

Kansas Administrative Regulations

Mined-Land Conservation and Reclamation (KDHE)

Article 12.—Lands Unsuitable for Surface Mining

47-12-4. Lands unsuitable for surface mining; adoption by reference.

(a) The following federal regulations, as in effect on July 1, 2012, are adopted by reference, except as otherwise specified in this regulation:

(1) Definitions, 30 C.F.R. 761.5, except that the statement "*we, us, and our* refer to the office of surface mining reclamation and enforcement" shall be replaced by " '*we,*' '*us,*' and '*our*' refer to the Kansas department of health and environment" and the phrase "or its State program counterpart" shall be deleted;

(2) areas where surface coal mining operations are prohibited or limited, 30 C.F.R. 761.11, deleting subsection (b);

(3) exception for existing operations, 30 C.F.R. 761.12, deleting subsection (b);

(4) procedures for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone of a public road, 30 C.F.R. 761.14;

(5) procedures for waiving the prohibition on surface coal mining operations within the buffer zone of an occupied dwelling, 30 C.F.R. 761.15;

(6) submission and processing of requests for valid existing rights determinations, 30 C.F.R. 761.16;

(7) regulatory authority obligations at time of permit application review, 30 C.F.R. 761.17;

(8) interpretive rule related to subsidence due to underground coal mining in areas designated by act of congress, 30 C.F.R. 761.200;

(9) definitions, 30 C.F.R. 762.5;

(10) criteria for designating lands as unsuitable, 30 C.F.R. 762.11;

(11) additional criteria, 30 C.F.R. 762.12. "Secretary" shall mean the "secretary of the United States department of interior" and "subchapter C of this chapter" shall mean "30 C.F.R. Parts 730, 731, 732, 733, 735, and 736";

(12) land exempt from designation as unsuitable for surface coal mining operations, 30 C.F.R. 762.13;

(13) applicability to lands designated as unsuitable by congress, 30 C.F.R. 762.14;

(14) exploration on land designated as unsuitable for surface coal mining operations, 30 C.F.R. 762.15;

(15) petitions, 30 C.F.R. 764.13;

(16) initial processing, recordkeeping, and notification requirements, 30 C.F.R. 764.15;

(17) hearing requirements, 30 C.F.R. 764.17;

(18) decision, 30 C.F.R. 764.19;

(19) data base and inventory system requirements, 30 C.F.R. 764.21;

(20) public information, 30 C.F.R. 764.23; and

(21) regulatory authority responsibility for implementation, 30 C.F.R. 764.25.

(b) The following phrases and citations shall be replaced with the phrases and citations specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1)(A) "Act" shall be replaced by "state act."

(B) "Federal Register" shall be replaced by "Kansas Register."

(C) "Subchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(D) "Subchapter G of this chapter" shall be replaced by "K.A.R. 47-3-42, K.A.R. 47-6-2, K.A.R. 47-6-3, K.A.R. 47-6-4, and K.A.R. 47-7-2."

(E) "This chapter" shall be replaced by "these regulations."

(F) "This part" and "this subchapter" shall be replaced by "K.A.R. 47-12-4."

(2)(A) "Part 761, 762, or 764 of this chapter" shall be replaced by "K.A.R. 47-12-4."

(B) "Part 772 of this chapter" shall be replaced by "K.A.R. 47-7-2."

(C) "Section 522 of the Act" and "section 522(e) of the Act" shall be replaced by "K.S.A. 49-405b, and amendments thereto."

(D) "Section 526(e) of the Act and §775.13 of this chapter" shall be replaced by "K.S.A. 49-422a and K.S.A. 49-426, and amendments thereto."

(E) "Section 701(28) of the act" shall be replaced by "K.S.A. 49-403(r), and amendments thereto."

(F) "Section 701(28) of the Act and §700.5 of this chapter" shall be replaced by "K.S.A. 49-403(r), and amendments thereto, and K.A.R. 47-2-75(a)."

(G) "Parts 764 and 769 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(15) through (21)."

(H) "Sections 522(a)(2) and (3) of the Act" shall be replaced by "K.S.A. 49-405b(a)(1) and (2), and amendments thereto."

(3)(A) "30 U.S.C. 1272(e) and §761.11" shall be replaced by "K.S.A. 49-405b and 49-406(f), and amendments thereto, and K.A.R. 47-12-4(a)(2)."

(B) "30 U.S.C. 1272(e) or §761.11" shall be replaced by "K.S.A. 49-405b and 49-406(f), and amendments thereto, or K.A.R. 47-12-4(a)(2)."

(4)(A) "§700.5 of this chapter" shall be replaced by "K.A.R. 47-2-75(a)."

(B) "§761.5," "paragraph (a) of the definition of valid existing rights in §761.5," "paragraph (b) of the definition of valid existing rights in §761.5," "paragraph (b)(1) of the definition of valid existing rights in §761.5," "paragraph (c)(2) of the definition of valid existing rights in §761.5," "paragraphs (a), (c)(1) and (c)(2) of the definition of valid existing rights in §761.5," "paragraphs (b), (c)(1) and (c)(2) of the definition of valid existing rights in §761.5," and "paragraphs (c)(1) through (c)(3) of the definition of valid existing rights in §761.5" shall be replaced by "the definition of valid existing rights in K.A.R. 47-12-4(a)(1)."

(C) "§761.11," "§761.11 of this chapter," "§761.11(d)(1)," "§761.11(e)(2)," "§761.11(a) or (b)," "§761.11(c)," "§761.11(a)," and "§761.11(f) or (g)" shall be replaced by "K.A.R. 47-12-4(a)(2)."

(D) "§761.11 and 30 U.S.C. 1272(e)" shall be replaced by "K.A.R. 47-12-4(a)(2) and K.S.A. 49-405b and 49-406(f), and amendments thereto."

(E) "§761.12" shall be replaced by "K.A.R. 47-12-4(a)(3)."

(F) "§761.14" shall be replaced by "K.A.R. 47-12-4(a)(4)."

(G) "§761.15" shall be replaced by "K.A.R. 47-12-4(a)(5)."

(H) "§761.16" shall be replaced by "K.A.R. 47-12-4(a)(6)."

(I) "§761.17(d)" shall be replaced by "K.A.R. 47-12-4(a)(7)."

(J) "§762.11(b) of this chapter," "§762.11(a) of this chapter," and "§762.11 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(10)."

(K) "§764.13(b) or (c)" and "§764.13(a)" shall be replaced by "K.A.R. 47-12-4(a)(15)."

(L) "§764.17" and "§764.17(e)" shall be replaced by "K.A.R. 47-12-4(a)(17)."

(M) "§764.21" shall be replaced by "K.A.R. 47-12-4(a)(19)."

(N) "§773.13(d) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(9)."

(O) "§779.24(c) or §783.24(c) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(38) or K.A.R. 47-10-1(a)(1)(G)."

(P) "§840.14 or §842.16 of this chapter" shall be replaced by "K.A.R. 47-15-1a(a)(2)."

(Q) "§§761.13 through 761.15" shall be replaced by "K.A.R. 47-12-4(a)(4) and (5)."

(R) "§§775.11 and 775.13 of this chapter" shall be replaced by "K.S.A. 49-407(d), K.S.A. 49-416a, K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations."

(Authorized by K.S.A. 49-405; implementing K.S.A. 49-405b, K.S.A. 2018 Supp. 49-422a, and K.S.A. 49-426; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended Feb. 15, 2019.)

***** Authenticated Kansas Administrative Regulation *****