



U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
**DIRECTIVES SYSTEM**

Subject Number:

REG-7

Transmittal Number:

719

Date:

APR 24 1992

Subject: EXPERIMENTAL PRACTICES

Approval:

Title: Director

1. Purpose. This directive establishes the procedures for reviewing experimental practices. Experimental practices may be proposed as alternatives to present performance standards as means of attaining the environmental objectives of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This directive identifies the responsibilities and steps in the review process in order to assure that experimental practice proposals will be processed by the Office of Surface Mining Reclamation and Enforcement (OSM) in a timely manner. It also includes procedures for transferring resulting technologies.

2. Summary of Changes. This directive reflects the following changes to OSM Directive REG-7, dated June 8, 1988.

a. Incorporates Change Notice REG 7-1 dated December 6, 1990, which requires compliance with provisions of the National Environmental Policy Act of 1969 (NEPA) and the OSM NEPA Handbook (OSM Directive REG-1).

b. Clarifies and updates the following:

(1) Section 4.c., Responsibilities, was rewritten to clarify:

(a) The Assistant Directors, Eastern and Western Support Centers approval and notification procedures; and

(b) The responsibilities of Field Office Directors regarding inspection of experimental practices sites.

(2) New organizational titles and minor editorial corrections.

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

4. Policy/Procedure.

a. Policy. OSM encourages the development of experimental practices as a means of demonstrating the effectiveness and economic feasibility of new mining and reclamation practices or to provide innovative postmining land use alternatives. Applications for such practices need timely review so as not to discourage such applications.

OSM staff members are encouraged to work with State regulatory authorities and applicants in the development of approvable experimental practices applications.

Approvals of experimental practices are Federal actions requiring compliance with the National Environmental Policy Act of 1969, as amended (P.L. 91-190). Environmental documents submitted for NEPA compliance must meet the requirements of this directive and the OSM NEPA Handbook (Directive REG-1).

Limited funding for the monitoring of experimental practices may be available on a case-by-case basis and will be considered by the Applied Studies Policy Committee as a category of the Technical Studies and Applied Research Program.

b. Procedures.

(1) An applicant initiates a request by the written submission of a proposal as part of a new Title V permit application or as part of an application for a revision to an existing Title V permit. The request for an experimental practice must be submitted to the regulatory authority. Where a State is the regulatory authority, it may submit the application to OSM for simultaneous review prior to forwarding to OSM its decision to approve or disapprove the application. If a simultaneous review is requested, OSM will not make a decision on the experimental practice until the State has transmitted its findings to OSM for concurrence.

(2) When a Field Office receives a request for concurrence in, or a simultaneous review of, an experimental practice from a regulatory authority, the Field Office Director (FOD) will forward the request to the Assistant Directors/Eastern and Western Support Centers (AD's/ESC-WSC) with comments, or comments to follow.

(3) The AD's/ESC-WSC will appoint a Technical Project Officer (TPO) trained as a Contracting Officer's Technical Representative and qualified in the technical aspects of the proposed experimental practice.

(4) The TPO will determine whether the practice meets the requirements for approval of an experimental practice under 30 CFR 785.13. During this review, the TPO will assess the operator's proposed monitoring system to ensure that it will provide information sufficient to evaluate the effectiveness of the experimental practice and to identify, at the earliest possible time, any potential risk to the environment and public health and safety.

(5) Following the TPO's review, the AD's/ESC-WSC will notify, in writing, the Assistant Director, Reclamation and Regulatory Policy (AD/RRP) of the experimental practice and the recommendation for approval, approval with modification or disapproval. Upon request, a copy of the decision package will be sent to the AD/RRP.

(6) Upon receiving comments from the AD/RRP, the AD's/ESC-WSC shall approve, approve with modification, or disapprove each experimental practice and notify the appropriate regulatory authority, Field Office and AD/RRP of the decision.

(7) The review of a State's decision should be conducted within 30 working days of receipt of that decision. In cases where OSM is the regulatory authority, a prompt review of the application should occur.

(8) Once the experimental practice is approved by the AD's/ESC-WSC, the TPO or others as assigned by the AD's/ESC-WSC, will:

(a) provide, within 30 working days, information on the experimental practice to the Headquarters' Research and Technical Standards Branch for entry into the Technical Study and Applied Research Projects Data Base (see appendix);

(b) ensure the technical adequacy of the State regulatory authority's annual review of the practice as required by the permit;

(c) develop semiannual reports on the status of the practice as specified in the decision document; and

(d) when appropriate, prepare a proposed technology transfer plan in accordance with procedures of paragraphs d.(1)(a)-(d) of this directive.

(8) Revisions which entail significant alterations in the experimental practice will require the concurrence of the AD's/ESC-WSC and will be processed in accordance with the procedures of this section.

(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.

(a) Use of Departmental Categorical Exclusion.

The approving official may determine that an experimental practices proposal for nondestructive 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 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 the following directive REG-21-1. Otherwise, the experimental practices application shall include an EA. A previous environmental document 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 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 decision document 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: Supplemental. 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.

c. Responsibilities.

(1) The Assistant Directors, Eastern and Western Support Centers are responsible for:

(a) Assigning, upon receipt of an application from the Field Office or in cases where OSM is the regulatory authority from the permittee, an appropriate TPO to conduct a technical review of proposed experimental practice applications and completed experimental practices projects.

(b) Notifying, in writing, the AD/RRP of the application and the intended action on the experimental practice application.

(c) Approving, approving with modification, or disapproving each experimental practice submitted by a regulatory authority or in cases where OSM is the regulatory authority, by the permittee; in making such decisions, they are to assure adherence to the prescribed purpose of the experimental practice program as well as the technical sufficiency of the project.

(d) Conducting any necessary regulatory analysis suggested by the results of an experimental practice and forwards recommendations for rulemaking to the AD/RRP.

(2) Field Office.

(a) Promptly transmits the documentation of the proposed experimental practice to the AD's/ESC-WSC with appropriate comments or comments to follow. This will allow for a simultaneous review by the Field Office and AD's/ESC-WSC.

(b) Ensures that the regulatory authority includes the experimental practice portion of approved permits as requiring inspection in order for an inspection to be considered complete under 840.11(b) or 842.11(a)(2).

(3) Technical Project Officer. In accordance with section 711 of SMCRA, 30 CFR 785.13 and the procedures set forth in this directive, coordinates all necessary technical reviews and oversight of an experimental practice including coordinating the review of the proposed project with the field solicitor and with other OSM directorates and Federal agencies when necessary.

Prepares necessary findings in cases where OSM is the regulatory authority, or reviews findings prepared by a State when the State is the regulatory authority. Provides information to the Division of Technical Services to update the Technical Studies and Applied Research Projects Data Base.

(4) Assistant Director, Reclamation and Regulatory Policy.

(a) Within two weeks of receipt of notification of an experimental practice decision or receipt of a decision package, if requested, provides comments to the AD's/ESC-WSC, and recommended changes if appropriate.

(b) Conducts any necessary regulatory analysis suggested by an experimental practice or forwarded by the AD's/ESC-WSC and, if appropriate, recommends rulemaking to the Director.

(c) Initiates any necessary regulatory revisions.

(5) Division of Technical Services. Tracks experimental practices and maintains information on OSM's experimental practices program including the Technical Studies and Applied Research Projects Data Base.

d. Technology Transfer.

(1) It is the objective of OSM to ensure that results of experimental practices are disseminated to industry and the general public so that maximum benefit can be derived. To this end, the following procedures will be followed:

(a) Assistant Director, Reclamation and Regulatory Policy coordinates the review and approval of Technology Transfer Plans.

(b) Assistant Directors, Eastern and Western Support Centers coordinate implementation of Technology Transfer Plans, when appropriate, for disseminating the information gained. This plan may include, but is not limited to, participating in technical seminars or training sessions, publishing results of the practice in appropriate publications, and presenting results of the practice at professional, industry, or other meetings.

(c) The Branch of Training and Technical Information may initiate or assist Field Offices or Eastern and Western Support Centers in developing and conducting technical training or seminars to disseminate experimental practices products to potential users.

(d) Eastern and Western Support Centers may recommend or assist in organizing and conducting technical seminars or training sessions in accordance with the approved Technology Transfer Plan.

5. Reporting Requirements. As specified in each individually approved experimental practice application. The TPO provides information to the Headquarters Division of Technical Services to update the Technical Studies and Applied Research Projects Data Base.

6. References.

- a. Section 711, P.L. 95-87.
- b. 30 CFR 785.13.
- c. Directive TSR-4, "Technical Studies/Applied Research," dated 11/04/87.
- d. Handbook on Procedures for Implementing NEPA, OSM, March 1989. REG-1.
- e. Permanent Regulatory Program Implementing Section 501(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), FEIS, January 1979, OSM-EIS-1.
- f. Proposed Revisions of the Permanent Program Regulations Implementing Section 501(b) of SMCRA, Volume 1: Analysis, FEIS, January 1983, OSM-EIS-1: SUPP.
- g. Findings and Determinations for Revisions and Renewals of Federal Permits, April 1990. REG-21-1, Change Notice.

7. Effect on Other Documents. Supersedes Directive REG-7, dated June 8, 1988, Experimental Practices and the Change Notice REG-7-1 dated December 6, 1990.

8. Effective Date. Upon issuance.

9. Contact. Chief, Division of Technical Services (HQ), FTS 343-1480.

10. Keywords. Experimental Practices, NEPA, Technology Transfer.

11. Appendices. Appendix: Applied Research Projects Data Base Form.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT  
EXPERIMENTAL PRACTICES - UPDATES  
OSM, TECHNICAL STUDIES/APPLIED RESEARCH PROJECTS DATA BASE

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