hearing results appealed
12. Penalty hearing requested
13. Penalty hearing assignment received
14. Penalty hearing held
15. Penalty hearing results received
16. Interim Board of Land Appeals hearing requested[1]
17. Interim Board of Land Appeals hearing decision rendered[1]
18. Final Order mailed
19. Payment plan date
20. Sent to collections[1]
21. Debt collection letter sent[1]
22. Final demand letter sent[1]
23. To collection contractor[1]
24. From collection contractor[1]
25. Solicitor referral
26. Case filed
27. Civil penalty judgment
28. Net worth determination sent[1]
29. Net worth determination received

[1]New processing steps added to the CMIS data base.

Major Contributors to This Report

Accounting and Financial Management Division, Washington, D.C.

Jeffrey C. Steinhoff, Director, Financial Management Systems Issues, (202) 275-9454
John S. Reifsnyder, Assistant Director
Jack Pichney, Senior Accountant
Gary P. Chupka, Accountant
Annette M. Kurtz, Accountant

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are $2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

United States
General Accounting Office
Washington, D.C. 20548

Official Business
Penalty for Private Use $300

First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100