



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

Subject Number:
INF-2

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435

Date:
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Subject:
ADMINISTRATIVE RECORDS SYSTEM

Approval: /s/ Gentile

Title: Director

1. Purpose. This Directive establishes an Office of Surface Mining Reclamation and Enforcement (OSMRE) administrative record system. It serves 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 records facilities for public inspection and copying; and
 - c. Advise OSMRE employees of agency policies and procedures concerning administrative records.
2. Definitions.
 - a. Administrative Record. A comprehensive agency-wide compilation of decision-making documents associated with rulemaking actions. For example, the administrative record 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 not routinely be included, although exceptionally important ones may be included at the responsible official's discretion. The lead official for each administrative record may occasionally choose to make certain other important program documents indirectly related to a rulemaking action available for public viewing through placement in the administrative record.
 - b. Federal Program. A program, promulgated by the Secretary and implemented by OSMRE under section 504 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to regulate surface coal mining and reclamation operations of all non-Indian lands within a State.
 - c. Public Comments. Comments presented at a public hearing or meeting or submitted in writing by the public regarding particular issues in rulemaking.
 - d. Public Hearing. Scheduled, formally conducted meeting concerning a proposed rulemaking action at which OSMRE officials accept written and oral testimony from participants, respond to questions and prepare a verbatim transcript of the proceedings.
 - e. Public Meeting. Scheduled informal discussions between any interested individuals and OSMRE concerning any proposed rulemaking action. Minutes must be kept by OSMRE.

- f. Rulemaking. Process of formulating, amending, or repealing any OSMRE regulation, in whole or in part. Also, the process of deciding whether a proposed State program or State program amendment meets all Federal requirements.
- g. State Program. A program, established and implemented by a State and approved by the Secretary under 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. Where a cooperative agreement governing mining on Federal lands has been approved under section 523 of SMRCA, that agreement is considered 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. Includes 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. Also includes all written notifications of official submission; 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 letters as defined in Directive REG-5.
- i. Technical Literature. Reference materials used in developing OSMRE's regulations (other than those of Subchapter T of 30 CFR Chapter VII), such as textbooks, technical reports, handbooks, manuals, letters, conversation records, etc.

This material is required only at the Headquarter's Administrative Records office, but may be kept locally at the discretion of the Administrative Record Manager.

3. 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 records 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) or, if the plan was approved in the rulemaking action containing the Secretary's approval of the State's regulatory program, they 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 administrative records for rulemaking actions pertaining to OSMRE regulations other than those in Subchapter T of 30 CFR Chapter VIII. (Subchapter T concerns individual State and Federal programs.) The Headquarters administrative records facility is the sole legal depository for documents associated with these Federal rulemaking actions.
 - (B) Maintain an administrative record for each State program and each Federal program, using the documents and nomenclature supplied by the appropriate Field Office.
 - (C) Provide guidance on administrative record administration and answer questions arising from the application of this directive.
 - (D) Designate an administrative record manager.
2. Each Field Office Director shall:
 - (A) Serve as the lead official on the establishment and maintenance of the administrative record for rulemaking actions pertaining to individual State and Federal programs under Subchapter T of 30 CFR VII.
 - (B) For each State with an approved State program, provide one numbered copy of each new administrative record entry for that State to the State regulatory authority office with the responsibility for maintaining the State's copy of the administrative record.
 - (C) Provide one numbered copy of each new administrative record entry to the appropriate Assistant Director Field Operations and the administrative record facility maintained by the Division of Management Services.
 - (D) Designate an administrative record manager.
3. All Administrative Record Managers shall:
 - (A) Assign each document a unique identification number. For State program documents, this number should be based on a combination of the appropriate standard abbreviation for the State and a sequential number. For example, the first document reviewed with respect to the Wyoming program would be assigned number WY-1, while the 24th document

received pertaining to that program would be numbered WY-24. Any variation from this system must ensure that each document in the entire record will have a unique number that can be easily referenced and understood..

Examples of acceptable variations would be the use of additional identifiers in series to distinguish program types (AMLR, regulatory) and individual amendments, e.g., LA-AML-8, PA-REG-131, WY-8-3.

- (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's identification number, author, agency, date and subject description should be as precise as possible to assist users of the record.
- (C) Cooperate with other administrative record facilities and the Assistant Directors, Field Operations by complying with requests for duplicate documents of file information.
- (D) 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 numbers of the documents 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; however, the requester must be advised that submission of this identifying information is optional and cannot be legally required.
- (E) Maintain a bulletin board and post the date, time, location, and subject matter of all scheduled public meetings with other Federal or State officials or members of the public concerning proposed rulemaking.
- (F) Establish an adequate reading room (or area) where the public may review administrative record documents. The administrative record facility is to be kept open for eight hours each working day and kept locked at all other times.
- (G) Maintain strict file security. No original documents may be removed from the administrative record facility except for the purposes of reproduction under the direction of the administrative record manager. Photocopies of documents may be obtained by the public upon payment of a charge of 10 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 2.19. Also, each individual is entitled to receive,

free of charge, one copy of the text of any State program amendment on which OSMRE has not yet taken final action.

- c. Procedures. None.
- 4. Reporting Requirements. None.
- 5. References.
 - a. Administrative Procedure Act, 5 USC 551 ("et seq." includes all sections following 551).
 - b. 43 CFR Part 2, Subpart B.
 - c. OSMRE Directive REG-5, "Review of State Regulatory Programs and Evaluation and Processing of Proposed State Programs and State Program Amendments", Transmittal No. 342, April 1, 1987.
- 6. Effect on Other Documents.

Supercedes OSMRE Directive IN2, "Administrative Record System", Transmittal Number 133, dated October 4, 1982.
- 7. Effective Date. Upon Issuance.
- 8. Contact. Chief, Division of Management Services, (202) 343-5492.