This document has been
Rescinded and is located
in our Archive files.

For Active files, visit
http://www.osmre.gov/directiv.htm

	U· S· DEPARTMENT OF THE INTERIOR **OFFICE OF SURFACE MINING** **RECLAMATION AND ENFORCEMENT** **DIRECTIVES SYSTEM**	**Subject Number:** REG-7 **Transmittal Number:** 150 **Date:** 1/31/83

Subject: OSM/State Regulatory Authority Approval of Experimental Practices

Approval: J. R. Harris | **Title:** Director

1. Purpose. This Directive establishes the procedures for reviewing experimental practices which may be proposed as alternatives to present mining and reclamation practices and which may vary in their approach towards attaining the environmental protection performance standards of SMCRA. This directive identifies the responsibilities and steps in the review process in order to assure the acceptance/rejection of an experimental practice proposal in a timely manner.

2. Definitions. All terms used in this directive are defined consistent with those in SMCRA and 30 CFR Chapter VII.

3. Policy/Procedure. The Office of Surface Mining (OSM) encourages experimental practice as a means of demonstrating effectiveness and economic feasibility of new mining and reclamation practices, and to provide innovative postmining land use alternatives.

a. The applicant initiates a request by the written submission of an experimental practice as part of a new Title V permit application or an application for a revision to an existing Title V permit. The written request for an experimental practice should be submitted to the State regulatory authority or, in the case where the practice will be conducted under a Federal regulatory program, to the OSM, and contain the following information:

(1) A description of the proposed experimental practice, including a description of the performance standards for which variances are requested, the duration of the experimental practice, and any special monitoring which will be conducted;

(2) A description of how use of the experimental practices encourages advances in mining and reclamation technology or allows a postmining land use for industrial, commercial, residential, or public use (including recreational facilities) on an experimental basis;

(3) A showing that the experimental practice: (i) is potentially more or at least as environmentally protective, during and after mining operations, as would otherwise be required by standards promulgated under 30 CFR Subchapter K; and (ii) will not reduce the protection afforded public health and safety below that provided by the requirements of 30 CFR Subchapter K; and

(4) A description of the proposed monitoring system, which will ensure the collection, analysis, and reporting of reliable data that is sufficient to: (i) evaluate the effectiveness of the experimental practice; and (ii) identify, at the earliest possible time, potential risk to the environment and public health and safety which may be caused by the experimental practice during and after mining.

b. If, after its review, the regulatory authority denies the request for experimental practice, no further consideration of the request will be given. If approval is recommended, the State regulatory authority will forward two copies of the request to the Technical Center through the OSM Field Office together with: (1) a copy or other proof of the newspaper advertisement as required in 30 CFR 785.13; and (2) a copy of the regulatory authority's written findings that the experimental practice is approvable.

c. Upon receipt of the experimental practice application, the OSM Technical Center will evaluate the request and the findings of the regulatory authority, to determine that it meets the requirements for approval of an experimental practice under 30 CFR 785.13. If the experimental practice includes a variance from the performance standards applicable to prime farmlands, the Technical Center will be responsible for consulting with the local State Conservationist, U.S. Department of Agriculture prior to recommending concurrence or disapproval to the Director.

d. The Technical Center will submit one copy of the application for an experimental practice, together with its recommendation for approval/disapproval and a detailed analysis supporting its recommendation, to the Assistant Director for Technical Services and Research, Washington, D.C.

e. Upon receipt in Washington the experimental practice application will be reviewed and a recommendation made to the Director, OSM.

f. The Director, OSM will transmit a final decision to the State regulatory authority with copies to all respective offices.

g. Revisions to experimental practices must be processed by the regulatory authority in accordance with the requirements for permit revision. Any revisions which propose significant alternations in the experimental practice require the concurrence of the Director and will be processed in accordance with the procedures of paragraphs 3a-3f of this directive.

h. Internal OSM Offices and Functions

(1) <u>OSM Field Office</u>

- Receives two copies of official proposed experimental practice from State regulatory authority along with other documents indicated in 3b.

- Telephones Technical Center to advise of receipt of proposal at OSM Field Offices.

- Reviews the proposed experimental practics as requested by Technical Center and submits appropriate comments to Technical Center.

- Conducts periodic field review and/or inspections of sites in conjunction with TSR.

(2) <u>OSM Technical Center</u>

- Receives experimental practice proposal, recommended for approval by the State regulatory authority, from the Field Office.

- Notifies OSM Field Office to confirm receipt in Technical Center.

- Conducts detailed technical review of proposed experimental practice permit in accordance with Section 711 of SMCRA and 30 CFR Chapter VII.

- Coordinates the legal review with the field solicitor.

- Coordinates with other OSM directorates and Federal agencies when necessary (primarily at field level).

- Forwards experimental practice recommendation for concurrence or disapproval to the Assistant Director, Technical Services and Research, Washington, D.C. with appropriate decision package. (Attachment 1).

- Informs Field Office of status of processing.

- Conducts periodic field review and/or inspections of the site in coordination with OSM Field Office.

(3) Assistant Director, TSR

- Reviews field recommendation.

- If in concurrence, prepares final decision package for Director.

- If not in concurrence, discusses differences with the Technical Center and if resolvable, modifies decision package to reflect new Technical Center recommendation supported by AD-TSR concurrence.

- If the final decision package recommends disapproval of the experimental practice, prepares letter for Director's signature and returns the application to the State regulatory authority with copies of the signed letter to the OSM Field Office and Technical Center explaining the reason for disapproval.

- If final decision package recommends concurrence in the experimental practice, prepares letter for Director signature and returns with approved application to the State regulatory authority with copies of the signed cover letter to the OSM Field Office and Technical Center explaining any conditions on the approval.

(4) Director

- Concurs with or disapproves experimental practices.

4. Reporting Requirements. None

5. Reference. 30 CFR 785.13 Subchapter G.

6. Effect on Other Documents. None.

7. Effective Date. The effective date of this directive is same as issue date.

8. Contact. Assistant Director, Technical Services and Research, telephone 343-4264.

Attachment 1

Decision Package Contains

- Recommendation memorandum from Technical Center Administrator to Director through AD-TSR.
- Experimental Practice application as submitted by the State.
- OSM Technical Center analysis of proposal including NEPA compliance.
- Solicitor's advice memorandum.
- Comment memoranda from other agencies as appropriate.
- Comments from OSM Field Office when requested by the Technical Center
- Letters to State regulatory authority from Director, OSM reflecting recommendations.