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U· S· DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT

# DIRECTIVES SYSTEM

Subject Number: REG-7-1

Transmittal Number: 648

Date: DEC 6 1990

**Subject:** EXPERIMENTAL PRACTICES

**Approval:** [signature] **Title:** DIRECTOR

To clarify the National Environmental Policy Act of 1969, as amended, (P.L. 91-190) (NEPA) requirements in experimental practices application processing, the following change is made to REG-7.

| Paragraph | Change or Addition |
|---|---|
| 3.a. | Insert this new paragraph after the first paragraph: Approvals of experimental practices are Federal actions requiring compliance with the National Environmental Policy Act of 1969, as amended (P.L. 91-190) (NEPA). Environmental documents submitted for NEPA compliance must clearly demonstrate that the experimental practices would have no significant impact upon the quality of the human environment under section 102(2)(C) of NEPA, including compliance with other appropriate environmental laws, regulations and executive orders. These documents shall meet the requirements of this directive and the OSM NEPA Handbook (REG-1). |
| 3.b. | Change (9) to: (8) |
| 3.b. | Add after (8): (9) NEPA Compliance. In addition to the following requirements, consult the OSM NEPA Handbook (REG-1) for guidance on appropriate NEPA processing and drafting documentation.<br><br>(a) Use of Departmental Categorical Exclusion. The approving official (Assistant Director, Eastern Support Center, Assistant Director, Western Support Center or Knoxville Field Office Director, as appropriate) may determine that an experimental practices proposal for non-destructive data collection, inventory (including field, aerial and satellite surveying and mapping), study, research and monitoring activities is categorically excluded according to the Department of the Interior Departmental Manual, 516 DM 2, Appendix 1.6. The proposal must |

# CHANGE NOTICE

not alter permit requirements or performance standards in any other way. Additionally, an environmental assessment (EA) and Finding of No Significant Impact (FONSI) shall be prepared as described below for an individual proposal, if the exceptions listed in 516 DM 2, Appendix 2.1 to 2.10 apply to its implementation. If the proposal is categorically excluded, the approving official prepares and signs a categorical exclusion determination and includes it as part of the decision package.

(b) Proposal as Part of a New Federal Surface Coal Mining Permit Application. The environmental document submitted for NEPA compliance with the permit application shall include discussion of the experimental practices proposal.

(c) Proposal as Part of a Federal Permit Revision Application. Since a Federally-permitted mining operation is subject to NEPA compliance, the experimental practices proposal may have already been adequately discussed and impacts assessed in the previous environmental documents (EA/FONSI or environmental impact statement (EIS)). If it was adequately discussed and assessed in the previous environmental documents, the approving official shall prepare and sign the FONSI with a short statement in the findings documenting the previous environmental documents that the FONSI is based upon following directive REG-21-1. Otherwise, the experimental practices application shall include an EA. A previous environmental document may be supplemented or appropriate sections of previous environmental documents may be incorporated by reference into the EA. (See paragraph (e) below.) In addition to OSM, the EA may be prepared by another agency, the State, applicant, etc., provided it is adequate for experimental practices approval purposes in accordance with section 3.B.2. of the OSM NEPA Handbook (REG-1). The approving official shall prepare and sign the FONSI and attach the EA to it as part of the decision package.

(d) Proposal at a State-Permitted Surface Coal Mining Operation. The experimental practices application shall include an EA. In addition to OSM, the EA may be prepared by another agency, the State, applicant, etc., provided it is adequate for experimental practices approval purposes in

accordance with section 3.B.2. of the OSM NEPA Handbook (REG-1). The approving official shall prepare and sign the FONSI and attach the EA to it as part of the decision package. (Since a state-issued coal mining permit is not subject to NEPA compliance, no permit environmental document exists for incorporation by reference.)

(e) Use of OSM-EIS-1 and OSM-EIS-1: SUPP. These programmatic regulatory program environmental documents discuss experimental practices generally. They may be useful in reducing environmental document text by incorporating appropriate sections by reference. However, environmental documents must contain site-specific assessments and findings.

3.c.(1)(f) Change (f) to: (c)

5. Add after b.:

c. Handbook on Procedures for Implementing NEPA, OSM, March, 1989. REG-1.

d. Permanent Regulatory Program Implementing Section 501(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), FEIS, January 1979, OSM-EIS-1.

e. Proposed Revisions to the Permanent Program Regulations Implementing Section 501(b) of SMCRA, Volume 1: Analysis, FEIS, January 1983, OSM-EIS-1: SUPP.

f. Findings and Determinations for Revisions and Renewals of Federal Permits, April 1990. REG-21-1, Change Notice.