

Kansas Administrative Regulations

Mined-Land Conservation and Reclamation (KDHE)

Article 2.—Meaning of Terms

47-2-75. Definitions; adoption by reference.

The following federal regulations, as in effect on July 1, 2012, are adopted by reference, except as otherwise specified in this regulation: (a) The section titled definitions, 30 C.F.R. 700.5, shall be altered as follows:

(1) The following text shall be deleted from the definition of "anthracite": "Notices of changes made to this publication will be periodically published by the Office of Surface Mining in the Federal Register. This ASTM standard is on file and available for inspection at the OSM Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office and Field Office, and at the central office of the applicable State Regulatory Authority, if any. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Incorporation by reference provisions approved by the Director of the Federal Register February 7, 1979. The Director's approval of this incorporation by reference expires on July 1, 1981."

(2) "Department" means Kansas department of health and environment.

(3) "Director" means director, office of surface mining reclamation and enforcement, in the following instances:

- (A) K.A.R. 47-3-42(a)(60), adopting by reference 30 C.F.R. 785.13;
- (B) K.A.R. 47-14-7(a)(1), adopting by reference 30 C.F.R. 705.4(a);
- (C) K.A.R. 47-14-7(a)(3), adopting by reference 30 C.F.R. 705.11(c) and (d);
- (D) K.A.R. 47-14-7(a)(4), adopting by reference 30 C.F.R. 705.13;
- (E) K.A.R. 47-14-7(a)(5), adopting by reference 30 C.F.R. 705.15;

(F) K.A.R. 47-14-7(a)(8), adopting by reference 30 C.F.R. 705.19(a); and

(G) K.A.R. 47-14-7(a)(9), adopting by reference 30 C.F.R. 705.21.

(H) K.A.R. 47-15-1a(a)(2), adopting by reference 30 C.F.R. 840.14(a). All other references to "the director" shall be replaced by "the secretary of the Kansas department of health and environment."

(4) "Person" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(5) "Regulatory authority" and "state regulatory authority" shall have the meaning specified in K.A.R. 47-2-53.

(6) "Regulatory program" shall have the meaning specified in K.A.R. 47-2-53a.

(7) "Secretary" means secretary of the Kansas department of health and environment.

(8) "Surface coal mining and reclamation operations" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(9) "Surface coal mining operations" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(b) The section titled "definitions," 30 C.F.R. 701.5, shall be altered as specified in this subsection.

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

(B) In the definitions of "Applicant/Violator System or AVS," "Federal Program," "State Program," and the portion of the definition for "Permittee" that states "section 523 of the Act," the word "Act" shall mean the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87. All other references to "Act" shall mean the "state act."

(C) In the definition of "cumulative impact area," the following text shall be deleted: "and (d) all operations required to meet diligent development requirements for leased Federal coal for which there is actual mine development information available." The word "and" shall be placed immediately before subsection (c).

(D) In the definitions of "federal program" and "state program" in this subsection, "Secretary" shall mean the director, office of surface mining reclamation and enforcement. In the definition of "prime farmland" in this subsection, the term "Secretary" shall mean the secretary of agriculture. All other references to "Secretary"

shall mean the secretary of the Kansas department of health and environment. In the definition of "federal program," "Director" shall mean the director, office of surface mining reclamation and enforcement.

(E) "Imminent danger to the health and safety of the public" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(F) "Operator" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(G) The definition of "performance bond" shall be replaced with the following:

"Performance bond" means a surety bond, collateral bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the state act, these regulations, a state program, and the requirements of the permit and reclamation plan."

(H) "Permit" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(I) "Permit area" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

(J) In the definition of "permittee," the phrase "by the Director pursuant to a Federal program, by the Director pursuant to a Federal lands program" shall be deleted. In the definition of "permittee," "Director" shall mean the director, office of surface mining reclamation and enforcement.

(K) "Significant, imminent environmental harm to land, air or water resources" shall have the meaning specified in K.A.R. 47-2-58.

(L) "Subchapter J of this chapter" shall be replaced by "article 8 of these regulations."

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

(N) In the definition of "Violation, failure, or refusal," the text "(1) A failure to comply with a condition of a Federally-issued permit or of any other permit that OSM is directly enforcing under section 502 or 521 of the Act or the regulations implementing those sections" shall be replaced with the following text: "(1) A failure to comply with a condition of a permit issued by the Kansas department of health and environment under

K.S.A. 49-405 and K.S.A. 49-406, and amendments thereto, or the regulations implementing those sections."

(2) The following federal definitions shall be deleted:

- (A) "Agricultural activities";
- (B) "alluvial valley floors";
- (C) "arid and semiarid area";
- (D) "essential hydrologic functions";
- (E) "farming";
- (F) "flood irrigation";
- (G) "materially damage the quality and quantity of water";
- (H) "special bituminous coal mines";
- (I) "subirrigation";
- (J) "undeveloped rangeland"; and
- (K) "upland areas."

(3)(A) "Part 845 or 846 of this chapter" and "parts 724 and 846 of this chapter" shall be replaced by "K.A.R. 47-5-5a."

(B) "Parts 773, 774, and 778 of this chapter" shall be replaced by "articles 3 and 6 of these regulations and K.A.R. 47-3-42(a)(2) through (31)."

(C) "Section 404 or under section 402(g)(4) of the Act" shall be replaced by "K.S.A. 49-428, and amendments thereto."

(D) "Section 502" shall be replaced by "K.S.A. 49-406, and amendments thereto."

(E) "Section 518(b) or section 703 of the Act" shall be replaced by "K.S.A. 49-405c or K.S.A. 75-2973, and amendments thereto."

(F) "Section 521 of the Act" shall be replaced by "K.S.A. 49-405, and amendments thereto."

(G) "Sections 507 and 510(c) of the Act" shall be replaced by "K.S.A. 49-406 and K.S.A. 49-407(b), and amendments thereto."

(4)(A) "30 CFR chapter VII" shall be replaced by "article 1 of these regulations."

(B) "30 CFR parts 816 and 817" shall be replaced by "K.A.R. 47-9-1(c) and (d)."

(C) "30 CFR 785.17(c)(1)" shall be replaced by "K.A.R. 47-3-42(a)(61)."

(D) "30 CFR 816.49 and 816.56, 816.133 or 817.49, 817.56, and 817.133" shall be replaced by "K.A.R. 47-9-1(c)(12), (13), and (45) or K.A.R. 47-9-1(d)(12), (13), and (43)."

(5)(A) "§761.5 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(1)."

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

(C) "§800.11(e) of this chapter" shall be replaced by "K.A.R. 47-8-9(a)(3)."

(D) "§800.50 of this chapter" and "§800.50(d)(1) of this chapter" shall be replaced by "K.A.R. 47-8-9(a)(14)."

(E) "§843.11 of this chapter" shall be replaced by "K.A.R. 47-15-1a(a)(8)."

(F) "§843.12 of this chapter" shall be replaced by "K.A.R. 47-15-1a(a)(9)."

(G) "§§784.20 and 817.121 of this chapter" and "§§784.20 and 817.121" shall be replaced by "K.A.R. 47-10-1(a)(2)(K) and K.A.R. 47-9-1(d)(39)."

(H) "§§816.102(d) and 817.102(d) of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(35) and (d)(33)."

(c) The section titled "definitions," 30 C.F.R. 705.5, shall be altered as follows:

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

(2) "Employee" shall have the meaning specified in K.A.R. 47-2-21.

(3) "State regulatory authority" shall have the meaning specified in K.A.R. 47-2-53.

(Authorized by K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 2018 Supp. 49-408; implementing K.S.A. 49-405 and K.S.A. 2018 Supp. 49-408; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended Feb. 15, 2019.)

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