

Oversight Outreach Improvement Team Report Summary

The Oversight Outreach Improvement Team was assigned the task of reviewing and evaluating current OSM procedures and developing standard agency procedures for implementing improved outreach procedures that provides the public with opportunities to discuss the oversight process and for improving how we communicate information concerning oversight evaluation of state programs. The Team was also charged with determining if changes are needed to improve the content and format of the annual state performance agreement or evaluation plan. To evaluate the current requirements for outreach and areas of concern to the public the Team reviewed the current procedures set forth in REG-8 and analyzed the comments received as part of OSM’s outreach on new initiatives to strengthen oversight of state surface coal mining programs.

The Team found that while the language in REG-8 properly describes the goal of the Field Office Director’s outreach effort it lacks any specificity in how the outreach is to be conducted. Also, comments received from the public indicate a perception that OSM’s approach to outreach has been inconsistent from region to region and even between Field Offices (FO). Regions and FOs have used various approaches to notify the public and interested parties of the opportunity to comment. Further, the timing of some outreach efforts limited the utility of any comments in the development of performance agreements/evaluation workplans. A consistent, standardized approach needs to be established to maximize the opportunity for meaningful and timely public involvement.

The Team also determined that while certain documents were to be maintained in the Oversight Files in the FO, the availability of those documents to the public limited to the FO location and could be improved.

Recommendations for Revising REG-8

1. Establish specific timeframes for conducting annual outreach in the development of performance agreements/evaluation work plans;

Date	Outreach Activity
March 1	Announce opening of a 30 day period for interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics, including the opportunity for discussions with the FO
March 1–March 30	Opportunity for interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics
April 15	Draft performance agreement/evaluation workplan developed and sent to the State for their review and comments
April 30	As appropriate, incorporate State comments into the draft performance agreement/evaluation workplan
May 1	Announce the opportunity for interested parties to comment on the final draft performance agreement/evaluation workplan, including the opportunity for discussions with the FO on draft oversight plans
May 1–May 15	Opportunity for interested parties to comment and request discussions with the FO
May 15	Close of comment period/last day for public discussions with the FO
May 15–June 30	In conjunction with the State finalize performance agreements/evaluation workplans
July 1	Post final performance agreement/evaluation work plans on the web

2. Standardize the elements that must be included in every performance agreement/evaluation workplan;
 - a. Program Evaluation goals and the plans to achieve those goals;
 - b. State involvement in the oversight evaluation process;
 - c. Three National Measurement Elements;
 - d. Other oversight activities that OSM may conduct in a State, including national priority reviews and focused State specific permitting and enforcement reviews;
 - e. Inspection plans for the evaluation year;
 - f. The FOs plans to assist the States in the resolution of any identified problems;
 - g. Method(s) for resolving implementation problems and action plan issues identified;
 - h. How public comments/input will be addressed and how outreach should be conducted during the year;
 - i. Technical or programmatic assistance to be provided by OSM to the State,; and,
 - j. Core program data that the State will provide to OSM.
3. Require the use of the web, email and other methods appropriate for the public in a given area in announcing the opportunity to provide comments, recommendations or suggestions prior to the development of the performance agreement/evaluation workplan;

Offer the opportunity for interested parties to discuss with the Field Office specific ideas and concerns.
4. Require the use of the web, email and other methods appropriate for the public in a given area in announcing the opportunity to provide comments on the final draft performance agreement/evaluation workplan after its development;
5. Require that Field Offices acknowledge receipt of and appreciation for public input received;
6. Require the use of OSM web pages for posting all oversight information;

The document titled “Potential OSM Web Page Design for Announcing Oversight Outreach” provides one possible option for how to set up the OSM National and regional web pages to post outreach and oversight information.
7. Identify the minimum information that must be posted on the web and the timeframes for posting that information;
 - a. National/regional oversight guidance and format documents and revisions;
 - b. The performance agreement/evaluation workplan between OSM and the State;
 - c. All final topic specific evaluation reports for permitting or enforcement reviews;
 - d. Any data summaries used to prepare the findings in the annual evaluation report;
 - e. Action plans developed or in effect during the evaluation year;
 - f. The final annual evaluation report provided to the State and all State;
 - g. Public comments, complaints or observations pertaining to the annual evaluation report or the evaluation process;
 - h. Summaries of public meetings held concerning the oversight process;
 - i. OSM-State meeting minutes and substantive correspondence concerning evaluation techniques, topics, schedules and findings;
 - j. A summary of citizen complaints received by OSM,; and
 - k. A summary chart of the Federal inspections completed.
8. Interim steps to conduct outreach for evaluation year 2011 to ensure public participation.

Making Oversight Outreach More Effective

Issue

In November 2009 OSM conducted outreach on new initiatives to strengthen oversight of state surface coal mining programs. The comments received show that State Regulatory Agencies and the Industry are generally content with OSM's oversight outreach efforts and do not perceive a need for change. However, comments from the public indicate a desire for more opportunities for participation and more accessible information thus showing that more work is needed in reaching out to the broader community. These comments stress that the definition of "accessibility" must include the ability for a layman to understand the information and data presented and thereby be free of non-mainstream slang, jargon and technical terminology.

OSM's current requirements for conducting outreach to solicit comments and ideas for oversight are contained in Directive REG-8, Oversight of State Regulatory Programs. REG-8 requires that Field Offices Directors (FOD) are to interact on a routine, periodic basis with State and local coal associations, citizens, environmental organizations and other groups to actively seek out and determine their areas of concern and suggestions, as well as to provide timely information about OSM activities that may interest such groups. To further this interaction, each Field Office (FO) is currently required to develop and conduct an outreach program within the State(s) to solicit comments from the public and interested parties regarding the oversight process, recommendations for additional review topics for the evaluation year and suggestions for improvements of future annual evaluation reports. FODs are encouraged to work with their respective States in developing such programs and in conducting such outreach jointly with the State whenever possible (Appendix 1, Page 1-3).

While the language in REG-8 properly describes the goal of the FODs outreach effort it lacks any specificity in how the outreach is to be conducted. Also, comments received from the public indicate a perception that OSM's approach to outreach has been inconsistent from region to region and even between FOs. Regions and FOs have used various approaches to notify the public and interested parties of the opportunity to comment. Further, the timing of some outreach efforts limited the utility of any comments in the development of performance agreements/evaluation workplans. A consistent, standardized approach needs to be established to maximize the opportunity for meaningful and timely public involvement. The proposed approach for conducting outreach and making oversight information available on the web will ensure that OSM's oversight process will comply with the President of the United States requirement that all Executive Departments and Agencies attain an unprecedented level of transparency, public participation and collaboration.

Purpose

This document provides minimum requirements for FODs to follow in conducting outreach to the public and interested parties throughout the Evaluation Year. These minimum requirements will be incorporated into the revised REG-8 as it is developed and are meant to ensure consistency among FOs.

Evaluation Year Outreach Requirements

Public Participation and Outreach

FODs shall actively seek out, evaluate and respond to public participation. At a minimum, each FO shall provide an email address, phone number and physical address where the public can provide input or seek information. This contact information shall be in a highly visible location on their respective website. The FO shall acknowledge receipt of and appreciation for public input in a timely manner. Additionally, information and data posted on the FO website shall include contact information to be utilized by the public. Each FO is encouraged to maintain a “frequently asked questions,” or FAQ, area on the web. The FAQ could contain brief answers for questions often asked of the Field Office.

Information Accessibility

Proactively providing information via outlets such as the internet serves to not only keep OSM transparent but also reduces the resources expended responding to FOIAs concerning routine information. Each FO shall, at a minimum, annually review all public information requests to identify which information and data are of interest to outside organizations. Every possible consideration shall be given to placing frequently requested information, documentation and data on the appropriate OSM website. At a minimum, FOs shall post the following documentation on the web:

- National/regional oversight guidance and format documents and revisions and clarifications thereof;
- The performance agreement/evaluation workplan between OSM and the State, including the final draft version, subsequently replaced by the final version as signed by OSM and the State;
- All final topic specific evaluation reports for permitting or enforcement reviews prepared for the evaluation year;
- Any data summaries used to prepare the findings in the annual evaluation report;
- Action plans developed or in effect during the evaluation year;
- The final annual evaluation report provided to the State and all State comments thereon;
- Public comments, complaints or observations pertaining to the annual evaluation report or the evaluation process;
- Summaries of public meetings held concerning the oversight process;
- OSM-State meeting minutes and substantive correspondence concerning evaluation techniques, topics, schedules and findings;
- A summary of citizen complaints received by OSM, including the number received, status and the disposition, extracted from the I&E Database by the FO on a monthly basis; and
- A summary chart of the inspections completed, including the date, permit number, permittee, mine name, county, type of facility and activity status, extracted from the I&E Database by the FO on a monthly basis.

All information placed on the internet must be reviewed to ensure that it is understandable by the average layman, free of technical jargon, and complies with all Privacy Act requirements. Each region should consult with their Web Content Point of Contact to establish a process for posting information. Where technical data and information require precise terminology, the terminology

must be fully defined and explained so that the American Public understands its meaning. Documents involving State input will be provided to the States for review prior to posting on the web. All documents, with the exception of the draft performance agreement/evaluation workplan, will be posted within 14 days of completion of the document. Internal working documents will not be posted.

Additional Performance Agreement/Evaluation Workplan Requirements

Outreach for Development of a Performance Agreement/Evaluation Workplan

Each FO will conduct an outreach program within the State(s) to solicit comments from the public and interested parties regarding the oversight process, recommendations for review topics for the evaluation year, and suggestions for improvements to future annual evaluation reports. These comments will be major factors in determining where OSM will focus its limited oversight resources and what aspects of the State program will be reviewed. The following elements must be included in the FO outreach effort consistent with Table 1, Schedule for Outreach.

- Announcement of the opportunity to provide comments, recommendations or suggestions prior to the development of the performance agreement/evaluation workplan;
- Announcement of the opportunity to provide comments on the final draft performance agreement/evaluation workplan after its development;
- FO acknowledgement of receipt and appreciation for public input received; and
- Web posting of draft and final performance agreement/evaluation workplan following completion.

Announcements will be done using the OSM main and regional web pages and by email. The FO is responsible for maintaining a current list of email addresses for all interested parties within a state. The FO may choose to use other methods appropriate for a given State.

Web page and email announcements are required. Selection of other outreach methods, such as letters and newspaper announcements, will be based on the experiences of the FO communicating with the public and interested parties in their State(s). To ensure that OSM is reaching all of its public stakeholders, in areas where the public may not have access to the internet, OSM will notify the public using other methods.

Announcements must include the opportunity for interested parties to discuss with the Field Office specific ideas and concerns.

Performance Agreement/Evaluation Workplan Content Requirements

OSM's FOs and Regions, in cooperation with each State, will develop a State-specific evaluation plan or performance agreement (PA) tailored to the unique conditions of each State program. The evaluation plan may be part of a performance agreement or a separate document. OSM and the States are encouraged to develop PAs covering more than one evaluation year since the process is continuous and not necessarily limited to one year. Evaluation plans that contain national priority reviews and topic specific evaluations can be submitted annually as an addendum to the PAs, as needed.

The format of each evaluation plan/PA will be left to the discretion of the individual FOs and States to work out; however, the information contained within the evaluation plan/PA must include the following:

Required elements:

- Program Evaluation goals and the plans to achieve those goals in order to give all stakeholders a clear understanding of what OSM and the State plan to do;
- State involvement in the oversight evaluation process;
- Three National Measurement Elements, including details of each review for:
 - Off-site Impacts;
 - Reclamation Success; and
 - Customer Service.
- Other oversight activities that OSM may conduct in a State, including national priority reviews and focused State specific permitting and enforcement reviews, with the corresponding methodology for each review;
- Inspection plans for the evaluation year, including the following information:
 - A description of what OSM expects to accomplish, so that both the State and OSM staff understand the purpose of the inspections.
 - Identification of the:
 - Number of OSM oversight inspections;
 - Type of inspection (partial or complete);
 - Method of selecting mines to be inspected (random versus focused); and
 - Format for each inspection (joint versus independent).
- The FOs plans to assist the States in the resolution of any identified problems;
- Method(s) for resolving implementation problems and action plan issues identified in previous evaluations;
- State how OSM and the State plan to address public comments/input and how outreach should be conducted during the year;
- Technical or programmatic assistance to be provided by OSM to the State, and expected outcomes of the assistance; and,
- Core program data that the State will provide to OSM and the agreed upon format for this data.

Optional elements for consideration:

- As available, the summaries and conclusions of any completed or planned internal reviews of the State program that the State provides to OSM; and
- Any other provisions that would promote full program performance.

Table 1 – Schedule for Outreach

Date	Outreach Activity
March 1	Announce opening of a 30 day period for interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics, including the opportunity for discussions with the FO
March 1 – March 30	Opportunity for interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics
April 15	Draft performance agreement/evaluation workplan developed and sent to the State for their review and comments
April 30	As appropriate, incorporate State comments into the draft performance agreement/evaluation workplan
May 1	Announce the opportunity for interested parties to comment on the final draft performance agreement/evaluation workplan, including the opportunity for discussions with the FO on draft oversight plans
May 1 – May 15	Opportunity for interested parties to comment and request discussions with the FO
May 15	Close of comment period/last day for public discussions with the FO
May 15 – June 30	In conjunction with the State finalize performance agreements/evaluation workplans
July 1	Post final performance agreement/evaluation work plans on the web

(Note: These days may be adjusted if they fall on a weekend or holiday.)

Summary of Changes to the Existing REG-8 Outreach Requirements

As discussed in the introductory section of this protocol the current REG-8 requires the FOD to interact with the public on a routine basis and conduct outreach to solicit ideas for oversight topics and comments on the oversight process. However, the timing for conducting this outreach was not specified. This document establishes a protocol for conducting outreach to the public to assist in the development of performance agreements/evaluation workplans that includes specific timeframes. It also, for the first time, provides an opportunity for the public to review and comment on the draft performance agreements/evaluation workplans; requires the FO to acknowledge the receipt of public comments and requires use of OSM web pages to request input on the oversight process and to post the draft and final performance agreements/evaluation workplans, as well as other documents relevant to the oversight process. Finally, this document standardizes the requirements for posting information collected during the oversight process on the web and the information that must be included in the performance agreement/evaluation workplan. These changes will ensure consistency across OSM and increase the benefits for everyone derived from the public participation process.