



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

Subject Number:
INF-2

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576

Date: SEP 28 1989

Subject: Administrative Records System

Approval: *[Signature]* Title: Director

1. Purpose. This directive establishes an Office of Surface Mining Reclamation and Enforcement (OSM) Administrative Records System. It serves as an aid to public participation in the rulemaking process and as a guide to:

a. Establish and maintain administrative record facilities at the Field Offices and at Washington, D.C. (Headquarters);

b. Identify documents and materials to be made available in administrative record facilities for public inspection and copying; and

c. Advise OSM employees of agency policies and procedures concerning administrative records.

2. Summary of Changes. This directive reflects the following change to OSM Directive INF-2, dated April 15, 1988:

Headquarters administrative record will no longer maintain an administrative record for each State program and each Federal program located in a particular State.

3. Definitions.

a. Administrative Record. The administrative record is a comprehensive agencywide compilation of decision making documents associated with rulemaking actions. For example, the administrative records of a State program would include all documents listed under the definition of State program documents. Internal memoranda and annual oversight evaluation report materials should be included only at the responsible official's discretion. The lead official for each administrative record may occasionally choose to make program documents that are indirectly related to a rulemaking action available for public review through placement in the appropriate administrative record. As a minimum, however, all information referred to in the Preamble of the Federal Register notice will be included in the administrative record.

b. Federal Program. This program is promulgated by the Secretary and implemented by OSM under Section 504 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to regulate surface coal mining and reclamation operations on all non-Indian lands within a State.

c. Public Comments. These comments are presented at public hearings or meetings or submitted in writing by the public regarding particular issues in rulemaking.

d. Public Hearing. Public hearings are scheduled meetings concerning a proposed rulemaking action at which OSM officials accept written and oral testimony from participants, respond to questions, and prepare a verbatim transcript of the proceedings.

e. Public Meeting. A public meeting is a scheduled informal discussion between any interested individuals and OSM concerning any proposed rulemaking action. Minutes must be kept by OSM.

f. Rulemaking. Rulemaking is the process of formulating, amending, suspending or repealing any OSM regulation, in whole or in part. Also, rulemaking is deciding whether a proposed State program or State program amendment meets all pertinent Federal requirements under 30 CFR Parts 732 and 745 and any State program maintenance action under 30 CFR Part 733.

g. State Program. This program is established and implemented by a State and approved by the Secretary under Section 503 of SMCRA to regulate surface coal mining and reclamation operations on non-Federal and non-Indian lands in accordance with SMCRA and the Federal regulations. If a cooperative agreement governing mining on Federal lands has been approved under Section 523 of SMCRA, that agreement is part of the State program. For purposes of this directive, this term also includes State abandoned mine land reclamation plans approved by the Secretary under Section 405 of SMCRA.

h. State Program Documents. These documents include State regulations, State statutes, abandoned mine land reclamation plans, and all other documents officially submitted by the State as part of, or in support of, a proposed State program or State program amendment. These documents also include all written notifications of official submissions; public comments; public hearing transcripts; records of public meetings; significant conversation records; concurrences, comments, and requests for consultation received from other Government agencies; Federal Register notices; Federal lands cooperative agreements; and all official correspondence, including issue letters and Part 732 notifications as defined in directive REG-5 and directive REG 23-1.

i. Technical Literature. These items are reference materials used in developing Federal regulations other than those in Subchapter T of 30 CFR Chapter VII. These materials may include textbooks, technical reports, handbooks, manuals, letters, conversation records, etc.

This material is required only at the Headquarters administrative record facility, but may be kept locally at the discretion of the Administrative Record Manager.

4. Policy/Procedures.

a. Policy. An administrative record must be established and maintained for all Federal rulemaking actions. Each State permanent regulatory program (including all subsequent amendments) shall be considered a single rulemaking action for administrative record purposes. State abandoned mine land reclamation plans and subsequent amendments may be considered as a separate action (and, hence, maintained in a separate administrative record file). Also, if the plan was approved in the rulemaking action containing the Secretary's approval of the State's regulatory program, it may be combined with the permanent regulatory program file.

b. Responsibilities.

(1) The Chief, Division of Management Services, shall:

(a) Serve as the lead official in the establishment and maintenance of the Headquarters administrative record for rulemaking actions pertaining to OSM regulations other than those in Subchapter T of 30 CFR Chapter VII. The Headquarters administrative record facility is the sole legal depository for documents associated with these Federal rulemaking actions.

(b) Provide guidance on administrative record administration and answer questions arising from the application of this directive.

(c) Designate a Headquarters Administrative Record Manager.

(2) Each Field Office Director shall:

(a) Serve as the lead official in the establishment and maintenance of the administrative record for rulemaking actions pertaining to individual State and Federal programs under Subchapter T of 30 CFR Chapter VII. Subchapter T concerns programs for the conduct of surface mining operations within each State as well as certification of blasters in Federal Program States and on Indian Lands.

(b) Maintain an administrative record for each State and Federal program under his/her jurisdiction.

(c) Provide one numbered copy of each new administrative record document to the appropriate Assistant Director for Field Operations.

(d) Designate an Administrative Record Manager for the Field Office.

(3) All Administrative Record Managers shall:

(a) Assign each document a unique administrative record identification number. For State and Federal program documents, this number will be based on a combination of the appropriate standard abbreviation for the State and a sequential number. For example, the first document received with respect to the Wyoming program will be assigned number WY-1, while the 24th document received pertaining to that program will be numbered WY-24.

(b) Maintain a complete administrative record file of all documents and an up-to-date index of all entries. At a minimum, the entry log/index shall include the document identification number, author, agency, date, and precise subject description.

(c) Cooperate with other administrative record facilities, the Assistant Directors, Field Operations and the public by complying with requests for duplicate documents or file information.

(d) Be familiar with agency policies and procedures concerning Freedom of Information Act requests (see OSM Directive INF-3, Freedom of Information Act), and comply with requests from the public for documents and information.

(e) Maintain a log of all requests for information. The log must contain the date and time of request, the type of request (telephone, mail or personal visit), the identification number of the document requested, and a statement as to whether the request was filled. The Manager should also request the name of the requester and the organization which he or she is representing, if any. The Manager must advise the requester that submission of this identifying information is optional and cannot be legally required.

(f) Establish and maintain a bulletin board and post the date, time, location, and subject matter of all scheduled public meetings and hearings with Federal or State officials concerning proposed rulemakings.

(g) Establish and maintain an adequate reading room (or area) where the public may review administrative record documents. Administrative record facilities are to be open eight hours each working day and locked at all other times.

(h) Maintain strict file security. Original documents may not be removed from the administrative record facilities except for the purpose of copying under the direction of the Administrative Record Manager. Photocopies of documents may be obtained by the public upon payment of 13 cents per page. The charge for copying records may be reduced or waived in accordance with the Department's Freedom of Information Act regulations at 43 CFR 2.21. A requester is entitled to receive, free of charge, one copy of the text of any State program or State program amendment on which OSM has not yet taken final action.

(i) Adhere to records disposition schedule requirements for administrative records as contained in Temporary Directive 88-16, Records Management Manual.

5. Reporting Requirements. None

6. Effect on Other Documents. Supersedes OSM Directive INF-2, "Administrative Records System," Transmittal Number 435, dated April 15, 1988.

7. References.

- a. Administrative Procedure Act, 5 U.S.C. 551, et seq.
- b. 43 CFR Part 2, Subpart B, Request for Records.
- c. OSM Directive REG-5, "Processing of Proposed Regulatory Programs, Amendments and Part 732 Notifications," Transmittal Number 508, dated 01-18-89.
- d. OSM Directive Reg 23-1, "Development and Implementation of Action Plans," Transmittal Number 436, Change Notice Dated 04-15-88.
- e. OSM Temporary Directive 88-16, "Records Management Manual," dated 10-01-88.
- f. 30 CFR

8. Effective Date. Upon issuance.
9. Contact. Chief, Division of Management Services, (202) 343-7826.
10. Keywords. Administrative Record, Rulemaking, State Programs, Federal Programs.
11. Appendix. None