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**State of Kansas
Department of Health and Environment**

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment (KDHE), Division of Environment, Bureau of Environmental Remediation, Surface Mining Section, will conduct a public hearing at 10:00 a.m. Wednesday, November 28, 2018, in the Azure Conference Room, fourth floor, Curtis State Office Building, 1000 SW Jackson, Topeka, Kansas, to consider the adoption of proposed amended regulations K.A.R. 47-2-75, 47-3-1, 47-3-2, 47-3-42, 47-5-5a, 47-6-1, 47-6-2, 47-6-3, 47-6-4, 47-6-6, 47-6-8, 47-6-9, 47-6-10, 47-6-11, 47-7-2, 47-8-9, 47-9-1, 47-9-4, 47-10-1, 47-11-8, 47-12-4, 47-13-4, 47-14-7, 47-15-1a, 47-16-6, 47-16-9, 47-16-10, 47-16-12 and proposed new regulation K.A.R. 47-16-13, all regarding KDHE mined-land conservation and reclamation.

A summary of the proposed regulations and the estimated economic impact follows:

Summary of Regulations:

K.A.R. 47-2-75. Definitions; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R., with modifications to relevant state references, to meet Office of Surface Mining requirements. Clarifies definitions as required by the Office of Surface Mining. Updates additional location where the American Society for Testing and Materials (ASTM) standard is on file for public review. Reorders the definitions for organizational clarity.

K.A.R. 47-3-1. Application for mining permit. Reduces the number of copies to be submitted for a permit application package to three plus the original.

K.A.R. 47-3-2. Application for mining permit; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface

Mining requirements regarding general provisions for review of permit applications. Reorders replacement phrases for organizational clarity.

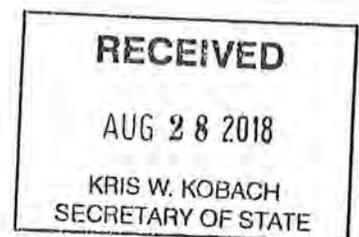
K.A.R. 47-3-42. Application for mining permit; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R., with modifications to relevant state references, to meet Office of Surface Mining requirements regarding ownership and control. Reduces the timeframe for review of a permit application from 60 to 30 days. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-5-5a. Civil penalties; adoption by reference Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements regarding procedures for civil penalty assessment, except that the minimum amount of assessed civil penalty per day is not raised. Clarifies options for presiding officer to waive use of point system in determining a civil penalty. Reorders replacement phrases and citations for organizational clarity.

K.A.R 47-6-1. Permit review. Updates the permit review process to meet Office of Surface Mining requirements.

K.A.R 47-6-2. Permit revision. Updates the permit revision process to meet Office of Surface Mining requirements. Requires relevant information to be submitted for significant changes to a permit. Replaces secretary or secretary's designee with chief of the surface mining section.

K.A.R. 47-6-3. Permit renewals; adoption by reference. Updates adoption by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.



K.A.R. 47-6-4. Permit transfers, assignments, and sales; adoption by reference.

Updates adoption by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases for organizational clarity.

K.A.R. 47-6-6. Permit conditions; adoption by reference. Updates adoption by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases for organizational clarity.

K.A.R. 47-6-8. Termination of jurisdiction; adoption by reference. Updates adoption by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases for organizational clarity.

K.A.R. 47-6-9. Exemption for coal extraction incidental to government-financed highway or other construction; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-6-10. Exemption for coal extraction incidental to the extraction of other minerals; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-6-11. Post-permit issuance requirements; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-7-2. Coal exploration; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.



K.A.R. 47-8-9. Bonding procedures; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases for organizational clarity.

K.A.R. 47-9-1. Adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R., with modifications relevant to state references, to meet Office of Surface Mining requirements. Clarifies hydrologic balances. Requires all blasting operations to be conducted under direction of a Kansas-certified blaster. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-9-4. Interim performance standards; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases for organizational clarity.

K.A.R. 47-10-1. Adoption by reference; underground mining. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases citations for organizational clarity.

K.A.R. 47-11-8. Small operator assistance program; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-12-4. Lands unsuitable for surface mining; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.

K.A.R. 47-13-4. Training and certification of blasters; adoption by reference.



Updates adoption by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrase and citation for organizational clarity.

K.A.R. 47-14-7. Employee financial interest; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement phrases and citations for organizational clarity.

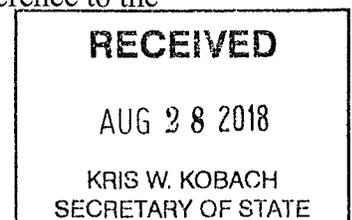
K.A.R. 47-15-1a. Inspection and enforcement; adoption by reference. Updates adoptions by reference to the July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements that state regulations be no less effective than federal regulations. Changes federal references in the adoptions by reference to state references where applicable. Replaces “OSM” with “Kansas department of health and environment” regarding review of decision not to inspect or enforce. Reorders the replacement phrases and citations for organizational clarity.

K.A.R. 47-16-6. Liens. Revises requirement of the secretary to file a lien on reclaimed land from obligatory to optional. Clarifies that the secretary may waive a lien if at least one of the listed conditions is met.

K.A.R. 47-16-9. Contractor responsibility. Corrects the citation of a C.F.R. adoption by reference in K.A.R. 47-3-42 regarding ownership and control to meet Office of Surface Mining requirements.

K.A.R. 47-16-10. Exclusion of certain noncoal reclamation sites. Corrects the citation of a C.F.R. adoption reference in K.A.R. 47-3-42 regarding ownership and control to meet Office of Surface Mining requirements.

K.A.R. 47-16-12. Surface mining section’s procedures for reclamation projects receiving less than 50 percent government funding. Updates adoption by reference to the



July 1, 2012 publication of 30 C.F.R. to meet Office of Surface Mining requirements. Reorders replacement terms for organizational clarity.

K.A.R. 47-16-13. Reclamation of non-coal-mined lands and associated waters. New regulation that authorizes use of funds for some non-coal-mined lands related reclamation. Meets Office of Surface Mining requirements regarding ownership and control with adoption by reference of the July 1, 2012 publication of 30 C.F.R. in K.A.R. 47-3-42.

Economic Impact

Cost to the agency: Full implementation of the proposed regulations will cost \$72,850 annually for as long as the Abandoned Mine Land (AML) program is active. However, this expenditure will result in an annual grant award of \$3,000,000 in AML funds from the federal government. To receive the grant, the state must have an active Administration and Enforcement Program. The cost of the Administration and Enforcement Program is split 50/50 between the state and the federal government. The state share is budgeted at \$72,850.

Cost to the public and regulated community: The proposed regulations will not increase costs to the public. The reduction of the required number of permit application package copy submittals should decrease the cost to the regulated community although it will not be significant.

Cost to other governmental agencies or units: There are no known costs to other governmental agencies.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to 5:00 p.m. on the day of the hearing to Jorge Jacobs, Kansas Department of Health and Environment, Redevelopment Section, 1000 SW Jackson, Suite 410 Topeka, KS 66612-1367, by

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email to Jorge.Jacobs@ks.gov, or by fax to 785-559-4262 or 785-559-4259. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations as well as an opportunity to submit their written comments. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit an oral presentation to an appropriate time frame.

Complete copies of the proposed regulations and the corresponding economic impact statement may be obtained from the Surface Mining Unit website at <http://www.kdheks.gov/mining/download.html> or by contacting Jorge Jacobs at the address above, 785-296-0721 or fax 785-559-4262 or 785-559-4259. Questions pertaining to the proposed regulations should be directed to Jorge Jacobs at the contact information above.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Jorge Jacobs.

Jeff Andersen

Secretary

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Proposed

Kansas Department of Health and Environment
Agency

Susan Vogel
Agency Contact

785-296-1291
Contact Phone Number

Article 47 -- Mined-Land Conservation and Reclamation (KDHE)
K.A.R. Number(s)

KAR 47-2-75, 47-3-1, 47-3-2, 47-3-42, 47-5-5a, 47-6-1, 47-6-2, 47-6-3, 47-6-4, 47-6-6, 47-6-8, 47-6-9, 47-6-10, 47-6-11, 47-7-2, 47-8-9, 47-9-1, 47-9-4, 47-10-1, 47-11-8, 47-12-4, 47-13-4, 47-14-7, 47-15-1a, 47-16-6, 47-16-9, 47-16-10, 47-16-12 -- amended
47-16-13 -- new

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

1. A minor change to all the July 1, 2001, regulations adopted by reference, bringing them into compliance with the regulations as they existed on July 1, 2012. All the regulations will be adopted as of the same date.

2. Article 2 was updated to include the definitions of the Applicant Violators System or AVS; Control or controller when used in parts 773, 774, and 778 of this chapter; Knowing or knowingly; Own, owner, or ownership when used in parts 773, 774, and 778 of this chapter; Transfer, assignment, or sale of permit rights; Violation when used in the context of the permit application information or permit eligibility requirements of section 507 and 510 (c) of the Act; Violation, failure, or refusal, for the purpose of parts 724 and 846 of this chapter; Violation notice; and Willful or willfully; all other references to the aforementioned definitions were removed as required by the Office of Surface Mining.

3. Changes in Article 3 bring the regulations dealing with ownership and control into compliance with the 30 CFR as mandated by the federal government, Office of Surface Mining (OSM). These changes in Article 3 include updating it to meet federal regulations as they apply to: Review of permit applications, 30 CFR 773.7; General provisions for review of permit application information and entry of information into AVS, 30 CFR 773.8; Review of applicant and operator information, 30 CFR 773.9; Review of permit history, 30 CFR 773.10; Review of compliance history, 30 CFR 773.11; Permit eligibility determination, 30 CFR 773.12; Unanticipated events or conditions at remaining sites, 30 CFR 773.13; Eligibility for provisionally issued permits, 30 CFR 773.14; Written findings for permit application approval, 30 CFR 773.15; Performance bond submittal, 30 CFR 773.16; Permit conditions, 30 CFR 773.17; Initial review and findings requirements for improvidently issued permits, 30 CFR 773.21; Notice requirements for improvidently issued permits, 30 CFR 773.22; Suspension or rescission requirements for improvidently issued permits, 30 CFR 773.23; Who may challenge ownership or control listings and findings, 30 CFR 773.25; How to challenge an ownership or control listing or finding, 30 CFR 773.26; Burden of proof for ownership or control challenges, 30 CFR 773.27;

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Written agency decision on challenges to ownership or control listings or findings, 30 CFR 773.28; Certifying and updating existing permit application information, 30 CFR 778.9; providing applicant and operator information, 30 CFR 778.11; Providing permit history information, 30 CFR 778.12; Providing property interest information, 30 CFR 778.13; and Providing violation information, 30 CFR 778.14. Other minor changes made to Article 3 included changing the date of adoption to July 1, 2012, bringing all the regulations into line with the same adoption date.

4. Changes in Article 5 bring the regulations dealing with alternative enforcement actions into compliance with the 30 CFR as mandated by OSM. These changes in Article 5 include updating it to meet federal regulations as they apply to: General provisions, 30 CFR 847.2; Criminal penalties, 30 CFR 847.11; and Civil action for relief, 30 CFR 847.16. Other minor changes made to Article 5 included changing the date of adoption to July 1, 2012, bringing all the regulations into line with the same adoption date.

5. Changes in Article 6 bring the regulations dealing with ownership and control that apply to revision; renewal; transfer, assignment, or sale of permit rights and other actions based on ownership, control and violation information into compliance with the 30 CFR as mandated by OSM. These changes in Article 6 include updating it to meet federal regulations as they apply to: Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information, 30 CFR 774.11; Post-permit issuance information requirements for permittees, 30 CFR 774.12; and Transfer, assignment, or sale of permit rights, 30 CFR 774.17. Other minor changes made to Article 6 included changing the date of adoption to July 1, 2012, bringing all the regulations into line with the same adoption date.

6. Minor changes made to Article 7, 8, 9, 10, 11 12, 13, and 14 included changing the date of adoption to July 1, 2012, bringing all the regulations into line with the same adoption date.

7. Changes in Article 15 bring the regulations into compliance with the 30 CFR as mandated by OSM. These changes in Article 15 include updating it to meet federal regulations as they apply to: Cessation orders, 30 CFR 843.11. Other minor changes made to Article 15 included changing the date of adoption to July 1, 2012, bringing all the regulations into line with the same adoption date.

8. Changes in Article 16 bring the regulations dealing with ownership and control that apply to AML contractor eligibility into compliance with the 30 CFR as mandated by OSM. The change in Article 16 included updating it to meet federal regulations as they apply to: Abandoned mine land contractor eligibility, 30 CFR 874.16. A change to the regulations not mandated by OSM in Article 16 brings the adoption by reference into line with the July 1, 2012 adoption date. This will allow all the regulations to be adopted from the same source and the same date.

9. There were also changes made throughout the regulation set to correct regulatory form and style.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

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The Federal Government established the authority to regulate coal mining and reclaim hazards associated with past coal mining practices in the Surface Mining Control and Reclamation Act of 1977

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(SMCRA). With the adoption of SMCRA all the coal mining states in the Union were provided the opportunity to adopt similar regulations and control the reclamation of active mines and abandoned mine land (AML) in their individual states.

As part of Title IV, Section 405 and Title V, Section 503 of SMCRA, the majority of the amendments are mandated by the Federal Government as part of a federally subsidized or assisted program. In a letter to the State from OSM, received on December 21, 2009, and subsequent letters, the State of Kansas was required to update its regulations and bring them into compliance with federal regulations.

As provided for in Title IV, Section 405 of SMCRA, in order for a state to qualify for Title IV AML funds, the state must have an approved Title V, Section 503 program which is an administration and enforcement program for the active coal mines. For a state to maintain an approved Title V program they must remain in compliance with 30 CFR 732.15, Criteria for approval or disapproval of State programs. For program approval in accordance with 30 CFR 732.15, a state must maintain regulations as stringent as the federal regulations. Therefore, for the State of Kansas to keep receiving Federal Title IV AML funds, the regulation changes required by OSM need to be completed to bring state regulations into compliance with federal regulations.

The same approach is taken by all the states with coal mining contiguous to Kansas.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The regulation changes should have no net effect either to enhance or restrict activities with the coal mining industry. The major loss of coal production in the state rests in the fact that the coal mined is no longer in demand and most of the easily accessible coal has already been mined. This makes it much costlier to go after the deeper seams of coal.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

Failing to adopt the required regulation changes, the State of Kansas could lose the approved Title V Program which in turn could mean the loss of all their Abandoned Mined Land (AML) funding and half the funding for the Title V Program. This loss of revenues could be more than \$3,000,000 to the state. The persons affected by the loss of this revenue would be the general public.

The effect on the state would be the loss of the AML Program which reclaims hazards to the health, and safety, of the general public created by past coal mining. Past coal mining is defined as any coal mining which occurred prior to 1977 or the inception of the Surface Mining Control and Reclamation Act (SMCRA). The AML Program also contains the Emergency Program. This program is designed to alleviate any hazards which are of an emergency nature and occur in a sudden manner. This would include but is not limited to subsidence under homes or in roadways.

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The loss of half the funding to the Title V Program could lead to environmental problems when coal operators fail to reclaim the environment. There could be loss of prime farmland soils and polluted water associated with the failure to do acceptable and timely reclamation on active coal mines. Failure to do satisfactory reclamation could leave hazards, such as those reclaimed by the AML Program, being left on active coals mine sites.

Since the proposed regulation changes are minor, there will have no net effect on business activities and growth.

C. Businesses that would be directly affected by the proposed rule and regulation;

The business that would be directly affected are the coal mining companies. Failing to adopt the regulations and losing the funding for the AML Program would affect the construction contractors, engineering firms and vendors of construction goods within the State.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The benefit of adopting the these regulations will be that be the state will continue to receive \$3,000,000 per year to operate the AML Program and half the funding for the Active Mining Program.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

These regulations changes will update the Applicant Violators System (AVS) and should have little impact on the coal companies in the State. The agency did not make any changes that would have increased the cost of production.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

To obtain the \$3,000,000 in AML funds from the federal government, the state must have an active Administration and Enforcement Program. The cost of the Administration and Enforcement Program is split 50/50 between the state and federal government. The state's share of the funds to operate the Active Mining Program are generated by a per ton fee charged to the coal operators for each ton of coal mined in the state and a \$60 per acre fee on each acre of land permitted for coal mining. The \$60 per acre fee is charged at permit submission and then again, every 5 years at permit renewal. The per acre fee is prorated after the initial submission based on the phases of bond releases obtained. The remainder of the Active Mining Program funding is covered by State General Funds.

The cost of operating the Administration and Enforcement Program should remain the same or slightly decrease over the next 6 to 7 years as Phase III bond releases are obtained on the remaining active coal mining permits and the permits in bonds forfeited are reclaimed and released. As the workload decreases,

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the need for inspections and staffing will decrease. This may change if a coal company submits a new coal mining permit within that timeframe.

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$72,850, annually for as long as the AML program is active

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The data used in this statement was generated from the 2018 Federal Grants for both the AML and Active Mining Programs of the KDHE, and from SMCRA. Funding for the AML Program was determined through Section 402 (g)(8) of SMCRA.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

Not applicable -- The costs of the Active Mining Program over two years will be less than \$200,000.

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The regulation changes will have no effect on the cities, counties or school districts within the state. However, when the notice of hearing for these regulations is published in the *Kansas Register*, standard agency procedure will be followed and the three organizations will be contacted electronically with attached copies of the regulations, economic impact statement and published notice of hearing.

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H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The regulation changes will have no net effect on businesses, associations, local governments, state agencies, or institutions and members of the public of the state. There are no less intrusive or less costly methods available for consideration by KDHE to achieve the purposes of the proposed regulation changes.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

The existing laws contained within K.A.R. Agency 47 deal with the protection of the environment during active coal mining operations, and reclamation of both active coal mines and hazardous AML sites. The proposed regulation changes will benefit the environment by making the administration and enforcement of the existing laws ensuring environmental compliance more effective. Without the Active Mining Program there would be loss of prime farmland soils and polluted water associated with the failure to do acceptable and timely reclamation on active coal mines. Failure to do satisfactory reclamation would leave hazards, such as those reclaimed by the AML Program, being left on active coals mine sites. The landowner would then become responsible for abating any hazards or cleaning any water polluted by the mining operation.

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47-2-75. Definitions; adoption by reference. The following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation: (a) The section titled definitions, 30 ~~CFR~~ C.F.R. 700.5, shall be altered as follows:

(1) ~~“Regulatory authority” and “state regulatory authority” shall have the meaning specified in K.A.R. 47-2-53.~~

(2) ~~“Surface coal mining operations” shall have the meaning specified in K.S.A. 49-403, and amendments thereto.~~

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

(4) 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 ~~Federal Register Library, 800 North Capitol Street, N.W., suite 700, Washington, D.C.~~ 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

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7, 1979. The Director's approval of this incorporation by reference expires on July 1, 1981."

~~(5) "Regulatory program" shall have the meaning specified in K.A.R. 47-2-53a.~~

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

~~(6) (3) "Director" means the director, office of surface mining reclamation and enforcement, in the following instances:~~

~~(A) K.A.R. 47-3-42(a)(39)(60), adopting by reference 30 CFR C.F.R. 785.13;~~

~~(B) K.A.R. 47-14-7(a)(1), adopting by reference 30 CFR C.F.R. 705.4(a);~~

~~(C) K.A.R. 47-14-7(a)(3), adopting by reference 30 CFR C.F.R. 705.11(c) and (d);~~

~~(D) K.A.R. 47-14-7(a)(4), adopting by reference 30 CFR C.F.R. 705.13;~~

~~(E) K.A.R. 47-14-7(a)(5), adopting by reference 30 CFR C.F.R. 705.15;~~

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

~~(G) K.A.R. 47-14-7(a)(9), adopting by reference 30 CFR 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."

~~(7) "Department" means 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.

~~(8) (7) "Secretary" means secretary of the Kansas department of health and environment.~~

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

(9) ~~"[T]his chapter" shall be replaced by "these regulations."~~ "Surface coal mining operations" shall have the meaning specified in K.S.A. 49-403, and amendments thereto.

~~(10) "[A]ct" shall be replaced by "state act."~~

(b) The section titled "definitions," 30 CFR C.F.R. 701.5, shall be altered as follows: 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"

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shall mean the director, office of surface mining reclamation and enforcement.

(1) (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.

(2) (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."

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

(4) (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.

(5) (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."

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(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."

(6) (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."

~~(7) In the definition of "[C]umulative 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~~

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be placed immediately before subsection (c).

(8) "~~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).~~"

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

(10) "~~[S]ubchapter J of this chapter~~" shall be replaced by "~~article 8 of these regulations.~~"

(11) "~~§§816.102(d) and 817.102(d) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1 (e)(35) and (d)(33).~~"

(12) "~~§§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).~~"

(13) "~~[P]arts 773, 774, and 778~~" shall be replaced by "~~articles 3 and 6 of these regulations and K.A.R. 47-3-42(a)(1) through (11).~~"

(14) "~~30 CFR chapter VII~~" shall be replaced by "~~article 1 of these regulations.~~"

(15) "~~30 CFR 785.17(e)(1)~~" shall be replaced by "~~K.A.R. 47-3-42(a)(40).~~"

(16) "~~[S]ubchapter K~~" shall be replaced by "~~article 9 of these regulations.~~"

(17) "~~§761.5 of this chapter~~" shall be replaced by "~~K.A.R. 47-12-4(a)(1).~~"

(18) "~~§773.13 of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(53).~~"

(19) "~~[S]ections 507 and 510(e) of the Act~~" shall be replaced by "~~K.S.A. 49-406 and K.S.A. 49-407(b), and amendments thereto.~~"

(20) "~~§843.12 of this chapter~~" shall be replaced by "~~K.A.R. 47-15-1a(a)(9).~~"

(21) "~~§843.11 of this chapter~~" shall be replaced by "~~K.A.R. 47-15-1a(a)(8).~~"

(22) "~~[P]art 845 or 846 of this chapter~~" and "~~parts 724 and 846 of this chapter~~" shall be

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replaced by "K.A.R. 47-5-5a."

(23) "~~§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)."

(24) "~~§800.11(e) of this chapter~~" shall be replaced by "K.A.R. 47-8-9(a)(3)."

(25) "[S]ection 502" shall be replaced by "K.S.A. 49-406, and amendments thereto."

(26) "[S]ection 521 of the Act" shall be replaced by "K.S.A. 49-405, and amendments thereto."

(27) "[S]ection 518(b) or section 703 of the Act" shall be replaced by "K.S.A. 49-405e or K.S.A. 75-2973, and amendments thereto."

(28) 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.

(29) In the definitions of "federal program" and "state program" located in this subsection, "Secretary" shall mean the director, office of surface mining reclamation and enforcement. In the definition of "prime farmland" located 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.

(30) The phrase "and §843.21 of this chapter" shall be deleted.

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

(32) ~~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.”~~

(33) ~~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 these 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 these sections.”~~

(34) ~~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.”~~

(35) ~~“[T]his chapter” shall be replaced by “these regulations.”~~

(36) ~~“[A]et” shall be replaced by “state act.”~~

(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

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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)."

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(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 ~~CFR~~ 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.

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

~~(3)~~ “[A]et” shall be replaced by “state act.” (Authorized by K.S.A. 49-404, K.S.A.

49-405, and K.S.A. 2017 Supp. 49-408; implementing K.S.A. 49-405 and K.S.A. 2017 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 P-_____.)

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47-3-1. Application for mining permit. Each person who conducts or expects to conduct surface or underground coal mining and reclamation operations shall file an original and ~~four~~ three copies of a complete and accurate application for a permit for those operations with the secretary ~~at least 90 days before permit decision.~~ (Authorized by K.S.A. 49-405 and K.S.A. 2017 Supp. 49-406; implementing K.S.A. 2017 Supp. 49-406; effective, E-71-4, Nov. 20, 1970; effective Jan. 1, 1972; amended May 1, 1975; amended May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997; amended P-_____.)

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47-3-2. Application for mining permit; adoption by reference. (a) Each permit application submitted with a request for variances from the applicable regulations shall contain an outline of the proposed variances. The outline shall be indexed to the regulations and be placed at the beginning of the application documents.

(b) The following federal regulations as in effect on July 1, ~~2004~~ 2012 are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

- (1) Format and contents, 30 ~~CFR~~ C.F.R. 777.11;
- (2) reporting of technical data, 30 ~~CFR~~ C.F.R. 777.13;
- (3) maps and plans; ~~;~~ general requirements, 30 ~~CFR~~ C.F.R. 777.14. The phrase "in accordance with ~~section~~ §710.12 of this chapter" shall be deleted; and
- (4) completeness, 30 ~~CFR~~ C.F.R. 777.15.

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

- (1) "This chapter" and "this subchapter" shall be replaced by "these regulations."
- (2) "~~[P]arts 778, 779, and 780 of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(1) through (38)."
- (3) "~~[P]art 785 of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(39) through (45)."
- (4) "~~[P]arts 778, 783, and 784 of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(1) through (11) and K.A.R. 47-10-1(a)(1) and (2)" and "K.A.R. 47-10-1."
- (2)(A) "Part 785 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(60) through

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(66)."

(B) "Parts 778, 779, and 780 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(21) through (59)."

(C) "Parts 778, 783, and 784 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(21) through (31) and K.A.R. 47-10-1." (Authorized by K.S.A. 49-405; implementing K.S.A. 2017 Supp. 49-406; effective May 1, 1980; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P- _____.)

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47-3-42. Application for mining permit; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2001~~ 2012, are adopted by reference, except for the additions and deletions specified:

(1) Applicability, 30 C.F.R. 701.11 subsections (d) and (e) only. Subsections (a), (b), (c), and (f) shall be deleted, and the word "Act" shall be replaced by "state act";

(2) public participation in permit processing, 30 C.F.R. 773.6. The phrase "developed in accordance with section 503(a)(6) or section 504(h) of the Act, or §773.5" in 30 C.F.R. 773.6(a)(3)(ii) and the sentence "The requirements of section 5 of the administrative procedure act, as amended (5 U.S.C. 554), shall not apply to the conduct of the informal conference." in 30 C.F.R. 773.6(c)(2)(iv) shall be deleted;

(3) review of permit applications, 30 C.F.R. 773.7, except that the 60-day period for decision shall be replaced by a 30-day period;

(4) general provisions for review of permit application information and entry of information into AVS, 30 C.F.R. 773.8;

(5) review of applicant and operator information, 30 C.F.R. 773.9;

(6) review of permit history, 30 C.F.R. 773.10;

(7) review of compliance history, 30 C.F.R. 773.11, except that the word "Act" shall be replaced by "state act";

(8) permit eligibility determination, 30 C.F.R. 773.12;

(9) unanticipated events or conditions at remining sites, 30 C.F.R. 773.13;

(10) eligibility for provisionally issued permits, 30 C.F.R. 773.14;

(11) written findings for permit application approval, 30 C.F.R. 773.15. In subsections

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(a) and (b), the word "Act" shall be replaced by "state act." The phrases "parts 764 and 769 of this chapter" and "parts 762 and 764 or 769 of this chapter" shall be replaced by "K.A.R. 47-12-4";

(12) performance bond submittal, 30 C.F.R. 773.16;

(13) permit issuance and right of renewal, 30 C.F.R. 773.19. The clause "unless the requirements of 778.17 of this chapter are met" shall be deleted;

(14) initial review and finding requirements for improvidently issued permits, 30 C.F.R. 773.21;

(15) notice requirements for improvidently issued permits, 30 C.F.R. 773.22;

(16) suspension or rescission requirements for improvidently issued permits, 30 C.F.R. 773.23;

(17) who may challenge ownership or control listings and findings, 30 C.F.R. 773.25;

(18) how to challenge an ownership or control listing or finding, 30 C.F.R. 773.26, except that in subsection (a), the phrase "as identified in the following table" and the table shall be deleted. The word "Act" shall be replaced by "state act";

(19) burden of proof for ownership or control challenges, 30 C.F.R. 773.27;

(20) written agency decision on challenges to ownership or control listings or findings, 30 C.F.R. 773.28;

(21) Certifying and updating existing permit application information, 30 CFR C.F.R. 778.9;

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(2) (22) providing applicant, and operator, and ownership and control information, 30 CFR C.F.R. 778.11;

(3) (23) providing permit history information, 30 CFR C.F.R. 778.12;

(4) (24) providing property interest information, 30 CFR C.F.R. 778.13;

(5) (25) providing violation information, 30 CFR C.F.R. 778.14;

(6) (26) right-of-entry information, 30 CFR C.F.R. 778.15;

(7) (27) status of unsuitability claims, 30 CFR C.F.R. 778.16, except that the phrase "parts 762, 764, and 769 of this chapter" shall be replaced by "K.A.R. 47-12-4";

(8) (28) permit term, 30 CFR C.F.R. 778.17(a);

(9) (29) insurance, 30 CFR C.F.R. 778.18;

(10) (30) proof of publication, 30 CFR C.F.R. 778.21;

(11) (31) facilities or structures used in common, 30 CFR C.F.R. 778.22;

(12) (32) responsibilities, 30 CFR C.F.R. 779.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42(a)(12)(32) through (19) (39)";

(13) (33) general requirements, 30 CFR C.F.R. 779.11;

(14) (34) general environmental resources information, 30 CFR C.F.R. 779.12;

(15) (35) climatological information, 30 CFR C.F.R. 779.18;

(16) (36) vegetation information, 30 CFR C.F.R. 779.19, except that the phrase "if required by the regulatory authority" shall be deleted;

(17) (37) soil resources information, 30 CFR C.F.R. 779.21;

(18) (38) maps: general requirements, 30 CFR C.F.R. 779.24;

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- (19) ~~(39)~~ cross sections, maps, and plans, 30 ~~CFR~~ C.F.R. 779.25;
- (20) ~~(40)~~ responsibilities, 30 ~~CFR~~ C.F.R. 780.4. The phrase "this part" shall be replaced by "K.A.R. 47-3-42(a)~~(20)~~(40) through ~~(38)~~(59)";
- (21) ~~(41)~~ operation plan: general requirements, 30 ~~CFR~~ C.F.R. 780.11;
- (22) ~~(42)~~ operation plan: existing structures, 30 ~~CFR~~ C.F.R. 780.12;
- (23) ~~(43)~~ operation plan: blasting, 30 ~~CFR~~ C.F.R. 780.13;
- (24) ~~(44)~~ operation plan: maps and plans, 30 ~~CFR~~ C.F.R. 780.14;
- (25) ~~(45)~~ air pollution control plan, 30 ~~CFR~~ C.F.R. 780.15, except that the phrase "if required by the regulatory authority" shall be deleted;
- (26) ~~(46)~~ fish and wildlife information, 30 ~~CFR~~ C.F.R. 780.16;
- (27) ~~(47)~~ reclamation plan: general requirements, 30 ~~CFR~~ C.F.R. 780.18;
- (28) ~~(48)~~ hydrologic information, 30 ~~CFR~~ C.F.R. 780.21;
- (29) ~~(49)~~ geologic information, 30 ~~CFR~~ C.F.R. 780.22;
- (30) ~~(50)~~ reclamation plan: land ~~uses~~ use information, 30 ~~CFR~~ C.F.R. 780.23;
- (31) ~~(51)~~ reclamation plan: siltation structures, impoundments, ~~banks, dams,~~ and ~~embankments~~ refuse piles, 30 ~~CFR~~ C.F.R. 780.25;
- (32) ~~(52)~~ reclamation plan: surface mining near underground mining, 30 ~~CFR~~ C.F.R. 780.27;
- (33) ~~(53)~~ activities in or adjacent to perennial or intermittent streams, 30 ~~C.F.R.~~ C.F.R. 780.28;
- (34) ~~(54)~~ diversions, 30 ~~CFR~~ C.F.R. 780.29;
- (35) ~~(55)~~ protection of ~~public~~ publicly owned parks and historic places, 30 ~~CFR~~ C.F.R.

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780.31, except that the word "may" shall be changed to "shall";

~~(35)~~ (56) relocation or use of public roads, 30 CFR C.F.R. 780.33;

~~(36)~~ (57) disposal of excess spoil, 30 CFR C.F.R. 780.35;

~~(37)~~ (58) road systems, 30 CFR C.F.R. 780.37;

~~(38)~~ (59) support facilities, 30 CFR C.F.R. 780.38;

~~(39)~~ (60) experimental practices mining, 30 CFR C.F.R. 785.13, except that the word "Act" shall be replaced by "state act";

~~(40)~~ (61) prime farmland, 30 CFR C.F.R. 785.17. The last sentence in 30 CFR C.F.R. 785.17(c)(1)(i) shall be deleted;

~~(41)~~ (62) variances for delay in contemporaneous reclamation requirement in combined surface and underground mining activities, 30 CFR C.F.R. 785.18, except that in subsections (b)(3) and (7), the word "Act" shall be replaced by "state act";

~~(42)~~ (63) augering, 30 CFR C.F.R. 785.20;

~~(43)~~ (64) coal preparation plants not located within the permit area of a mine, 30 CFR C.F.R. 785.21, except that subsections (d) and (e) shall be deleted;

~~(44)~~ (65) in situ processing activities, 30 CFR C.F.R. 785.22; and

~~(45)~~ (66) lands eligible for reining, 30 CFR C.F.R. 785.25; ;

~~(46)~~ public participation in permit processing, 30 CFR 773.6. The phrase "developed in accordance with section 503(a)(6) or section 504(h) of the Act, or §773.5" in 30 CFR 773.6(a)(3)(ii) and the sentence "The requirements of section 5 of the administrative procedures act, as amended (5 U.S.C. 554), shall not apply to the conduct of the informal conference." in 30

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CFR 773.6(c)(2)(iv) shall be deleted;

~~(47) review of permit applications, 30 CFR 773.7;~~

~~(48) general provisions for review of permit application information and entry of information into AVS, 30 CFR 773.8;~~

~~(49) review of applicant, operator, and ownership and control information, 30 CFR 773.9;~~

~~(50) review of permit history, 30 CFR 773.10;~~

~~(51) review of compliance history, 30 CFR 773.11, except that the word "Act" shall be replaced by "state act";~~

~~(52) permit eligibility determination, 30 CFR 773.12;~~

~~(53) unanticipated events or conditions at remining sites, 30 CFR 773.13;~~

~~(54) eligibility for provisionally issued permits, 30 CFR 773.14;~~

~~(55) written findings for permit application approval, 30 CFR 773.15. Subsection (d) shall be deleted, and in subsections (a) and (b), the word "Act" shall be replaced by "state act." The phrases "parts 764 and 769 of this chapter" and "parts 762 and 764 or 769 of this chapter" shall be replaced by "K.A.R. 47-12-4";~~

~~(56) performance bond submittal, 30 CFR 773.16;~~

~~(57) permit issuance and right of renewal, 30 CFR 773.19. The clause "unless the requirements of 773.17 of this chapter are met" shall be deleted;~~

~~(58) initial review and findings requirements for improvidently issued permits, 30 CFR 773.21, except that in subsection (c)(2), the phrase "and on the avs office internet home page~~

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~~(internet address: <http://www.avs.osmre.gov>)” shall be deleted;~~

~~(59) notice requirements for improvidently issued permits, 30 CFR 773.22;~~

~~(60) suspension or rescission requirements for improvidently issued permits, 30 CFR 773.23;~~

~~(61) who may challenge ownership or control listings and findings, 30 CFR 773.25;~~

~~(62) how to challenge an ownership or control listing or finding, 30 CFR 773.26, except that in subsection (a), the phrases “as identified in the following table” and “the table” shall be deleted. The word “Act” shall be replaced by “state act”;~~

~~(63) burden of proof for ownership or control challenges, 30 CFR 773.27;~~

~~(64) written agency decision on challenges to ownership or control listings or findings, 30 CFR 773.28; and~~

~~(65) applicability, 30 CFR 701.11 subsections (d) and (e) only. Subsections (a), (b), (c), and (f) shall be deleted, and the word “Act” shall be replaced by “state act.”~~

(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) “[S]ubchapter K (Permanent Program Standards) of this chapter,” “subchapter K” and “subchapter K of this chapter” shall be replaced by “K.A.R. 47-9-1.”

(2) “[T]his chapter,” “this subchapter,” “this part,” and “subchapter G of this chapter” shall be replaced by “these regulations.”

(3) “Act” shall be replaced by “state act.”

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(4) ~~“[S]ection 515 of the Act,” “section 515(b) of the Act,” “section 515(b)(22) of the Act,” and “sections 515 and 516 of the Act” shall be replaced by “K.S.A. 49 405a, 49 408 through 49 413, and 49 429, and amendments thereto.”~~

(5) ~~“[S]ubchapter J of this chapter,” “subchapter J,” and “part 800 of this chapter” shall be replaced by “article 8 of these regulations.”~~

(6) ~~“[S]ection 508 of the Act” shall be replaced by “K.S.A. 49 406, and amendments thereto.”~~

(7) ~~“[S]ection 515(b)(16) of the Act” shall be replaced by “K.S.A. 49 429, and amendments thereto.”~~

(8) ~~“[S]ubchapter R of this chapter” shall be replaced by “the office.”~~

(9) ~~“[S]ubchapter B (Interim Program Standards) of this chapter” and “subchapter B of this chapter” shall be replaced by “K.A.R. 47 9 4.”~~

(10) ~~“[P]art 775 of this chapter” and “part 775 of this subchapter” shall be replaced by “K.S.A. 49 407(d), 49 416a, and 49 422a, and amendments thereto, and article 4 of these regulations.”~~

(11) ~~“[P]art 816” and “part 816 of this chapter” shall be replaced by “K.A.R. 47 9 1(e).”~~

(12) ~~“[P]art 785 of this chapter” shall be replaced by “K.A.R. 47 3 42(a)(39) through (45).”~~

(13) ~~“30 CFR 773.15” and “§773.15 of this part” shall be replaced by “K.A.R. 47 3 42 (a)(55).”~~

(14) ~~“§774.15” shall be replaced by “K.A.R. 47 6 3.”~~

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(15) "~~§761.14 of this chapter~~" shall be replaced by "~~K.A.R. 47-12-4(a)(4)~~."

(16) "~~§785.13~~" shall be replaced by "~~K.A.R. 47-3-42(a)(39)~~."

(17) "~~§761.12(d) of this chapter~~" shall be replaced by "~~K.A.R. 47-12-4(a)(3)~~."

(18) "~~§773.6(d)(3)(ii) of this chapter,~~" "~~§773.6(a)(1) of this chapter,~~" and "~~§773.6 of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(46)~~."

(19) "~~§§773.9 through 773.11 of this part~~" shall be replaced by "~~K.A.R. 47-3-42(a)(49) through (51)~~."

(20) "~~§778.11 of this subchapter,~~" "~~§§778.11(e)(5) and 778.11(d) of this subchapter,~~" and "~~§778.11(e)(5) of this subchapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(2)~~."

(21) "~~§778.12 of this subchapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(3)~~."

(22) "~~§773.12 of this part~~" and "~~§773.12~~" shall be replaced by "~~K.A.R. 47-3-42(a)(52)~~."

(23) "~~§774.11(c) of this subchapter~~" and "~~§774.11(f) of this subchapter~~" shall be replaced by "~~K.A.R. 47-6-11(a)(1)~~."

(24) "~~§778.14 of this subchapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(5)~~."

(25) "~~§773.13~~" and "~~§773.13(e)~~" shall be replaced by "~~K.A.R. 47-3-42(a)(53)~~."

(26) "~~§773.14(b) of this part~~" and "~~§§773.14(c)(1) through (4)~~" shall be replaced by "~~K.A.R. 47-3-42(a)(54)~~."

(27) "~~[S]ection 510(e) of the Act~~" shall be replaced by "~~K.S.A. 49-407(b), and amendments thereto~~."

(28) "~~§778.9(d) of this subchapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(1)~~."

(29) "~~§773.19 of this part~~" shall be replaced by "~~K.A.R. 47-3-42(a)(57)~~."

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(30) ~~"43 CFR 4.1360 through 4.1369"~~ shall be replaced by ~~"K.A.R. 47-4-14a."~~

(31) ~~"§843.12 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-15-1a(a)(9)."~~

(32) ~~"§§773.25 through 773.27 of this part"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(61) through (63)."~~

(33) ~~"§§773.22 and 773.23 of this part"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(59) and (60)."~~

(34) ~~"§761.11 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-12-4(a)(2)."~~

(35) ~~"§816.111(d) or §817.111(d)"~~ shall be replaced by ~~"K.A.R. 47-9-1(c)(39) or (d)(35)."~~

(36) ~~"§816.106 or §817.106 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(c)(38) or (d)(34)."~~

(37) ~~"§701.5 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-2-75(b)."~~

(38) ~~"§§773.7 through 773.14 of this part"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(47) through (54)."~~

(39) ~~"§773.21(d) of this part" and "paragraphs (a) and (b) §773.21 of this part"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(58)."~~

(40) ~~"§773.23 of this part"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(60)."~~

(41) ~~"[T]he procedures at 43 CFR 4.1370 through 4.1377 (when OSM is the regulatory authority) or under the State regulatory program equivalent (when a State is the regulatory authority)"~~ shall be replaced by ~~"K.A.R. 47-4-14a."~~

(42) ~~"§843.14 of this chapter, or the state regulatory program equivalent"~~ shall be

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replaced by "K.A.R. 47-15-1a(a)(11)."

(43) "~~§773.22(b) or (c) of this part~~" and "~~§773.22(e) of this part~~" shall be replaced by "K.A.R. 47-3-42(a)(59)."

(44) "~~§773.26(a) of this part~~" shall be replaced by "K.A.R. 47-3-42(a)(62)."

(45) "~~§773.27(b) of this part~~" shall be replaced by "K.A.R. 47-3-42(a)(63)."

(46) "~~§§773.27 and 773.28 of this part~~" shall be replaced by "K.A.R. 47-3-42(a)(63) and (64)."

(47) "~~§842.16 of this chapter (when osm is the regulatory authority) or under §840.14 of this chapter (when a state is the regulatory authority)~~" shall be replaced by "K.A.R. 47-15-1a(a)(2)."

(48) "~~Rule 4 of the federal rules of civil procedure, or its state regulatory program counterparts~~" shall be replaced by "K.A.R. 47-4-14a."

(49) "~~43 CFR 4.1380 through 4.1387 or, when a state is the regulatory authority, the state regulatory program counterparts~~" shall be replaced by "K.A.R. 47-4-14a and K.S.A. 49-416a, and amendments thereto."

(50) "~~[B]y a reviewing administrative or judicial tribunal~~" shall be replaced by "by an administrative or a judicial review of an agency action concerning the aforementioned Kansas department of health and environment determination."

(51) "~~State regulatory authority with jurisdiction over the application or permit~~" and "~~regulatory authority~~" shall be replaced by "the Kansas department of health and environment."

(52) "~~[C]entral office of the applicable state regulatory authority, if any~~" shall be replaced

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by "the Kansas department of health and environment, surface mining section."

(53) "[O]ffice of hearings and appeals or its state counterpart" shall be replaced by "office of administrative hearings, a division of the Kansas department of administration."

(54) "§762.13(e) of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(12)."

(55) "§761.14 or §761.15 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(4) or (5)."

(56) "§800.60 of this chapter" shall be replaced by "K.A.R. 47-8-9(a)(15)."

(57) "§§773.21 or 774.11(f) of this subchapter" shall be replaced by "K.A.R. 47-3-42 (a)(58) and K.A.R. 47-6-11(a)(1)."

(58) "30 CFR 780.16" shall be replaced by "K.A.R. 47-3-42(a)(26)."

(59) "30 CFR 816.22," "§816.22 of this chapter," and "§816.22(b) of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(5)."

(60) "§816.133" and "30 CFR 816.133" shall be replaced by "K.A.R. 47-9-1(c)(45)."

(61) "[S]ubchapter B or K of this chapter" shall be replaced by "K.A.R. 47-9-4 or K.A.R. 47-9-1."

(62) "§§816.61 through 816.68 of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(16) through (21)."

(63) "§816.67" shall be replaced by "K.A.R. 47-9-1(c)(20)."

(64) "30 CFR 779.24 through 779.25" shall be replaced by "K.A.R. 47-3-42(a)(18) through (19)."

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(65) ~~"30 CFR 780.25"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(31)."~~

(66) ~~"30 CFR 780.35"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(36)."~~

(67) ~~"§§780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b), 816.73(c), 816.74(e), and 816.81(c) of this chapter"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(31) and (36) and K.A.R. 47-9-1(e)(22), (23), and (25)."~~

(68) ~~"30 CFR 816.95"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(30)."~~

(69) ~~"§816.97 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(31)."~~

(70) ~~"30 CFR 780.18 through 780.37"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(27) through (37)."~~

(71) ~~"30 CFR 816.111 through 816.116"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(39) through (42)."~~

(72) ~~"30 CFR 816.116"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(42)."~~

(73) ~~"30 CFR 816.59"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(15)."~~

(74) ~~"30 CFR 816.89 through 816.102"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(29) through (35)."~~

(75) ~~"30 CFR 816.13 through 816.15"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(2) through (4)."~~

(76) ~~"§§816.41 through 816.43"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(6) through (8)."~~

(77) ~~"§779.25 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(19)."~~

(78) ~~"§§816.81-816.84 of this chapter"~~ and ~~"30 CFR 816.81-816.84"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(25) through (27)."~~

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(79) "~~§816.49 of this chapter~~" and "~~§816.49(a)(4)(ii) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(12).~~"

(80) "~~30 CFR 816.79~~" and "~~§816.79 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(24).~~"

(81) "~~30 CFR 816.43 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(8).~~"

(82) "~~§761.16 of this chapter~~" shall be replaced by "~~K.A.R. 47-12-4(a)(6).~~"

(83) "~~§761.17(d) of this chapter~~" shall be replaced by "~~K.A.R. 47-12-4(a)(7).~~"

(84) "~~30 CFR 816.71-816.74~~" and "~~§§816.71 through 816.74 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(22) through (23).~~"

(85) "~~30 CFR 816.71(d)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(22).~~"

(86) "~~§816.150(d)(1) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(46).~~"

(87) "~~§816.151(b) of this chapter,~~" "~~§816.151(e)(2) of this chapter,~~" "~~§816.151(d)(5) of this chapter,~~" and "~~§816.151(d)(6) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(47).~~"

(88) "~~§816.181 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(49).~~"

(89) "~~§774.13 of this chapter~~" and "~~§774.13~~" shall be replaced by "~~K.A.R. 47-6-2.~~"

(90) "~~Part 823 of this chapter,~~" "~~part 823 of this chapter,~~" and "~~30 CFR part 823~~" shall be replaced by "~~K.A.R. 47-9-1(f).~~"

(91) "~~§816.100 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(33).~~"

(92) "~~§30 CFR part 819~~" shall be replaced by "~~K.A.R. 47-9-1(e).~~"

(93) "~~[P]art 827 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(g).~~"

(94) "~~§827.13 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(g)(3).~~"

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(95) ~~"30 CFR part 828" shall be replaced by "K.A.R. 47-9-1(h)."~~

(96) ~~"30 CFR parts 817 and 828" shall be replaced by "K.A.R. 47-9-1(d) and (h)."~~

(97) ~~"§§778.11 through 778.14 of this part" shall be replaced by "K.A.R. 47-3-42(a)(2) through (5)."~~

(98) ~~"§§773.13 and 773.14 of this part" shall be replaced by "K.A.R. 47-3-42(a)(53) and (54)."~~

(99) ~~"§785.25 of this subchapter" and "§785.25 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(45)."~~

(100) ~~"§701.11(d)" shall be replaced by "K.A.R. 47-3-42(a)(65)."~~

(101) ~~"§§773.26 and 773.27 of this part" shall be replaced by "K.A.R. 47-3-42(a)(62) and (63)."~~

(102) ~~"§§778.11 and 778.12(c) of this subchapter" shall be replaced by "K.A.R. 47-3-42(a)(2) and (3)."~~

(103) ~~"§778.15(b) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(6)."~~

(104) ~~"30 CFR 816.102 through 816.107" shall be replaced by "K.A.R. 47-9-1(e)(35) through (38)."~~

(105) ~~"§816.46 of this chapter" shall be replaced by "K.A.R. 47-9-1(e)(10)."~~

(106) ~~"[T]he procedures at 43 CFR 4.1370 through 4.1377 (when OSM is the regulatory authority) or under the State regulatory program equivalent (when a State is the regulatory authority)" shall be replaced by "K.A.R. 47-4-14a."~~

(107) ~~"30 CFR 780.12 or 784.12" shall be replaced by "K.A.R. 47-3-42(a)(22) or K.A.R.~~

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47-10-1(a)(2)(C).”

(108) “43 CFR 4.1376 or the State regulatory program equivalent” shall be replaced by “K.A.R. 47-4-14a.”

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

(B) “By a reviewing administrative or judicial tribunal” shall be replaced by “by an administrative or a judicial review of an agency action concerning the aforementioned Kansas department of health and environment determination.”

(C) “Central office of the applicable state regulatory authority, if any” shall be replaced by “the Kansas department of health and environment, surface mining section.”

(D) “Office of hearings and appeals or its state counterpart” shall be replaced by “office of administrative hearings.”

(E) “Rule 4 of the federal rules of civil procedure, or its state regulatory program counterparts” shall be replaced by “K.A.R. 47-4-14a.”

(F) “Subchapter B (Interim Program Standards) of this chapter” and “subchapter B of this chapter” shall be replaced by “K.A.R. 47-9-4.”

(G) “Subchapter B or K of this chapter” shall be replaced by “K.A.R. 47-9-4 or K.A.R. 47-9-1.”

(H) “Subchapter J of this chapter,” “subchapter J,” and “part 800 of this chapter” shall be replaced by “article 8 of these regulations.”

(I) “Subchapter K (Permanent Program Standards) of this chapter,” “subchapter K,” and “subchapter K of this chapter” shall be replaced by “K.A.R. 47-9-1.”

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(J) "Subchapter R of this chapter" shall be replaced by "the office."

(K) "The procedures at 43 CFR 4.1370 through 4.1377 (when OSM is the regulatory authority) or under the State regulatory program equivalent (when a State is the regulatory authority)" shall be replaced by "K.A.R. 47-4-14a."

(L) "This chapter," "this subchapter," "this part," and "subchapter G of this chapter" shall be replaced by "these regulations."

(2)(A) "Part 775 of this chapter" and "part 775 of this subchapter" shall be replaced by "K.S.A. 49-407(d), 49-416a, and 49-422a, and amendments thereto, and article 4 of these regulations."

(B) "Part 785 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(60) through (66)."

(C) "Part 816" and "part 816 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)."

(D) "Part 823 of this chapter" and "30 CFR part 823" shall be replaced by "K.A.R. 47-9-1(f)."

(E) "Part 827 of this chapter" shall be replaced by "K.A.R. 47-9-1(g)."

(F) "Section 508 of the Act" shall be replaced by "K.S.A. 49-406, and amendments thereto."

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

(H) "Section 515 of the Act," "section 515(b) of the Act," "section 515 (b)(22) of the Act," and "sections 515 and 516 of the Act" shall be replaced by "K.S.A. 49-405a, 49-408 through 49-413, and 49-429, and amendments thereto."

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(I) "Section 515(b)(16) of the Act" shall be replaced by "K.S.A. 49-429, and amendments thereto."

(3)(A) "30 CFR 773.15" and "§773.15 of this part" shall be replaced by "K.A.R. 47-3-42(a)(11)."

(B) "30 CFR 779.24 through 779.25" shall be replaced by "K.A.R. 47-3-42(a)(38) through (39)."

(C) "30 CFR 780.12 or 784.12" shall be replaced by "K.A.R. 47-3-42(a)(42) or K.A.R. 47-10-1(a)(2)(C)."

(D) "30 CFR 780.16" shall be replaced by "K.A.R. 47-3-42(a)(46)."

(E) "30 CFR 780.18 through 780.37" shall be replaced by "K.A.R. 47-3-42(a)(47) through (58)."

(F) "30 CFR 816.13 through 816.15" shall be replaced by "K.A.R. 47-9-1(c)(2) through (4)."

(G) "30 CFR 816.22," "§816.22 of this chapter," and "§816.22(b) of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(5)."

(H) "30 CFR 816.43 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(8)."

(I) "30 CFR 816.59" and "§816.59 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(15)."

(J) "30 CFR 816.71-816.74" and "§§816.71 through 816.74 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(22) through (23)."

(K) "30 CFR 816.79" and "§816.79 of this chapter" shall be replaced by "K.A.R. 47-9-

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1(c)(24)."

(L) "30 CFR 816.89 through 816.102" shall be replaced by "K.A.R. 47-9-1(c)(29) through (35)."

(M) "30 CFR 816.95" shall be replaced by "K.A.R. 47-9-1(c)(30)."

(N) "30 CFR 816.102 through 816.107" shall be replaced by "K.A.R. 47-9-1(c)(35) through (38)."

(O) "30 CFR 816.111 through 816.116" shall be replaced by "K.A.R. 47-9-1(c)(39) through (42)."

(P) "30 CFR 816.116" shall be replaced by "K.A.R. 47-9-1(c)(42)."

(Q) "30 CFR part 819" shall be replaced by "K.A.R. 47-9-1(e)."

(R) "30 CFR part 828" shall be replaced by "K.A.R. 47-9-1(h)."

(S) "30 CFR parts 817 and 828" shall be replaced by "K.A.R. 47-9-1(d) and (h)."

(T) "43 CFR 4.1360 through 4.1369" shall be replaced by "K.A.R. 47-4-14a."

(U) "43 CFR 4.1376 or the State regulatory program equivalent" shall be replaced by "K.A.R. 47-4-14a."

(V) "43 CFR 4.1380 through 4.1387 or, when a state is the regulatory authority, the state regulatory program counterparts" shall be replaced by "K.A.R. 47-4-14a and K.S.A. 49-416a, and amendments thereto."

(4)(A) "\$701.5 of this chapter" shall be replaced by "K.A.R. 47-2-75(b)."

(B) "\$701.11(d)" shall be replaced by "K.A.R. 47-3-42 (a)(1)."

(C) "\$761.11 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(2)."

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(D) “§761.12(d) of this chapter” shall be replaced by “K.A.R. 47-12-4(a)(3).”

(E) “§761.14(c) of this chapter” shall be replaced by “K.A.R. 47-12-4(a)(4).”

(F) “§761.14 or §761.15 of this chapter” shall be replaced by “K.A.R. 47-12-4(a)(4) or (5).”

(G) “§761.16 of this chapter” shall be replaced by “K.A.R. 47-12-4(a)(6).”

(H) “§761.17(d) of this chapter” shall be replaced by “K.A.R. 47-12-4(a)(7).”

(I) “§762.13(c) of this chapter” shall be replaced by “K.A.R. 47-12-4(a)(12).”

(J) “§773.6(d)(3)(ii) of this chapter,” “§773.6(a)(1) of this chapter,” and “§773.6 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(2).”

(K) “§773.12 of this part” and “§773.12” shall be replaced by “K.A.R. 47-3-42(a)(8).”

(L) “§773.13” and “§773.13(c)” shall be replaced by “K.A.R. 47-3-42(a)(9).”

(M) “§773.14(b) of this part” and “§§773.14(c)(1) through (4)” shall be replaced by “K.A.R. 47-3-42(a)(10).”

(N) “§773.19 of this part” shall be replaced by “K.A.R. 47-3-42(a)(13).”

(O) “§773.21(d) of this part” and “paragraphs (a) and (b) §773.21 of this part” shall be replaced by “K.A.R. 47-3-42(a)(14).”

(P) “§773.22(b) or (c) of this part” and “§773.22(e) of this part” shall be replaced by “K.A.R. 47-3-42(a)(15).”

(Q) “§773.23 of this part” shall be replaced by “K.A.R. 47-3-42(a)(16).”

(R) “§773.26(a) of this part” shall be replaced by “K.A.R. 47-3-42(a)(18).”

(S) “§773.27(b) of this part” shall be replaced by “K.A.R. 47-3-42(a)(19).”

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(T) “§774.11(c) of this subchapter,” “§774.11(f) of this subchapter.” and “§774.11(g) of this subchapter” shall be replaced by “K.A.R. 47-6-11(a)(1).”

(U) “§774.13 of this chapter” and “§774.13” shall be replaced by “K.A.R. 47-6-2.”

(V) “§774.15” shall be replaced by “K.A.R. 47-6-3.”

(W) “§778.9(d) of this subchapter” shall be replaced by “K.A.R. 47-3-42(a)(21).”

(X) “§778.11 of this subchapter,” “§§778.11(c)(5) and 778.11(d) of this subchapter,” and “§778.11(c)(5) of this subchapter” shall be replaced by “K.A.R. 47-3-42(a)(22).”

(Y) “§778.12 of this subchapter” shall be replaced by “K.A.R. 47-3-42(a)(23).”

(Z) “§778.14 of this subchapter” shall be replaced by “K.A.R. 47-3-42(a)(25).”

(AA) “§778.15(b) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(26).”

(BB) “§779.25 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(39).”

(CC) “§780.16(b) and 816.97(a) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(46) and K.A.R. 47-9-1(c)(31).”

(DD) “§780.21(h) and 816.41(d)(1) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(48) and K.A.R. 47-9-1(c)(6).”

(EE) “§780.25 of this part” shall be replaced by “K.A.R. 47-3-42(a)(51).”

(FF) “§780.29 of this part and §816.43” shall be replaced by “K.A.R. 47-3-42(a)(54) and K.A.R. 47-9-1(c)(8).”

(GG) “§780.35 of this part” shall be replaced by “K.A.R. 47-3-42(a)(57).”

(HH) “§785.13” shall be replaced by “K.A.R. 47-3-42(a)(60).”

(II) “§785.21 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(64).”

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(JJ) “§785.25 of this subchapter” and “§785.25 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(66).”

(KK) “§800.60 of this chapter” shall be replaced by “K.A.R. 47-8-9(a)(15).”

(LL) “§816.46 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(10).”

(MM) “§816.49 of this chapter” and “§816.49(a)(4)(ii) of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(12).”

(NN) “§816.57(a)(1) of this chapter,” “paragraphs (b) and (c) of §816.57 of this chapter,” “paragraphs (b)(2) through (b)(4) of §816.57 of this chapter,” and “§816.57(a)(2) of this chapter,” shall be replaced by “K.A.R. 47-9-1(c)(14).”

(OO) “§816.67” shall be replaced by “K.A.R. 47-9-1(c)(20).”

(PP) “§816.71(d) of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(22).”

(QQ) “§816.74 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(23).”

(RR) “§816.97 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(31).”

(SS) “§816.100 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(33).”

(TT) “§816.106 or §817.106 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(38) or (d)(34).”

(UU) “§816.111(d) or §817.111(d)” shall be replaced by “K.A.R. 47-9-1(c)(39) or (d)(35).”

(VV) “§816.133” and “30 CFR 816.133” shall be replaced by “K.A.R. 47-9-1(c)(45).”

(WW) “§816.150(d)(1) of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(46).”

(XX) “§816.151(b) of this chapter,” “§816.151(c)(2) of this chapter,” “§816.151(d)(5) of

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this chapter,” and “§816.151(d)(6) of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(47).”

(YY) “§816.181 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(49).”

(ZZ) “§827.13 of this chapter” shall be replaced by “K.A.R. 47-9-1(g)(3).”

(AAA) “§842.16 of this chapter (when osm is the regulatory authority) or under §840.14 of this chapter (when a state is the regulatory authority)” shall be replaced by “K.A.R. 47-15-1a(a)(2).”

(BBB) “§843.12 of this chapter or the state regulatory equivalent” shall be replaced by “K.A.R. 47-15-1a(a)(9).”

(CCC) “§843.14 of this chapter, or the state regulatory program equivalent” shall be replaced by “K.A.R. 47-15-1a(a)(11).”

(DDD) “§§773.7 through 773.14 of this part” shall be replaced by “K.A.R. 47-3-42(a)(3) through (10).”

(EEE) “§§773.9 through 773.11 of this part” shall be replaced by “K.A.R. 47-3-42(a)(5) through (7).”

(FFF) “§§773.13 and 773.14 of this part” shall be replaced by “K.A.R. 47-3-42(a)(9) and (10).”

(GGG) “§§773.21 or 774.11(f) of this subchapter” shall be replaced by “K.A.R. 47-3-42(a)(14) and K.A.R. 47-6-11(a)(1).”

(HHH) “§§773.22 and 773.23 of this part” shall be replaced by “K.A.R. 47-3-42(a)(15) and (16).”

(III) “§§773.25 through 773.27 of this part” shall be replaced by “K.A.R. 47-3-42(a)(17)

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through (19)."

(JJJ) "§§773.26 and 773.27 of this part" shall be replaced by "K.A.R. 47-3-42(a)(18) and (19)."

(KKK) "§§773.27 and 773.28 of this part" shall be replaced by "K.A.R. 47-3-42(a)(19) and (20)."

(LLL) "§§778.11 and 778.12(c) of this subchapter" shall be replaced by "K.A.R. 47-3-42(a)(22) and (23)."

(MMM) "§§778.11 through 778.14 of this part" shall be replaced by "K.A.R. 47-3-42(a)(22) through (25)."

(NNN) "§§780.25(a)(2), 780.25(a)(3), 780.35, 816.73(c), 816.74(c), and 816.81(c) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(51) and (57) and K.A.R. 47-9-1(c)(23) and (25)."

(OOO) "§§816.41 through 816.43" shall be replaced by "K.A.R. 47-9-1(c)(6) through (8)."

(PPP) "§§816.61 through 816.68 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(16) through (21)."

(OOQ) "§§816.81 and 816.83 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(25) and (26)."

(RRR) "§§816.81 and 816.84 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(25) and (27)." (Authorized by K.S.A. 49-405 and 49-427; implementing K.S.A. 49-405, K.S.A. 2017 Supp. 49-406, K.S.A. 49-407, and 49-427; effective, E-81-30, Oct. 8, 1980; effective May

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K.A.R. 47-3-42, page 25

I, 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

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47-5-5a. Civil penalties; adoption by reference. (a) Subject to the provisions of subsection (c), the following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise indicated specified:

- (1) How assessments are made, 30 CFR C.F.R. 845.11;
- (2) when penalty will be assessed, 30 CFR C.F.R. 845.12;
- (3) point system for penalties, 30 CFR C.F.R. 845.13;
- (4) determination of amount of penalty, 30 CFR C.F.R. 845.14, except that the table shall

be replaced by the following table:

Points	Dollars
1	20
2	40
3	60
4	80
5	100
6	120
7	140
8	160
9	180
10	200
11	220
12	240
13	260

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14	280
15	300
16	320
17	340
18	360
19	380
20	400
21	420
22	440
23	460
24	480
25	500
26	600
27	700
28	800
29	900
30	1,000
31	1,100
32	1,200
33	1,300
34	1,400

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Proposed

K.A.R. 47-5-5a, page 3

35	1,500
36	1,600
37	1,700
38	1,800
39	1,900
40	2,000
41	2,100
42	2,200
43	2,300
44	2,400
45	2,500
46	2,600
47	2,700
48	2,800
49	2,900
50	3,000
51	3,100
52	3,200
53	3,300
54	3,400
55	3,500

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56	3,600
57	3,700
58	3,800
59	3,900
60	4,000
61	4,100
62	4,200
63	4,300
64	4,400
65	4,500
66	4,600
67	4,700
68	4,800
69	4,900
70 and above	5,000"

(5) assessment of separate violations for each day, 30 ~~CFR~~ C.F.R. 845.15, except that the statement "a civil penalty of not less than ~~\$825~~ \$1,025 shall be assessed for each day during which such failure to abate continues" shall be replaced by "a civil penalty of not less than \$750 shall be assessed for each day during which such failure to abate continues";

(6) waiver of use of formula to determine civil penalty, 30 ~~CFR~~ C.F.R. 845.16;

(7) procedures for assessment of civil penalties, 30 ~~CFR~~ C.F.R. 845.17;

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(8) procedures for assessment conference, 30 ~~CFR~~ C.F.R. 845.18. However, the following sentence shall be deleted: "The assessment conference shall not be governed by section 554 of title 5 of the United States Code, regarding requirements for formal adjudicatory hearings." The following sentence shall be added: "The conference officer shall be selected by the department";

(9) request for a hearing, 30 ~~CFR~~ C.F.R. 845.19. However, subsection (b) shall be replaced by the following text: "(b) The department shall hold all funds submitted under paragraph (a) of this section in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in K.A.R. 47-5-16";

(10) when an individual civil penalty may be assessed, 30 ~~CFR~~ C.F.R. 846.12;

(11) amount of individual civil penalty, 30 ~~CFR~~ C.F.R. 846.14;

(12) procedure for assessment of individual civil penalty, 30 ~~CFR~~ C.F.R. 846.17; and

(13) payment of penalty, 30 ~~CFR~~ C.F.R. 846.18. However, subsection (d) shall be replaced by the following text:

"(d)(1) Delinquent payment. Following the expiration of 30 days after the issuance of a final order assessing an individual civil penalty, any delinquent civil penalty shall be subject to interest at the rate established quarterly by the U.S. department of the treasury for use in applying late charges on later payments to the federal government, pursuant to the treasury financial manual 6-8020.20. The treasury current value of funds rate is published by the fiscal service in the notices section of the federal register. Interest on unpaid civil penalties will run from the date payment first was due until the date of payment. Failure to pay overdue civil penalties may

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result in one or more of the following actions, which are not exclusive:

- “(i) Initiation of litigation;
- “(ii) reporting to the internal revenue service;
- “(iii) reporting to state agencies responsible for taxation;
- “(iv) reporting to credit bureaus; or
- “(v) referral to collection agencies.

“(2) If a civil penalty debt is greater than 91 days overdue, a six percent per annum penalty shall begin to accrue on the amount owed for fees and shall run until the date of payment. This penalty is in addition to the interest described in this regulation.

“(3) For all delinquent penalties and interest, the debtor shall be required to pay a processing and handling charge that shall be based on the following components:

“(i) For debts referred to a collection agency, the amount charged to the department by the collection agency;

“(ii) for debts processed and handled by the surface mining section, a standard amount set annually by the department based upon similar charges by collection agencies for debt collection;

“(iii) for debts referred to the office of legal services, Kansas department of health and environment, but paid before litigation, the estimated average cost to prepare the case for litigation at the time of payment;

“(iv) for debts referred to the office of legal services, Kansas department of health and environment, and litigated, the estimated cost to prepare and litigate a debt case at the time of

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payment;

“(v) if not otherwise provided for, all other administrative expenses associated with collection, including billing, recording payments, and follow-up actions; and

“(vi) no prejudgment interest accrues on any processing and handling charges.” ;

(14) general provisions, 30 C.F.R. 847.2;

(15) criminal penalties, 30 C.F.R. 847.11. However, the term “Attorney General” shall be replaced with “Kansas attorney general”; and

(16) civil actions for relief, 30 C.F.R. 847.16.

(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) “Act” shall be replaced by “state act.”~~

~~(2) “Director” and “director or his designee” shall be replaced by “secretary of health and environment or secretary’s designee.” However, in 30 CFR 816.12, the phrase “director” shall remain unchanged.~~

~~(3) “Secretary” shall be replaced by “secretary of health and environment.”~~

~~(4) “[S]ection 521(a) of the act” shall be replaced by “K.S.A. 49-405(m)(2), and amendments thereto.”~~

~~(5) “[S]ection 525(e) of the act” shall be replaced by “K.S.A. 49-416a(e), and amendments thereto.”~~

~~(6) “[S]ection 526 of the act” and “section 526(e) of the act” shall be replaced by “K.S.A.~~

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~~49-422a, and amendments thereto."~~

(7) ~~"[S]ection 518(e), 518(f), 521(a)(4), or 521(c) of the act" shall be replaced by "K.S.A. 49-405e(e), 49-405e(f), 49-405(m)(3), or 49-405(m)(4), and amendments thereto."~~

(8) ~~"Office," "State or field office," and "office of hearings and appeals" shall be replaced by "department."~~

(9) ~~"[S]ections 518, 521(a)(4), and 525 of the act" shall be replaced by "K.S.A. 49-405e, 49-405(m)(3), and 49-416a, and amendments thereto."~~

(10) ~~"30 CFR 845.20" shall be replaced by "K.A.R. 47-5-16."~~

(11) ~~"43 CFR 4.1300 et seq." and "rule 4 of the Federal Rules of Civil Procedure" shall be replaced by "K.A.R. 47-4-14a."~~

(12) ~~"30 CFR 843.16" shall be replaced by "K.A.R. 47-4-14a."~~

(13) ~~"Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (Phone: 703-235-3800)" shall be replaced by "Office of administrative hearings, a division of the Kansas department of administration."~~

(14) ~~"30 CFR 845.12, 845.13, 845.14, 845.15 and 845.16" shall be replaced by "K.A.R. 47-5-5a(a)(2), (3), (4), (5), and (6)."~~

(15) ~~"30 CFR 816.11" shall be replaced by "K.A.R. 47-9-1(c)(1)."~~

(16) ~~"30 CFR 845.17(b)" shall be replaced by "K.A.R. 47-5-5a(a)(7)."~~

(17) ~~"30 CFR 845.13," "30 CFR 845.13(b)," and "§845.13(b)" shall be replaced by "K.A.R. 47-5-5a(a)(3)."~~

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~~(18) "30 CFR 845.12(b)" shall be replaced by "K.A.R. 47-5-5a(a)(2)."~~

~~(19) "[S]ection 518(a) of the act" shall be replaced by "K.S.A. 49-405c(a)."~~

~~(20) "§846.12" shall be replaced by "K.A.R. 47-5-5a(a)(10)."~~

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

(B) "Director" and "director or his designee" shall be replaced by "secretary of health and environment or secretary's designee." However, in 30 C.F.R. 846.12, the word "director" shall remain unchanged.

(C) "Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (Phone: 703-235-3800)" shall be replaced by "Office of administrative hearings."

(D) "Office," "State or field office," and "office of hearings and appeals" shall be replaced by "department."

(E) "Rule 65 of the Federal Rules of Civil Procedure" shall be replaced by "K.S.A. 60-901 et seq., and amendments thereto."

(F) "Secretary" shall be replaced by "secretary of the Kansas department of health and environment."

(2)(A) "Section 518(a) of the act" shall be replaced by "K.S.A. 49-405c(a)."

(B) "Section 518(e), 518(f), 521(a)(4), or 521(c) of the act" shall be replaced by "K.S.A. 49-405c(e), 49-405c(f), 49-405(m)(3), or 49-405(m)(4), and amendments thereto."

(C) "Section 518(e) and (g) of the act" and "section 518(e) of the Act" shall be replaced by "K.S.A. 49-405c(e) and (g), and amendments thereto."

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(D) "Section 521 or 526 of the act" shall be replaced by "K.S.A. 49-405c, 49-405(m), 49-416a, and 49-422a, and amendments thereto."

(E) "Section 521(a) of the act" shall be replaced by "K.S.A. 49-405(m)(2), and amendments thereto."

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

(G) "Section 525(c) of the act" shall be replaced by "K.S.A. 49-416a(c), and amendments thereto."

(H) "Section 526 of the act" and "section 526(c) of the act" shall be replaced by "K.S.A. 49-422a, and amendments thereto."

(I) "Sections 518, 521(a)(4), and 525 of the act" shall be replaced by "K.S.A. 49-405c, 49-405(m)(3), and 49-416a, and amendments thereto."

(3)(A) "30 CFR 816.11" shall be replaced by "K.A.R. 47-9-1(c)(1)."

(B) "30 CFR 843.16" shall be replaced by "K.A.R. 47-4-14a."

(C) "30 CFR 845.12, 845.13, 845.14, 845.15 and 845.16" shall be replaced by "K.A.R. 47-5-5a(a)(2), (3), (4), (5), and (6)."

(D) "30 CFR 845.12(b)" shall be replaced by "K.A.R. 47-5-5a(a)(2)."

(E) "30 CFR 845.13," "30 CFR 845.13(b)," and "§845.13(b)" shall be replaced by "K.A.R. 47-5-5a(a)(3)."

(F) "30 CFR 845.17(b)" shall be replaced by "K.A.R. 47-5-5a(a)(7)."

(G) "43 CFR 4.1300 et seq." and "rule 4 of the Federal Rules of Civil Procedure" shall be

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replaced by "K.A.R. 47-4-14a."

(4) "§846.12" shall be replaced by "K.A.R. 47-5-5a(a)(10)."

(c) Review of proposed assessments of civil penalties. If a request for hearing is made pursuant to paragraph (a)(9) of this regulation, the procedures set forth in K.A.R. 47-4-14a and the following shall apply: :

(1) Time for filing petition for a hearing.

(A)(i) ~~A petition for review of a proposed assessment of a civil penalty shall be filed~~ If a timely request for an assessment conference has been made pursuant to paragraph (a)(8), a request for a hearing shall be made to the department within 30 days of receipt of the proposed assessment service of notice, by the conference officer, that the conference is completed; or

~~(ii) if a timely request for a conference has been made pursuant to paragraph (a)(8) of this regulation, a petition for review shall be filed within 15 days after service of notice by the presiding officer that the conference is completed~~ a request for a hearing of a proposed assessment of a civil penalty shall be made to the department within 30 days of service of the proposed assessment.

(B) No extension of time shall be granted for filing a petition for review of a proposed assessment of a civil penalty as required by paragraph (c)(1)(A)(i) or (A)(ii). If a petition for review is not filed within the time period provided in paragraph (c)(1)(A)(i) or (A)(ii), all of the following shall apply:

(i) The appropriateness of the amount of the penalty; and the fact of the violation if there is no proceeding pending under K.S.A. 49-416a(a), and amendments thereto, to review the notice

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of violation or cessation order involved; shall be admitted; ~~and~~

~~(ii) The petition shall be dismissed; and~~

~~(iii) The civil penalty assessed shall become a final order of the secretary.~~

(2) Contents of petition; payment required.

(A) The petition shall include the following:

(i) A short and plain statement indicating the reasons why either the amount of the penalty or the fact of the violation is being contested;

(ii) if the amount of penalty is being contested based upon a misapplication of the civil penalty formula, a statement indicating how the civil penalty formula ~~contained~~ in subsection (a), adopting by reference 30 ~~CFR Part~~ C.F.R. Parts 845 and 846, was misapplied, ~~along with~~ and a proposed civil penalty utilizing the civil penalty formula;

(iii) the identification by number of each violation being contested;

(iv) the identifying number of the cashier's check, certified check, bank draft, personal check, or bank money order accompanying the petition; and

(v) a request for a hearing.

(B) The petition for a hearing shall be accompanied by ~~these items~~ the following:

(i) Full payment of the proposed ~~assessment~~ civil penalty in the form of a cashier's check, certified check, bank draft, personal check, or bank money order made payable to the Kansas department of health and environment, to be placed in an escrow account by the department pending final determination of the ~~assessment~~ civil penalty; and

(ii) on the face of the payment, an identification by number of the violations for which

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payment is being tendered.

(C) As required by K.S.A. 49-405c(e) and amendments thereto, failure to make timely payment of the proposed ~~assessment~~ civil penalty in full shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(D) No extension of time shall be granted for full payment of the proposed ~~assessment~~ civil penalty. If payment is not made within the time period provided in paragraph (c)(1)(A)(i) or (A)(ii), all of the following shall apply:

(i) The appropriateness of the amount of the civil penalty, the fact of the violation, and, if there is no review proceeding, the notice of violation or cessation order involved shall be deemed admitted; ~~and~~

(ii) The petition shall be dismissed; ~~and~~

(iii) The civil penalty assessed shall become a final order of the secretary.

(3) Answer. ~~The department shall have 30 days from receipt of a copy of the petition within which to file~~ An answer may be filed by the secretary within 30 days of service of the petition.

(4) Review of waiver determination.

(A) Within 10 days of the filing of a petition, the petitioner may move the presiding officer to review the granting or denial of a waiver of the civil penalty formula pursuant to paragraph (a)(6) ~~of this regulation.~~

(B) The motion shall contain a statement indicating all alleged facts relevant to the granting or denial of a waiver.

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(C) Review shall be limited to the written determination of the presiding officer granting or denying the waiver, the motion, and responses to the motion. The standard of review shall be abuse of discretion.

(D) If the presiding officer finds that the secretary abused the secretary's discretion in granting or denying the waiver, the presiding officer shall hold a hearing on the petition for review of the proposed assessment and make a determination pursuant to paragraph (c)(7) of this regulation.

(5) Burden of proof in civil penalty proceedings. In civil penalty proceedings, the following shall apply:

(A) The department shall have the burden of ~~going forward to establish~~ establishing a prima facie case ~~as to~~ regarding the fact of the violation, the amount of the civil penalty, and the ultimate burden of persuasion ~~as to~~ regarding the amount of the civil penalty.

(B) The person who petitioned for review shall have the ultimate burden of persuasion ~~as to~~ regarding the fact of the violation.

(6) Summary disposition.

(A) In a civil penalty proceeding in which the person against whom the proposed civil penalty is assessed fails to comply on time with any prehearing order of a presiding officer, the presiding officer shall issue an order to show cause for the following conditions:

(i) That person should not be deemed to have waived the person's right to a hearing; ~~and,~~

(ii) The proceedings should not be dismissed and the assessment should become final.

(B) If the order to show cause is not satisfied as required, the presiding officer shall order

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the proceedings ~~summary~~ dismissed and issue a final order.

(C) If the person against whom the proposed civil penalty is assessed fails to appear at a hearing, that person shall be deemed to have waived the person's right to a hearing, and the presiding officer may assume, for purposes of the assessment, the following:

- (i) The occurrence of each violation listed in the notice of violation or order; and
- (ii) the truth of any facts alleged in the notice or order.

(D) In order to issue an initial order assessing the appropriate civil penalty when the person against whom the proposed civil penalty is assessed fails to appear at the hearing, a presiding officer shall either conduct an ex parte hearing or require the department to furnish proposed findings of fact and conclusions of law.

(E) Nothing in this article shall be construed to deprive the person against whom the penalty is assessed of the person's opportunity to have the department prove the violations charged in open hearing with confrontation and cross-examination of witnesses, ~~except when~~ unless that person fails to comply with a prehearing order or fails to appear at the scheduled hearing.

(7) Initial order of the presiding officer.

(A) The presiding officer shall incorporate, in the presiding officer's decision concerning the civil penalty, findings of fact on each of the four criteria ~~set forth~~ in paragraph (a)(3) and conclusions of law.

(B)(i) If the presiding officer finds that a violation occurred or that the fact of violation is uncontested, the presiding officer shall establish the amount of the penalty, ~~but in so doing, the~~

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~~presiding officer shall adhere according to the point system and conversion table contained in 30 CFR 845.13 and 845.14 adopted by reference specified in paragraphs (a)(3) and (4), except that~~

(ii) The presiding officer may waive the use of the point system if the presiding officer determines that a waiver would further abatement of violations of the state act. ~~However, the presiding officer shall not waive the use of the point system and reduce the proposed assessment on the basis of an argument that a reduction in the proposed assessment could be used to abate, except that the point system shall not be waived for abatement of other violations of the state act.~~

~~(i)~~(iii) If the presiding officer finds that no violation occurred, the presiding officer shall issue an order that the proposed assessment be returned to the petitioner.

(C) If the presiding officer finds that no violation occurred or reduces the amount of the civil penalty, the presiding officer shall order the department to remit the appropriate amount to the petitioner who made the payment, within 30 days of the department's receipt of the order. If a timely petition for review of the presiding officer's decision is filed with the secretary, no amount shall be remitted to the petitioner until a final determination has been made.

(D) If the presiding officer increases the amount of the civil penalty above that of the proposed assessment, the presiding officer shall order payment of the appropriate amount within 15 days after the order increasing the civil penalty is mailed.

(8) Appeals.

(A) Any party may petition the secretary to review and reconsider the initial order of a presiding officer concerning an assessment pursuant to K.A.R. 47-4-14a~~(d)~~(14) and ~~(16)~~,

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respectively.

(B) Any party may appeal the final order of the secretary pursuant to the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, 49-405c, and 49-416a; effective May 1, 1985; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended

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47-6-1. Permit review. (a) Each permit issued and outstanding during the term of the permit shall be reviewed by the secretary or secretary's designee not later than the middle of that term. Reasonable revision or modification of the permit provisions may be ordered at any time to ensure compliance with the laws and regulations. A copy of the order and the written findings shall be sent to the operator. The order shall be subject to K.S.A. 49-407(d) and K.S.A. 49-422a, and amendments thereto.

(b) Each permit authorizing one or more variances that is issued in accordance with K.A.R. 47-3-42(a)(41)(62) shall be reviewed ~~no~~ not later than three years from the date of issuance.

(c) Each permit authorizing one or more experimental practices that is issued in accordance with K.A.R. 47-3-42(a)(39)(60) shall be reviewed as specified in the permit or at least every two and a half years from the date of issuance as required by the department, in accordance with K.A.R. 47-3-42(a)(39)(60).

(d) After the review required by this regulation or at any time, the reasonable revision of any permit may be required by the secretary, by order, in accordance with K.A.R. 47-6-2 to ensure compliance with the state act and the regulatory program.

(e) Each order of the ~~department~~ secretary requiring revision of a permit shall be based upon written findings and shall be subject to the provisions of administrative and judicial review in K.S.A. 49-407(d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations. A copy of each order shall be sent to the permittee.

(f) Any permit may be suspended or revoked in accordance with articles 5 and 15 of these regulations. (Authorized by K.S.A. 49-405 and 49-410; implementing K.S.A. 2017 Supp. 49-

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406 and K.S.A. 49-410; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997;
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47-6-2. Permit revision. (a) Each application ~~made by an operator~~ to revise an existing permit shall be submitted by the operator at least 60 days before the date on which the operator ~~desires~~ wants to have the approval of the secretary.

(b) Each application for a permit revision shall include the following:

(1) A map that meets the general map requirements of these regulations;

(2) a description of the permit revision with the technical data necessary to establish the impact and consequences of the proposed revision on the surface coal mining and reclamation operation, the environment, and public health and safety; and

(3) any additional information requested by the department.

(c) If the application for permit revision contains significant alterations or departures from the method of mining or reclamation operations covered by the original permit, the ~~permittee operator~~ shall meet all the application requirements, which shall include all requests from the ~~secretary or secretary's designee~~ department for relevant information.

Whether ~~or not~~ a significant alteration or departure is involved shall be determined by the ~~secretary or the secretary's designee~~ chief of the surface mining section on a case-by-case basis upon review, unless a determination is requested in writing by the operator upon or before filing the application. On receiving this request, the operator shall be advised by the ~~secretary or secretary's designee~~ chief of the surface mining section if a significant alteration or departure is involved for the purpose of submitting an application.

If the application for permit revision contains significant alterations or departures, the operator shall meet all of the requirements of K.A.R. 47-3-1 through 47-3-42, including all requests from the department for relevant information.

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~~(e) Each application for permit revision shall be accompanied by a map, if a map is required, that meets the general map requirements of these regulations. The proposed revision shall be described in detail and supported by the technical data necessary to establish the impact and consequences of the proposed revision on the surface coal mining and reclamation operation, the environment, and public health and safety. Additional information may be requested when necessary to make an evaluation of the impact.~~

(d) No application for a permit revision shall be approved unless the applicant demonstrates and the regulatory authority finds that all of the following conditions are met:

(1) The reclamation required by the state act and the regulatory program can be accomplished.

(2) The applicable requirements ~~under of~~ K.A.R. 47-3-42(a)~~(55)~~(11) pertinent to the revision are met.

(3) The application for revision meets all requirements of the state act and the regulatory program.

(e) Each extension to the area covered by the permit, except incidental boundary revisions, shall be made through an application for a new permit. (Authorized by K.S.A. 49-405, and 49-410; implementing K.S.A. 2017 Supp. 49-406; and K.S.A. 49-410; effective May 1, 1980; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P-_____.)

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47-6-3. Permit renewals; adoption by reference. (a) The section titled "permit renewals," 30 CFR C.F.R. 774.15, as in effect on July 1, ~~2004~~ 2012, is hereby adopted by reference, except as otherwise indicated specified in this regulation. Subsection (c)(3) of 30 CFR C.F.R. 774.15 shall be deleted.

(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) ~~"[S]ubchapter J of this chapter" shall be replaced by "article 8 of these regulations."~~
- (2) ~~"Act" shall be replaced by "state act."~~
- (3) ~~"[P]art 775 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."~~

(4) ~~"§774.13" shall be replaced by "K.A.R. 47-6-2."~~

(5) ~~"§800.60 of this chapter" shall be replaced by "K.A.R. 47-8-9(a)(15)."~~

(6) ~~"§778.21 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(10)."~~

(7) ~~"§§773.6 and 773.19(b) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(46) and (57)."~~

(8) ~~"§773.19" shall be replaced by "K.A.R. 47-3-42(a)(57)."~~

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

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

(2) "Part 775 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."

(3)(A) "§773.19" shall be replaced by "K.A.R. 47-3-42(a)(13)."

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(B) "\$774.13" shall be replaced by "K.A.R. 47-6-2."

(C) "\$778.21 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(30)."

(D) "\$800.60 of this chapter" shall be replaced by "K.A.R. 47-8-9(a)(15)."

(E) "\$§773.6 and 773.19(b) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(2) and (13)." (Authorized by K.S.A. 49-405; implementing K.S.A. 2017 Supp. 49-406; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P-_____.)

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47-6-4. Permit transfers, assignments, and sales; adoption by reference. (a) Each application for a new permit required for a person succeeding by transfer, sale, or assignment of rights granted under a permit shall be filed with the secretary not later than 30 days after that succession is approved by the secretary.

(b) Transfer, assignment, or sale of permit rights, 30 CFR C.F.R. 774.17, as in effect on July 1, ~~2001~~ 2012, is adopted by reference, except as otherwise indicated in this regulation.

(c) The following phrases shall be replaced with the phrases specified in this subsection wherever the phrases appear in the federal regulations adopted by reference in this regulation:

- (1) "~~[T]his subchapter~~" shall be replaced by "these regulations."
- (2) "~~[P]art 778 of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(1) through (11)."
- (3) "~~[S]ubchapter J of this chapter~~" shall be replaced by "article 8 of these regulations."
- (4) "Act" shall be replaced by "state act."
- (5) "~~§773.12 and 773.15 of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(52)

and (55)."

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

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

(C) "This subchapter" shall be replaced by "these regulations."

(2) "Part 778 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(21) through (31)."

(3) "§773.12 and 773.14 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(8) and (10)." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-410; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended

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47-6-6. Permit conditions; adoption by reference. (a) The section titled "permit conditions," 30 CFR C.F.R. 773.17, as in effect on July 1, ~~2001~~ 2012, is adopted by reference, except as otherwise ~~indicated~~ specified in this regulation.

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

(1) "~~[S]ubchapter J of this chapter~~" shall be replaced by "article 8 of these regulations."

(2) "~~Act~~" shall be replaced by "state act."

(3) "~~[P]arts 840 and 842~~" shall be replaced by "K.A.R. 47-15-1a."

(4) "~~§701.11(d) and subchapter B or K of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(65) and either K.A.R. 47-9-4 or K.A.R. 47-9-1."

(5) "~~[S]ubchapter R of this chapter~~" and "~~that subchapter~~" shall be replaced by "the office of surface mining reclamation and enforcement."

(6) "~~§§842.13 and 840.12 of this chapter~~" shall be replaced by "K.A.R. 47-15-1a(a)(4)."

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

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

(C) "Subchapter R of this chapter" and "that subchapter" shall be replaced by "the office of surface mining reclamation and enforcement."

(2) "Parts 840 and 842" shall be replaced by "K.A.R. 47-15-1a."

(3)(A) "§701.11(d) and subchapter B or K of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(1) and either K.A.R. 47-9-4 or K.A.R. 47-9-1."

(B) "§§842.13 and 840.12 of this chapter" shall be replaced by "K.A.R. 47-15-1a(a)(4)."

(Authorized by K.S.A. 49-405; implementing K.S.A. 2017 Supp. 49-406; effective, E-81-30,

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Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended
May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended

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47-6-8. Termination of jurisdiction; adoption by reference. (a) The section titled "applicability," 30 CFR C.F.R. 700.11, as in effect on July 1, ~~2004~~ 2012, is adopted by reference, except as otherwise ~~indicated~~ specified in this regulation, and subsections (a)(1), (a)(5), and (b) of 30 CFR C.F.R. 700.11 shall be deleted.

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

(1) "~~[T]he State or Federal program counterpart to part 800 of this chapter~~" shall be replaced by "article 8 of these regulations."

(2) "~~[T]his chapter~~" shall be replaced by "these regulations."

(3) "~~[S]ubchapter B of this chapter~~" shall be replaced by "K.A.R. 47-9-4."

(4) "~~[P]art 707 of this chapter~~" shall be replaced by "K.A.R. 47-6-9."

(5) "~~[P]art 702 of this chapter~~" shall be replaced by "K.A.R. 47-6-10."

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

(B) "The State or Federal program counterpart to part 800 of this chapter" shall be replaced by "article 8 of these regulations."

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

(2)(A) "Part 702 of this chapter" shall be replaced by "K.A.R. 47-6-10."

(B) "Part 707 of this chapter" shall be replaced by "K.A.R. 47-6-9." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended P- _____.)

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47-6-9. Exemption for coal extraction ~~incident~~ incidental to government-financed highway or other construction; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise specified in this regulation:

- (1) Responsibility, 30 ~~CFR~~ C.F.R. 707.4;
- (2) definitions, 30 ~~CFR~~ C.F.R. 707.5;
- (3) applicability, 30 ~~CFR~~ C.F.R. 707.11, except that the phrase "Federal or Federal lands" shall be deleted; and
- (4) information to be maintained on site, 30 ~~CFR~~ C.F.R. 707.12.

(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) "~~Act~~" shall be replaced by "state act."
- (2) "~~[T]his chapter~~" shall be replaced by "these regulations."
- (3) "~~30 CFR 707.12~~" shall be replaced by "K.A.R. 47-6-9(a)(4)."
- (4) "~~Title IV~~" shall be replaced by "K.S.A. 49-428 and amendments thereto."

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

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

(C) "Title IV" shall be replaced by "K.S.A. 49-428 and amendments thereto."

(2) "30 CFR 707.12" shall be replaced by "K.A.R. 47-6-9(a)(4)." (Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P-_____.)

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47-6-10. Exemption for coal extraction incidental to the extraction of other minerals; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2001~~ 2012, are adopted by reference, except as otherwise specified in this regulation:

(1) ~~Scope, 30 CFR 702.1;~~

(2) Definitions, 30 CFR C.F.R. 702.5;

(3) ~~(2)~~ application requirements and procedures, 30 CFR C.F.R. 702.11, except that subsection (b) shall be deleted. The text "after April 1, 1990, under a Federal program or on Indian lands, or after the effective date of counterpart provisions in a State program" shall be replaced by "under the state act";

(4) ~~(3)~~ contents of application for exemption, 30 CFR C.F.R. 702.12;

(5) ~~(4)~~ public availability of information, 30 CFR C.F.R. 702.13;

(6) ~~(5)~~ requirements for exemption, 30 CFR C.F.R. 702.14;

(7) ~~(6)~~ conditions of exemption and right of inspection and entry, 30 CFR C.F.R. 702.15.

However, "§702.11(b) or" and "for Federal programs and on Indian lands or in accordance with counterpart provisions when included in State programs" shall be deleted;

(8) ~~(7)~~ stockpiling of minerals, 30 CFR C.F.R. 702.16;

(9) ~~(8)~~ revocation and enforcement, 30 CFR C.F.R. 702.17; and

(10) ~~(9)~~ reporting requirements, 30 CFR C.F.R. 702.18.

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

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(2) ~~“[S]ection 701(28) of the act” shall be replaced by “K.S.A. 49-431, and amendments thereto.”~~

(3) ~~“§702.18 of this part” and “§702.18” shall be replaced by “K.A.R. 47-6-10(a)(10).”~~

(4) ~~“§702.16” shall be replaced by “K.A.R. 47-6-10(a)(8).”~~

(5) ~~“§702.12(g)” shall be replaced by “K.A.R. 47-6-10(a)(4).”~~

(6) ~~The following text shall be replaced by “K.A.R. 47-4-14a”: “43 CFR 4.1280 when OSM is the regulatory authority or under corresponding State procedures when a State is the regulatory authority” and “43 CFR 4.1280 or under corresponding State procedures.”~~

(7) ~~“§702.11(e)(3)” shall be replaced by “K.A.R. 47-6-10(a)(3).”~~

(8) ~~“Secretary” shall be replaced by “secretary, Kansas department of health and environment.”~~

(9) ~~“§702.5 of this part” shall be replaced by “K.A.R. 47-6-10(a)(2).”~~

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

(B) “Secretary” shall be replaced by “secretary of the Kansas department of health and environment.”

(C) The following text shall be replaced by “K.A.R. 47-4-14a”: “43 CFR 4.1280 when OSM is the regulatory authority or under corresponding State procedures when a State is the regulatory authority” and “43 CFR 4.1280 or under corresponding State procedures.”

(D) “The standards of this part for Federal programs and on Indian lands or in accordance with counterpart provisions when included in State programs” shall be replaced by “these regulations.”

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(2)(A) “§702.5 of this part” shall be replaced by “K.A.R. 47-6-10(a)(2).”

(B) “§702.11(e)(3)” shall be replaced by “K.A.R. 47-6-10(a)(3).”

(C) “§702.12(g)” shall be replaced by “K.A.R. 47-6-10(a)(4).”

(D) “§702.16” shall be replaced by “K.A.R. 47-6-10(a)(8).”

(E) “§702.18 of this part” and “§702.18” shall be replaced by “K.A.R. 47-6-10(a)(10).”

(Authorized by and implementing K.S.A. 49-405; effective Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P- _____.)

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47-6-11. Post-permit issuance requirements; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2001~~ 2012, are adopted by reference, except as otherwise indicated specified in these regulations this regulation:

(1) Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information, 30 CFR C.F.R. 774.11; and

(2) post-permit issuance information requirements for permittees, 30 CFR C.F.R. 774.12.

(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 in this regulation:

(1) "~~[R]egulatory authority~~" shall be replaced by "Kansas department of health and environment."

(2) "~~[P]art 843, 846, or 847 of this chapter~~" shall be replaced by "K.A.R. 47-15-1a, K.A.R. 47-5-5a(a)(10) through (13), and K.A.R. 47-5-17."

(3) "~~[S]ection 510(e) of the Act~~" shall be replaced by "K.S.A. 49-407(b), and amendments thereto."

(4) "~~§§773.12(a) and (b) of this subchapter~~" shall be replaced by "K.A.R. 47-3-42 (a)(52)."

(5) "43 CFR 4.1350 through 4.1356" shall be replaced by "article 4 of these regulations."

(6) "~~§778.11(e)(5) of this subchapter,~~" "~~§778.11(d) of this subchapter,~~" "~~§778.11 of this subchapter,~~" "~~§778.11(e) or (d) of this subchapter,~~" and "~~§778.11(e) of this subchapter~~" shall be replaced by "K.A.R. 47-3-42(a)(2)."

(7) "~~§§773.25, 773.26 and 773.27 of this subchapter~~" shall be replaced by "K.A.R. 47-3-

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42(a)(61), (62), and (63)."

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

(1) "Regulatory authority" shall be replaced by "Kansas department of health and environment."

(2)(A) "Part 843, 846, or 847 of this chapter" shall be replaced by "K.A.R. 47-15-1a, K.A.R. 47-5-5a(a)(10) through (13), and K.A.R. 47-5-17."

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

(3) "43 CFR 4.1350 through 4.1356" shall be replaced by "article 4 of these regulations."

(4)(A) "§778.11(c) of this subchapter," "§778.11(d) of this subchapter," and "§778.11 of this subchapter" shall be replaced by "K.A.R. 47-3-42(a)(22)."

(B) "§843.11" shall be replaced by "K.A.R. 47-15-1a(a)(8)."

(C) "§§773.12(a) and (b) of this subchapter" shall be replaced by "K.A.R. 47-3-42(a)(8)."

(D) "§§773.25, 773.26 and 773.27 of this subchapter" shall be replaced by "K.A.R. 47-3-42(a)(17), (18), and (19)." (Authorized by and implementing K.S.A. 49-405; effective Dec. 1, 2006; amended P-_____.)

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47-7-2. Coal exploration; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise indicated specified in this regulation:

(1) Notice requirements for exploration removing 250 tons of coal or less, 30 ~~CFR~~ C.F.R. 772.11;

(2) permit requirements for exploration ~~removing~~ that will remove more than 250 tons of coal or ~~occurring~~ that will occur on lands designated as unsuitable for surface coal mining operations, 30 ~~CFR~~ C.F.R. 772.12;

(3) coal exploration compliance duties, 30 ~~CFR~~ C.F.R. 772.13;

(4) commercial use or sale, 30 ~~CFR~~ C.F.R. 772.14; and

(5) public availability of information, 30 ~~CFR~~ C.F.R. 772.15.

(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) "~~[P]art 815 of this chapter~~" shall be replaced by "K.A.R. 47-9-1(b)."

(2) "~~[S]ubchapter F of this chapter~~" shall be replaced by "article 12 of these regulations."

(3) "~~[P]art 775 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."

(4) "~~[P]arts 773 through 785 of this chapter~~" shall be replaced by "articles 3, 4, 6, and 10 of these regulations, K.S.A. 49-407(d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto."

(5) The phrase "~~section 518 of the Act, subchapter L of this chapter, and the applicable~~"

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~~inspection and enforcement provisions of the regulatory program~~ shall be replaced by "K.S.A. 49-405c, and amendments thereto, and articles 5 and 15 of these regulations."

(6) ~~"[T]his part," "this part, part 815 of this chapter, and the applicable provisions of the regulatory program," and "this part, part 815 of this chapter, the regulatory program"~~ shall be replaced by "K.A.R. 47-7-2."

(7) ~~"§761.11 of this chapter"~~ shall be replaced by "K.A.R. 47-12-4(a)(2)."

(8) ~~"§772.12"~~ shall be replaced by "K.A.R. 47-7-2(a)(2)."

(9) ~~"§772.13"~~ shall be replaced by "K.A.R. 47-7-2(a)(3)."

(10) ~~"§§772.13 and 772.14"~~ shall be replaced by "K.A.R. 47-7-2(a)(3) and (4)."

(11) ~~"§§772.14(b) and 700.11(a)(5)"~~ shall be replaced by "K.A.R. 47-7-2(a)(4) and K.A.R. 47-6-8."

(1)(A) "Subchapter F of this chapter" shall be replaced by "article 12 of these regulations."

(B) The phrase "section 518 of the Act, subchapter L of this chapter, and the applicable inspection and enforcement provisions of the regulatory program" shall be replaced by "K.S.A. 49-405c, and amendments thereto, and articles 5 and 15 of these regulations."

(C) "This part," "this part, part 815 of this chapter, and the applicable provisions of the regulatory program," and "this part, part 815 of this chapter, the regulatory program" shall be replaced by "K.A.R. 47-7-2" and "K.A.R. 47-9-1(b)."

(2)(A) "Part 775 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."

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(B) "Part 815 of this chapter" shall be replaced by "K.A.R. 47-9-1(b)."

(C) "Parts 773 through 785 of this chapter" shall be replaced by "articles 3, 4, 6, and 10 of these regulations, K.S.A. 49-407(d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto."

(3)(A) "\$761.11 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(2)."

(B) "\$772.12" shall be replaced by "K.A.R. 47-7-2(a)(2)."

(C) "\$772.13" shall be replaced by "K.A.R. 47-7-2(a)(3)."

(D) "\$§772.13 and 772.14" shall be replaced by "K.A.R. 47-7-2(a)(3) and (4)."

(E) "\$§772.14(b) and 700.11(a)(5)" shall be replaced by "K.A.R. 47-7-2(a)(4) and K.A.R. 47-6-8." (Authorized by K.S.A. 49-405; implementing K.S.A. 49-427; 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 July 31, 1998; amended Dec. 1, 2006; amended P-_____.)

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47-8-9. Bonding procedures; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2001~~ 2012, are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

- (1) Regulatory authority responsibilities, 30 ~~CFR~~ C.F.R. 800.4, deleting subsection (d);
- (2) definitions, 30 ~~CFR~~ C.F.R. 800.5, deleting subsection (c);
- (3) requirement to file a bond, 30 ~~CFR~~ C.F.R. 800.11, deleting subsection (e);
- (4) form of the performance bond, 30 ~~CFR~~ C.F.R. 800.12, deleting subsection (c);
- (5) period of liability, 30 ~~CFR~~ C.F.R. 800.13;
- (6) determination of bond amount, 30 ~~CFR~~ C.F.R. 800.14;
- (7) adjustment of amount, 30 ~~CFR~~ C.F.R. 800.15;
- (8) general terms and conditions of bond, 30 ~~CFR~~ C.F.R. 800.16;
- (9) bonding requirements for underground coal mines and long-term coal-related surface facilities and structures, 30 ~~CFR~~ C.F.R. 800.17;
- (10) surety bonds, 30 ~~CFR~~ C.F.R. 800.20;
- (11) collateral bonds, 30 ~~CFR~~ C.F.R. 800.21;
- (12) replacement of bonds, 30 ~~CFR~~ C.F.R. 800.30;
- (13) requirement to release performance bonds, 30 ~~CFR~~ C.F.R. 800.40;
- (14) forfeiture of bonds, 30 ~~CFR~~ C.F.R. 800.50; and
- (15) terms and conditions for liability insurance, 30 ~~CFR~~ C.F.R. 800.60, deleting subsection (d).

(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

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regulations adopted by reference in this regulation:

- (1) ~~“Act” shall be replaced by “state act.”~~
- (2) ~~“([U]nder parts 780 and 784 of this chapter)” shall be replaced by “[under K.A.R. 47-3-42(a)(20) through (38), and K.A.R. 47-10-1].”~~
- (3) ~~“[T]his chapter” and “subchapter G of this chapter” shall be replaced by “these regulations.”~~
- (4) ~~“[T]his subchapter” shall be replaced by “article 8 of these regulations.”~~
- (5) ~~“[S]ection 515 of the act” and “section 515(b)(10) of the act” shall be replaced by “K.S.A. 49-405a, K.S.A. 49-408 through K.S.A. 49-413, K.S.A. 49-429, and amendments thereto, and the regulations promulgated thereunder.”~~
- (6) ~~“[S]ubchapter K of this chapter” shall be replaced by “article 9 of these regulations.”~~
- (7) ~~“[S]ection 507(b)(16) of the act” shall be replaced by “K.S.A. 49-407(c), and amendments thereto.”~~
- (8) ~~“[P]art 823 of this chapter” shall be replaced by “K.A.R. 47-9-1(f).”~~
- (9) ~~“[S]ection 513(b) of the act” shall be replaced by “K.S.A. 49-407(d), and amendments thereto, and the regulations promulgated thereunder.”~~
- (10) ~~“[A]pplication” shall be replaced by “complete and accurate application.”~~
- (11) ~~“§800.14” shall be replaced by “K.A.R. 47-8-9(a)(6).”~~
- (12) ~~“§800.15” shall be replaced by “K.A.R. 47-8-9(a)(7).”~~
- (13) ~~“§800.16(e)(2)” shall be replaced by “K.A.R. 47-8-9(a)(8).”~~
- (14) ~~“§800.40,” “§800.40(c)(2),” “§800.40(f) and (h),” and “§800.40(a)(2)” shall be~~

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replaced by "~~K.A.R. 47-8-9(a)(13).~~"

(15) "~~§800.50~~" shall be replaced by "~~K.A.R. 47-8-9(a)(14).~~"

(16) "~~§816.133 or §817.133 of this chapter~~" and "~~§§816.133(e) and 817.133(e)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(45) or K.A.R. 47-9-1(d)(43).~~"

(17) "~~§817.121(e) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(39).~~"

(18) "~~§800.60~~" shall be replaced by "~~K.A.R. 47-8-9(a)(15).~~"

(19) "~~§800.21(f)~~" shall be replaced by "~~K.A.R. 47-8-9(a)(11).~~"

(20) "~~§816.132 or §817.132 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(44) or K.A.R. 47-9-1(d)(42).~~"

(21) "~~§800.17(b)(3)~~" shall be replaced by "~~K.A.R. 47-8-9(a)(9).~~"

(22) "~~§816.116 or §817.116 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(42) or K.A.R. 47-9-1(d)(38).~~"

(23) "~~§800.11(b)~~" shall be replaced by "~~K.A.R. 47-8-9(a)(3).~~"

(24) "~~§§800.14 and 800.15~~" shall be replaced by "~~K.A.R. 47-8-9(a)(6) and (7).~~"

(25) "~~§800.13~~" shall be replaced by "~~K.A.R. 47-8-9(a)(5).~~"

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

(B) "Application" shall be replaced by "complete and accurate application."

(C) "Subchapter K of this chapter" shall be replaced by "article 9 of these regulations."

(D) "This chapter" and "subchapter G of this chapter" shall be replaced by "these regulations."

(E) "This subchapter" shall be replaced by "article 8 of these regulations."

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(F) “(Under parts 780 and 784 of this chapter)” shall be replaced by “[under K.A.R. 47-3-42(a)(40) through (59), and K.A.R. 47-10-1].”

(2)(A) “Part 823 of this chapter” shall be replaced by “K.A.R. 47-9-1(f).”

(B) “Section 507(b)(16) of the act” shall be replaced by “K.S.A. 49-407(c), and amendments thereto.”

(C) “Section 513(b) of the act” shall be replaced by “K.S.A. 49-407(d), and amendments thereto, and the regulations promulgated thereunder.”

(D) “Section 515 of the act” and “section 515(b)(10) of the act” shall be replaced by “K.S.A. 49-405a, K.S.A. 49-408 through K.S.A. 49-413, K.S.A. 49-429, and amendments thereto, and the regulations promulgated thereunder.”

(3)(A) “§800.11(b)” shall be replaced by “K.A.R. 47-8-9(a)(3).”

(B) “§800.13” shall be replaced by “K.A.R. 47-8-9(a)(5).”

(C) “§800.14” shall be replaced by “K.A.R. 47-8-9(a)(6).”

(D) “§800.15” shall be replaced by “K.A.R. 47-8-9(a)(7).”

(E) “§800.16(e)(2)” shall be replaced by “K.A.R. 47-8-9(a)(8).”

(F) “§800.17(b)(3)” shall be replaced by “K.A.R. 47-8-9(a)(9).”

(G) “§800.21(f)” shall be replaced by “K.A.R. 47-8-9(a)(11).”

(H) “§800.40,” “§800.40(c)(2),” “§800.40(f) and (h),” and “§800.40(a)(2)” shall be replaced by “K.A.R. 47-8-9(a)(13).”

(I) “§800.50” shall be replaced by “K.A.R. 47-8-9(a)(14).”

(J) “§800.60” shall be replaced by “K.A.R. 47-8-9(a)(15).”

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(K) “§816.116 or §817.116 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(42) or K.A.R. 47-9-1(d)(38).”

(L) “§816.132 or §817.132 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(44) or K.A.R. 47-9-1(d)(42).”

(M) “§816.133 or §817.133 of this chapter” and “§§816.133(c) and 817.133(c)” shall be replaced by “K.A.R. 47-9-1(c)(45) or K.A.R. 47-9-1(d)(43).”

(N) “§817.121(c) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(39).”

(O) “§§800.14 and 800.15” shall be replaced by “K.A.R. 47-8-9(a)(6) and (7).”

(Authorized by K.S.A. 49-405; implementing K.S.A. 2017 Supp. 49-406, K.S.A. 49-407, and K.S.A. 49-429; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended P-_____.)

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47-9-1. Adoption by reference. (a) The following portions of the “permanent program performance standards--general provisions,” 30 CFR C.F.R. Part 810, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference ~~and altered~~, except as specified in this subsection:

(1) Objective, ~~30 CFR 810.2~~, except that in the first sentence, “Nation” shall be replaced by “state”;

(~~2~~) Responsibility, 30 CFR C.F.R. 810.4, except that ~~part “a”~~ subsection (a) shall be deleted; and

(~~3~~) (2) applicability, 30 CFR C.F.R. 810.11.

(b) The following portions of the “permanent program performance standards--coal exploration,” 30 CFR C.F.R. Part 815, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference:

(1) Required documents, 30 CFR C.F.R. 815.13; and

(2) performance standards for coal exploration, 30 CFR C.F.R. 815.15.

(c) The following portions of the “permanent program standards--surface mining activities,” 30 CFR C.F.R. Part 816, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference ~~and altered~~, except as specified in this subsection:

(1) Signs and markers, 30 CFR C.F.R. 816.11. A subsection (g) shall be added to 30 CFR C.F.R. 816.11 that reads as follows: “Increment boundary markers. As deemed necessary by the secretary or secretary’s designee to ensure the public health and safety, protect the environment, and ascertain increment boundaries, increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 49-406(h), and amendments thereto”;

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- (2) casing and sealing of drilled holes: general requirements, 30 ~~CFR~~ C.F.R. 816.13;
- (3) casing and sealing of drilled holes: temporary, 30 ~~CFR~~ C.F.R. 816.14;
- (4) casing and sealing of drilled holes: permanent, 30 ~~CFR~~ C.F.R. 816.15;
- (5) topsoil and subsoil, 30 ~~CFR~~ C.F.R. 816.22. The first paragraph of subsection (d)(1) of 30 ~~CFR~~ C.F.R. 816.22 shall be replaced by the following:

“Absent an approved schedule, topsoil and subsoil materials removed under paragraph (a) of this section shall be redistributed within 120 days following rough backfilling and grading in a manner that complies with the following:”;

- (6) hydrologic-balance protection, 30 ~~CFR~~ C.F.R. 816.41;
- (7) hydrologic balance: water quality standards and effluent limitations, 30 ~~CFR~~ C.F.R. 816.42;
- (8) diversions, 30 ~~CFR~~ C.F.R. 816.43;
- (9) hydrologic balance: sediment control measures, 30 ~~CFR~~ C.F.R. 816.45;
- (10) hydrologic balance: siltation structures, 30 ~~CFR~~ C.F.R. 816.46;
- (11) hydrologic balance: discharge structures, 30 ~~CFR~~ C.F.R. 816.47;
- (12) impoundments, 30 ~~CFR~~ C.F.R. 816.49;
- (13) postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities, 30 ~~CFR~~ C.F.R. 816.56;
- (14) hydrologic balance: stream-buffer-zones activities in or adjacent to perennial or intermittent streams, 30 ~~CFR~~ C.F.R. 816.57, except that in the first sentence of subsection (c), the text “comply with paragraphs (b)(10)(B)(i) and (b)(24) of section 515 of the act and

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the regulations implementing those provisions of the act, including shall be replaced by the following: “conduct surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, achieve enhancement of such resources where practicable, and comply with the following:”;

(15) coal recovery, 30 CFR C.F.R. 816.59;

(16) use of explosives: general requirements, 30 CFR C.F.R. 816.61, except that subsection (c)(1) shall be replaced by the following:

“All blasting operations within the state shall be conducted under the direction of a Kansas-certified blaster”;

(17) use of explosives: preblasting survey, 30 CFR C.F.R. 816.62;

(18) use of explosives: blasting schedule, 30 CFR C.F.R. 816.64;

(19) use of explosives: blasting signs, warnings, and access control, 30 CFR C.F.R. 816.66;

(20) use of explosives: control of adverse effects, 30 CFR C.F.R. 816.67;

(21) use of explosives: records of blasting operations, 30 CFR C.F.R. 816.68;

(22) disposal of excess spoil: general requirements, 30 CFR C.F.R. 816.71, in (h)(3)(ii) deleting the phrase “in accordance with §816.73”;

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- (23) disposal of excess spoil: preexisting benches, 30 ~~CFR~~ C.F.R. 816.74;
- (24) protection of underground mining, 30 ~~CFR~~ C.F.R. 816.79;
- (25) coal mine waste: general requirements, 30 ~~CFR~~ C.F.R. 816.81;
- (26) coal mine waste: refuse piles, 30 ~~CFR~~ C.F.R. 816.83;
- (27) coal mine waste: impounding structures, 30 ~~CFR~~ C.F.R. 816.84;
- (28) coal mine waste: burning and burned waste utilization, 30 ~~CFR~~ C.F.R. 816.87;
- (29) disposal of noncoal mine waste wastes, 30 ~~CFR~~ C.F.R. 816.89;
- (30) stabilization of surface areas, 30 ~~CFR~~ C.F.R. 816.95;
- (31) protection of fish, wildlife, and related environmental values, 30 ~~CFR~~ C.F.R. 816.97;
- (32) slides and other damage, 30 ~~CFR~~ C.F.R. 816.99;
- (33) contemporaneous reclamation, 30 ~~CFR~~ C.F.R. 816.100;
- (34) backfilling and grading: time and distance requirements, 30 ~~CFR~~ C.F.R. 816.101.

This section shall be replaced by the following text:

“(a) Except as provided in paragraph (b) of this section, rough backfilling and grading for surface mining activities shall be completed according to one of the following schedules:

“(i) (1) Contour mining. Within 60 days or 1,500 linear feet following coal removal;

“(ii) (2) area mining. Within 180 days following coal removal, and not more than four spoil ridges behind the active pit being worked, the spoil from the active pit constituting the first ridge; or

“(iii) (3) other surface mining methods. In accordance with the schedule established by the department.

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“(b) The time allowed for rough backfilling and grading for the entire permit area or for a specific portion of the permit area may be extended by the department if the permittee demonstrates, in accordance with K.A.R. 47-3-42(a)(~~27~~)(47), adopting by reference 30 CFR 780.18(b)(3), that additional time is necessary”;

(35) backfilling and grading: general requirements, 30 ~~CFR~~ C.F.R. 816.102, deleting subsections (k)(3)(i) and (ii);

(36) backfilling and grading: thin overburden, 30 ~~CFR~~ C.F.R. 816.104;

(37) backfilling and grading: thick overburden, 30 ~~CFR~~ C.F.R. 816.105;

(38) backfilling and grading: previously mined area areas, 30 ~~CFR~~ C.F.R. 816.106;

(39) revegetation: general requirements, 30 ~~CFR~~ C.F.R. 816.111;

(40) revegetation: timing, 30 ~~CFR~~ C.F.R. 816.113;

(41) revegetation: mulching and other ~~soil-stabilizing~~ soil stabilizing practices, 30 ~~CFR~~ C.F.R. 816.114;

(42) revegetation: standards for success, 30 ~~CFR~~ C.F.R. 816.116. A subsection (i) shall be added to 816.116(c)(4), and a subsection (3) shall be added to 816.116(a):

(A) Subsection (c)(4)(i) shall read as follows: “(i) The regulatory authority may allow 90 days after the issuance of a notice of violation for the repair of any rills or gullies, or both, that may occur. If the rills or gullies, or both, are repaired using normal husbandry practices, approved by the department in consultation with the state conservationist or his the state conservationist’s designated representative; and the repairs are approved by the department, the period of responsibility shall not be restarted. The normal husbandry practices used to repair

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gullies shall be approved in advance by the United States department of interior, office of surface mining reclamation and enforcement. If the rills or gullies, or both, are not repaired and approved within 90 days, or if augmented seeding, fertilization, or irrigation was utilized to do the repairs, the regulatory authority will restart the period of liability, effective from the date the repair was completed and approved by the department.”

(B) Subsection (a)(3) shall read as follows: “(3) Data being used for bond release shall be submitted to the department annually. This shall include data for the last augmented seeding, which shall start the extended liability period. The following timetable for submissions shall be followed:

“(i) The planting reports, including soil tests, shall be submitted by March 31 of the year following the year in which the soil tests were performed;

“(ii) the production and ground cover data shall be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted at this time to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year; and

“(iii) all data shall be clearly identified as to the bond release management area that it represents.”;

(43) cessation of operations: temporary, 30 ~~CFR~~ C.F.R. 816.131;

(44) cessation of operations: permanent, 30 ~~CFR~~ C.F.R. 816.132;

(45) postmining land use, 30 ~~CFR~~ C.F.R. 816.133, deleting subsection (d)(1) and replacing the term “Act” with “state act”;

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(46) roads: general, 30 ~~CFR~~ C.F.R. 816.150;

(47) primary roads, 30 ~~CFR~~ C.F.R. 816.151;

(48) utility installations, 30 ~~CFR~~ C.F.R. 816.180;

(49) support facilities, 30 ~~CFR~~ C.F.R. 816.181; and

(50) interpretative rules related to general performance standards, 30 ~~CFR~~ C.F.R. 816.200.

(d) The following portions of the “permanent program performance standards-- underground mining activities,” 30 ~~CFR~~ C.F.R. Part 817, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference ~~and altered~~, except as specified in this subsection:

(1) Signs and markers, 30 ~~CFR~~ C.F.R. 817.11. A subsection (g) shall be added to ~~30 CFR 817.11~~ that shall read as follows: “(g) Increment boundary markers. Increment boundary markers shall be placed on each portion of a permit area on which a performance bond or other equivalent guarantee was or will be posted as provided by K.S.A. 49-406(h), and amendments thereto”;

(2) casing and sealing of exposed underground openings: general requirements, 30 ~~CFR~~ C.F.R. 817.13;

(3) casing and sealing of underground openings: temporary, 30 ~~CFR~~ C.F.R. 817.14;

(4) casing and sealing of underground openings: permanent, 30 ~~CFR~~ C.F.R. 817.15;

(5) topsoil and subsoil, 30 ~~CFR~~ C.F.R. 817.22;

(6) hydrologic-balance protection, 30 ~~CFR~~ C.F.R. 817.41;

(7) hydrologic balance: water quality standards and effluent limitations, 30 ~~CFR~~ C.F.R.

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817.42;

- (8) diversions, 30 ~~CFR~~ C.F.R. 817.43;
- (9) hydrologic balance: sediment control measures, 30 ~~CFR~~ C.F.R. 817.45;
- (10) hydrologic balance: siltation structures, 30 ~~CFR~~ C.F.R. 817.46;
- (11) hydrologic balance: discharge structures, 30 ~~CFR~~ C.F.R. 817.47;
- (12) impoundments, 30 ~~CFR~~ C.F.R. 817.49;
- (13) postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities, 30 ~~CFR~~ C.F.R. 817.56;
- (14) hydrologic balance: ~~stream-buffer-zone~~ surface activities in or adjacent to perennial or intermittent streams, 30 ~~CFR~~ C.F.R. 817.57, except that in the first sentence of subsection (c), the text "comply with paragraphs (b)(9)(B) and (b)(11) of section 516 of the act and the regulations implementing those provisions of the act, including" shall be replaced by the following: "conduct surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, achieve enhancement of such resources where practicable, and comply with the following:";
- (15) coal recovery, 30 ~~CFR~~ C.F.R. 817.59;
- (16) use of explosives: general requirements, 30 ~~CFR~~ C.F.R. 817.61, except that

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subsection (c)(1) of 30 ~~CFR~~ C.F.R. 817.61 shall be replaced by the following:

“All blasting operations within the state shall be conducted under the direction of a Kansas-certified blaster”;

(17) use of explosives: preblasting survey, 30 ~~CFR~~ C.F.R. 817.62;

(18) use of explosives: general performance standards, 30 ~~CFR~~ C.F.R. 817.64;

(19) use of explosives: blasting signs, warnings, and access control, 30 ~~CFR~~ C.F.R. 817.66;

(20) use of explosives: control of adverse effects, 30 ~~CFR~~ C.F.R. 817.67;

(21) use of explosives: records of blasting operations, 30 ~~CFR~~ C.F.R. 817.68;

(22) disposal of excess spoil: general requirements, 30 ~~CFR~~ C.F.R. 817.71, deleting the phrase “in accordance with §817.73”;

(23) disposal of excess spoil: preexisting benches, 30 ~~CFR~~ C.F.R. 817.74;

(24) coal mine waste: general requirements, 30 ~~CFR~~ C.F.R. 817.81;

(25) coal mine waste: refuse piles, 30 ~~CFR~~ C.F.R. 817.83;

(26) coal mine waste: impounding structures, 30 ~~CFR~~ C.F.R. 817.84;

(27) coal mine waste: burning and ~~burn~~ burned waste utilization, 30 ~~CFR~~ C.F.R. 817.87;

(28) disposal of noncoal mine wastes, 30 ~~CFR~~ C.F.R. 817.89;

(29) stabilization of surface areas, 30 ~~CFR~~ C.F.R. 817.95;

(30) protection of fish, wildlife, and related environmental values, 30 ~~CFR~~ C.F.R. 817.97;

(31) slides and other damage, 30 ~~CFR~~ C.F.R. 817.99;

(32) contemporaneous reclamation, 30 ~~CFR~~ C.F.R. 817.100;

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(33) backfilling and grading: general requirements, 30 ~~CFR~~ C.F.R. 817.102, deleting subsection (k)(1);

(34) backfilling and grading: previously mined areas, 30 ~~CFR~~ C.F.R. 817.106;

(35) revegetation: general requirements, 30 ~~CFR~~ C.F.R. 817.111;

(36) revegetation: timing, 30 ~~CFR~~ C.F.R. 817.113;

(37) revegetation: mulching and other ~~soil-stabilizing~~ soil stabilizing practices, 30 ~~CFR~~ C.F.R. 817.114;

(38) revegetation: standards for success, 30 ~~CFR~~ C.F.R. 817.116. A subsection (3) shall be added to 817.116(a). Subsection (a)(3) shall read as follows: “(3) Data being used for bond release shall be submitted to the department annually. This shall include data for the last augmented seeding, which shall start the extended liability period. The following timetable for submissions shall be followed:

“(i) The planting reports, including soil tests, shall be submitted by March 31 of the year following the year in which the soil tests were performed;

“(ii) The production and ground cover data shall be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted at this time to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year; and

“(iii) All data shall be clearly identified as to the bond release management area that it represents.”;

(39) subsidence control, 30 ~~CFR~~ C.F.R. 817.121, except that 30 ~~CFR~~ C.F.R.

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817.121(c)(4)(i)-(iv) shall be deleted;

(40) subsidence control: public notice, 30 ~~CFR~~ C.F.R. 817.122;

(41) cessation of operations: temporary, 30 ~~CFR~~ C.F.R. 817.131;

(42) cessation of operations: permanent, 30 ~~CFR~~ C.F.R. 817.132;

(43) postmining land use, 30 ~~CFR~~ C.F.R. 817.133, deleting subsection (d)(1) and replacing the term "Act" with "state act";

(44) roads: general, 30 ~~CFR~~ C.F.R. 817.150;

(45) primary roads, 30 ~~CFR~~ C.F.R. 817.151;

(46) utility installations, 30 ~~CFR~~ C.F.R. 817.180;

(47) support facilities, 30 ~~CFR~~ C.F.R. 817.181; and

(48) interpretative rules related to general performance standards, 30 ~~CFR~~ C.F.R.

817.200. The phrase "Office of Surface Mining Reclamation and Enforcement" shall be replaced by "Kansas department of health and environment."

(e) The following portions of the "special permanent program performance standards-- auger mining," 30 ~~CFR~~ C.F.R. Part 819, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference:

(1) Auger mining: general, 30 ~~CFR~~ C.F.R. 819.11;

(2) auger mining: coal recovery, 30 ~~CFR~~ C.F.R. 819.13;

(3) auger mining: hydrologic balance, 30 ~~CFR~~ C.F.R. 819.15;

(4) auger mining: subsidence protection, 30 ~~CFR~~ C.F.R. 819.17;

(5) auger mining: backfilling and grading, 30 ~~CFR~~ C.F.R. 819.19; and

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(6) auger mining: protection of underground mining, 30 ~~CFR~~ C.F.R. 819.21.

(f) The following portions of the "special permanent program performance standards--operations on prime farmland," 30 ~~CFR~~ C.F.R. Part 823, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference ~~and altered~~, except as specified in this subsection:

- (1) Responsibilities, 30 ~~CFR~~ C.F.R. 823.4;
- (2) applicability, 30 ~~CFR~~ C.F.R. 823.11, deleting subsection (a);
- (3) soil removal and stockpiling, 30 ~~CFR~~ C.F.R. 823.12;
- (4) soil replacement, 30 ~~CFR~~ C.F.R. 823.14; and
- (5) revegetation and restoration of soil productivity, 30 ~~CFR~~ C.F.R. 823.15.

(g) The following portions of the "permanent program performance standards--coal preparation plants not located within the permit area of a mine," 30 ~~CFR~~ C.F.R. Part 827, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference:

- (1) General requirements, 30 ~~CFR~~ C.F.R. 827.11;
- (2) coal preparation plants: performance standards, 30 ~~CFR~~ C.F.R. 827.12; and
- (3) coal preparation plants: interim performance standards, 30 ~~CFR~~ C.F.R. 827.13.

(h) The following portions of the "special permanent program performance standards--in situ processing," 30 ~~CFR~~ C.F.R. Part 828, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference:

- (1) In situ processing: performance standards, 30 ~~CFR~~ C.F.R. 828.11; and
- (2) in situ processing: monitoring, 30 ~~CFR~~ C.F.R. 828.12.
- (i) The following phrases and citations shall be replaced with the phrases and citations

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specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

- (1) ~~"Director"~~ shall be replaced by ~~"secretary."~~
- (2) ~~"[S]ubchapter J of this chapter"~~ shall be replaced by ~~"article 8 of these regulations."~~
- (3) ~~"[S]ubchapter B of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-4."~~
- (4) ~~"This part"~~ shall be replaced by ~~"K.A.R. 47-9-1."~~
- (5) ~~"[T]his chapter," "subchapter," and "this section"~~ shall be replaced by ~~"these regulations."~~
- (6) ~~"Part 816" and "part 816 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)."~~
- (7) ~~"Part 817," "part 817 of this chapter," and "30 CFR 817"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)."~~
- (8) ~~"[E]very state program," "every regulatory program," and "the applicable regulatory program"~~ shall be replaced by ~~"the regulatory program."~~
- (9) ~~"[P]art 815"~~ shall be replaced by ~~"K.A.R. 47-9-1(b)."~~
- (10) ~~"[P]arts 818 through 828"~~ shall be replaced by ~~"K.A.R. 47-9-1(e) through (h)."~~
- (11) ~~"§816.95 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(30)."~~
- (12) ~~"§§816.150(b) through (f), 816.180, and 816.181 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(46), (48), and (49)."~~
- (13) ~~"§816.43 of this chapter" and "§816.43"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(8)."~~
- (14) ~~"§§816.13 through 816.15 of this chapter" and "§§816.13 to 816.15"~~ shall be replaced by ~~"K.A.R. 47-9-1(e)(2) through (4)."~~

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(15) "~~§§816.41 through 816.49 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(6) through (12).~~"

(16) "~~§§816.41(b), 816.41(f), and 816.102(e) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(6) and (35).~~"

(17) "~~Parts 816 and 817~~" shall be replaced by "~~K.A.R. 47-9-1(e) and (d).~~"

(18) "~~[P]art 816 or part 817~~" shall be replaced by "~~K.A.R. 47-9-1(e) or (d).~~"

(19) "~~§816.57~~" shall be replaced by "~~K.A.R. 47-9-1(e)(14).~~"

(20) "~~§816.22, §816.22 of this chapter, §816.22 of this part, §816.22(b) of this part, §816.22(e), 30 CFR 816.22(e)(1)(i), and 30 CFR 816.22(e)(1)(ii)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(5).~~"

(21) "~~§816.41 of this part, §816.41, and §816.41(i)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(6).~~"

(22) "~~§816.13~~" shall be replaced by "~~K.A.R. 47-9-1(e)(2).~~"

(23) "~~§§816.111, 816.113, 816.114, and 816.116 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(39), (40), (41), and (42).~~"

(24) "~~§780.21(h) of this chapter, §780.21(i) of this chapter, and §780.21(j) of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(28).~~"

(25) "~~§§773.17(e) and 780.21(h) of this chapter~~" shall be replaced by "~~K.A.R. 47-6-6(a) and K.A.R. 47-3-42(a)(28).~~"

(26) "~~§§773.17(e) and 784.14(g) of this chapter~~" shall be replaced by "~~K.A.R. 47-6-6(a) and K.A.R. 47-10-1(a)(2)(E).~~"

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(27) "~~§774.13 of this chapter~~" and "~~30 CFR 774.13~~" shall be replaced by "~~K.A.R. 47-6-2.~~"

(28) "~~§§780.21 and 780.22 of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(28) and (29).~~"

(29) "~~§816.42~~" shall be replaced by "~~K.A.R. 47-9-1(e)(7).~~"

(30) "~~§816.46~~" shall be replaced by "~~K.A.R. 47-9-1(e)(10).~~"

(31) "~~§816.111~~" and "~~§816.111(b)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(39).~~"

(32) "~~§816.102,~~" "~~§816.102(e), (e) through (h), and (j),~~" "~~§816.102(a)(2) through (j) of this part,~~" and "~~§816.102(a)(1) and (2)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(35).~~"

(33) "~~§780.25 of this chapter,~~" "~~§780.25(a) of this chapter,~~" and "~~§780.25(e)(3)~~" shall be replaced by "~~K.A.R. 47-3-42(a)(31).~~"

(34) "~~§816.49 of this chapter,~~" and "~~§816.49(a)(9)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(12).~~"

(35) "~~§§816.111 through 816.116 of this chapter~~" and "~~§§816.111 through 816.116~~" shall be replaced by "~~K.A.R. 47-9-1(e)(39) through (42).~~"

(36) "~~§816.84 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(27).~~"

(37) "~~§816.11~~" and "~~§816.11 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(1).~~"

(38) "~~§816.64~~" shall be replaced by "~~K.A.R. 47-9-1(e)(18).~~"

(39) "~~§816.67~~" and "~~§816.67(e)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(20).~~"

(40) "~~§816.68(p)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(21).~~"

(41) "~~§816.66(e)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(19).~~"

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(42) "~~§780.13 of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(23)~~."

(43) "~~§780.35(e) of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(e)(36)~~."

(44) "~~§816.83~~" shall be replaced by "~~K.A.R. 47-9-1(e)(26)~~."

(45) "~~§784.25 of this chapter~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(P)~~."

(46) "~~§816.71~~" and "~~§816.71(f)(3)~~" shall be replaced by "~~K.A.R. 47-9-1(e)(22)~~."

(47) "~~§816.81~~" shall be replaced by "~~K.A.R. 47-9-1(e)(25)~~."

(48) "~~[T]his title~~" shall be replaced by "~~the 30 CFR~~."

(49) "~~§785.18 of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(41)~~."

(50) "~~§§816.71 through 816.74~~," "~~§§816.71 through 816.74 of this part~~" and "~~§§816.71-816.74 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(22) through (23)~~."

(51) "~~§§816.81 and 816.83~~" shall be replaced by "~~K.A.R. 47-9-1(e)(25) and (26)~~."

(52) "~~§§816.49 and 816.56~~" and "~~§§816.49 and 816.56 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(12) and (13)~~."

(53) "~~§816.105~~" shall be replaced by "~~K.A.R. 47-9-1(e)(37)~~."

(54) "~~§816.106~~" shall be replaced by "~~K.A.R. 47-9-1(e)(38)~~."

(55) "~~§§816.102 through 816.107 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(35) through (38)~~."

(56) "~~[P]art 823 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(f)~~."

(57) "~~§701.5 of this chapter~~" shall be replaced by "~~K.A.R. 47-2-75(b)~~."

(58) "~~§§816.41 through 816.43 and 816.57 of this chapter~~" and "~~§816.41 through 816.43 and 816.57 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(e)(6) through (8) and (14)~~."

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(59) ~~“§§816.22 and 816.111 through 816.116 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(5) and (39) through (42).”~~

(60) ~~“[S]ection 816.150” shall be replaced by “K.A.R. 47-9-1(c)(46).”~~

(61) ~~“§780.37(e) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(37).”~~

(62) ~~“§817.57” and “30 CFR 817.57” shall be replaced by “K.A.R. 47-9-1(d)(14).”~~

(63) ~~“§817.22,” “§817.22 of this chapter,” “§817.22 of this part,” and “§817.22(b)” shall be replaced by “K.A.R. 47-9-1(d)(5).”~~

(64) ~~“§817.41 of this part,” “§817.41,” “30 CFR 817.41,” “§817.41(h),” and “§817.41(j)” shall be replaced by “K.A.R. 47-9-1(d)(6).”~~

(65) ~~“§817.13” shall be replaced by “K.A.R. 47-9-1(d)(2).”~~

(66) ~~“§§817.111, 817.113, 817.114, and 817.116 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(35), (36), (37), and (38).”~~

(67) ~~“§784.14(g) of this chapter,” “§784.14(h) of this chapter,” and “§784.14(i) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(E).”~~

(68) ~~“§§817.13 and 817.15” shall be replaced by “K.A.R. 47-9-1(d)(2) and (4).”~~

(69) ~~“§§817.13 to 817.15” shall be replaced by “K.A.R. 47-9-1(d)(2) to (4).”~~

(70) ~~“§817.42” shall be replaced by “K.A.R. 47-9-1(d)(7).”~~

(71) ~~“§§780.21 and 784.14 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(28) and K.A.R. 47-10-1(a)(2)(E).”~~

(72) ~~“§§780.21 and 784.22 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(28) and K.A.R. 47-10-1(a)(2)(M).”~~

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(73) "~~§817.46~~" shall be replaced by "~~K.A.R. 47-9-1(d)(10)~~."

(74) "~~§817.111~~" and "~~§817.111(b)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(35)~~."

(75) "~~§817.102~~," "~~§817.102(e), (e) through (h), and (j)~~," and "~~§817.102(a)(1) and (2)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(33)~~."

(76) "~~§784.16(a) of this chapter~~" and "~~§784.16(e)(3)~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(G)~~."

(77) "~~§817.49 of this chapter~~," "~~§817.49(a)(9)~~," and "~~§817.49(a) and (e)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(12)~~."

(78) "~~§§817.111 through 817.116 of this chapter~~" and "~~§§817.111 through 817.116~~" shall be replaced by "~~K.A.R. 47-9-1(d)(35) through (38)~~."

(79) "~~§§817.22 and 817.111 through 817.116 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(5) and (35) through (38)~~."

(80) "~~§817.84 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(26)~~."

(81) "~~§817.43~~" shall be replaced by "~~K.A.R. 47-9-1(d)(8)~~."

(82) "~~§817.11~~" shall be replaced by "~~K.A.R. 47-9-1(d)(1)~~."

(83) "~~Sections 817.61-817.68~~" shall be replaced by "~~K.A.R. 47-9-1(d)(16) (21)~~."

(84) "~~§817.67~~" and "~~§817.67(e)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(20)~~."

(85) "~~§817.68(p)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(21)~~."

(86) "~~§817.64(a)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(18)~~."

(87) "~~§817.66(e)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(19)~~."

(88) "~~§784.19 of this chapter~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(J)~~."

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(89) "~~§817.83~~" shall be replaced by "~~K.A.R. 47-9-1(d)(25)~~."

(90) "~~§817.71~~" and "~~§817.71(f)(3)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(22)~~."

(91) "~~§817.81~~" shall be replaced by "~~K.A.R. 47-9-1(d)(24)~~."

(92) "~~§§817.71 through 817.74~~" and "~~§§817.71 through 817.74 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(22) and (23)~~."

(93) "~~§§817.81 and 817.83~~" shall be replaced by "~~K.A.R. 47-9-1(d)(24) and (25)~~."

(94) "~~§§817.49 and 817.56~~" shall be replaced by "~~K.A.R. 47-9-1(d)(12) and (13)~~."

(95) "~~§816.104~~" shall be replaced by "~~K.A.R. 47-9-1(e)(36)~~."

(96) "~~§817.106~~" shall be replaced by "~~K.A.R. 47-9-1(d)(34)~~."

(97) "~~§817.116~~" shall be replaced by "~~K.A.R. 47-9-1(d)(38)~~."

(98) "~~§§817.102 through 817.107 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(33) and (34)~~."

(99) "~~§784.20 of this chapter~~" and "~~§784.20(a) of this chapter~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(K)~~."

(100) "~~§773.6(d) of this chapter~~" shall be replaced by "~~K.A.R. 47-3-42(a)(46)~~."

(101) "~~§§817.41 through 817.43 and 817.57 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(6) through (8) and (14)~~."

(102) "~~§817.150~~" shall be replaced by "~~K.A.R. 47-9-1(d)(44)~~."

(103) "~~§784.24(c)~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(O)~~."

(104) "~~30 CFR 817.133~~" and "~~30 CFR 817.133(a)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(43)~~."

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(105) ~~“30 CFR 784.15(a)(2)” shall be replaced by “K.A.R. 47-10-1(a)(2)(F).”~~

(106) ~~“30 CFR part 773 and 775” shall be replaced by “K.A.R. 47-3-42(a)(47) through (64), and K.S.A. 49-407(d), 49-416a, 49-422a, and amendments thereto, and article 4 of these regulations.”~~

(107) ~~“§816.59 of this chapter” shall be replaced by “K.A.R. 47-9-1(e)(15).”~~

(108) ~~“§§816.41 and 816.42 of this chapter” shall be replaced by “K.A.R. 47-9-1(e)(6) and (7).”~~

(109) ~~“§817.121(a) and (c) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(39).”~~

(110) ~~“§§816.102 and 816.104 through 816.106 of this chapter” shall be replaced by “K.A.R. 47-9-1(e)(35) and (36) through (38).”~~

(111) ~~“§816.79 of this chapter” shall be replaced by “K.A.R. 47-9-1(e)(24).”~~

(112) ~~“§785.17 and subchapter J of this chapter” shall be replaced by “K.A.R. 47-3-42 (a)(40) and article 8 of these regulations.”~~

(113) ~~“§785.17(a) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(40).”~~

(114) ~~“§823.14(b)” shall be replaced by “K.A.R. 47-9-1(f)(4).”~~

(115) ~~“§816.22 or §817.22 of this chapter” shall be replaced by “K.A.R. 47-9-1(e)(5) or K.A.R. 47-9-1(d)(5).”~~

(116) ~~“§823.12(e)(2)” and “§823.12(e)(1)” shall be replaced by “K.A.R. 47-9-1(f)(3).”~~

(117) ~~“§785.21 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(43).”~~

(118) ~~“§827.13 of this part” shall be replaced by “K.A.R. 47-9-1(g)(3).”~~

(119) ~~“§816.45 through 816.47 of this chapter” shall be replaced by “K.A.R. 47-9-1(e)(9)”~~

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through (11).”

(120) “~~§§816.81, 816.83, 816.84, 816.87, 816.89, and 816.71 through 816.74 of this chapter~~” shall be replaced by “K.A.R. 47-9-1(e)(25), (26), (27), (28), (29), and (22) through (23).”

(121) “~~§816.97 of this chapter~~” shall be replaced by “K.A.R. 47-9-1(e)(31).”

(122) “~~§816.181 of this chapter~~” shall be replaced by “K.A.R. 47-9-1(e)(49).”

(123) “~~§§816.150 and 816.151 of this chapter~~” shall be replaced by “K.A.R. 47-9-1(e)(46) and (47).”

(124) “~~§§816.131 and 816.132 of this chapter~~” shall be replaced by “K.A.R. 47-9-1(e)(43) and (44).”

(125) “~~§§816.22, 816.100, 816.102, 816.104, 816.106, 816.111, 816.113, 816.114, 816.116, and 816.133 of this chapter~~” shall be replaced by “K.A.R. 47-9-1(e)(5), (33), (35), (36), (38), (39), (40), (41), (42), and (45).”

(127) “~~§827.12~~” shall be replaced by “K.A.R. 47-9-1(g)(2).”

(128) “~~30 CFR 785.22~~” shall be replaced by “K.A.R. 47-3-42(a)(44).”

(1)(A) “Director” shall be replaced by “secretary.”

(B) “Every state program,” “every regulatory program,” and “the applicable regulatory program” shall be replaced by “the regulatory program.”

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

(D) “Subchapter J of this chapter” shall be replaced by “article 8 of these regulations.”

(E) “This chapter,” “subchapter,” and “this section” shall be replaced by “these

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regulations.”

(F) “This part” shall be replaced by “K.A.R. 47-9-1.”

(G) “This title” shall be replaced by “the 30 CFR.”

(2)(A) “Part 815” shall be replaced by “K.A.R. 47-9-1(b).”

(B) “Part 816 of this chapter” shall be replaced by “K.A.R. 47-9-1(c).”

(C) “Part 816 or part 817” shall be replaced by “K.A.R. 47-9-1(c) or (d).”

(D) “Part 817,” “part 817 of this chapter,” and “30 CFR 817” shall be replaced by “K.A.R. 47-9-1(d).”

(E) “Part 823 of this chapter” shall be replaced by “K.A.R. 47-9-1(f).”

(F) “Parts 816 and 817” shall be replaced by “K.A.R. 47-9-1(c) and (d).”

(G) “Parts 818 through 828” shall be replaced by “K.A.R. 47-9-1(e) through (h).”

(H) “Section 816.150” shall be replaced by “K.A.R. 47-9-1(c)(46).”

(I) “Sections 817.61-817.68” shall be replaced by “K.A.R. 47-9-1(d)(16)-(21).”

(3)(A) “30 CFR part 773 and 775” shall be replaced by “K.A.R. 47-3-42(a)(2) through (20), and K.S.A. 49-407(d), 49-416a, 49-422a, and amendments thereto, and article 4 of these regulations.”

(B) “30 CFR 784.15(a)(2)” shall be replaced by “K.A.R. 47-10-1(a)(2)(F).”

(C) “30 CFR 785.22” shall be replaced by “K.A.R. 47-3-42(a)(65).”

(D) “30 CFR 817.133,” “§817.133,” and “30 CFR 817.133(a)” shall be replaced by “K.A.R. 47-9-1(d)(43).”

(4)(A) “§701.5 of this chapter” shall be replaced by “K.A.R. 47-2-75(b).”

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(B) “§732.17 of this chapter” shall be replaced by “30 C.F.R. 732.17.”

(C) “§773.6(d) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(2).”

(D) “§773.15(m) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(11).”

(E) “§774.13 of this chapter” and “30 CFR 774.13” shall be replaced by “K.A.R. 47-6-2.”

(F) “§780.13 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(43).”

(G) “§780.21(h) of this chapter,” “§780.21(i) of this chapter,” and “§780.21(j) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(48).”

(H) “§780.25 of this chapter,” “§780.25(a) of this chapter,” and “§780.25(c)(3)” shall be replaced by “K.A.R. 47-3-42(a)(51).”

(I) “§780.28(d) of this chapter or §816.43(b)(1) of this part” shall be replaced by “K.A.R. 47-3-42(a)(53) or K.A.R. 47-9-1(c)(8).”

(J) “§780.28(e) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(53).”

(K) “§780.35(c) of this chapter” shall be replaced by “K.A.R. 47-3-42(c)(57).”

(L) “§780.37(c) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(58).”

(M) “§784.14(g) of this chapter,” “§784.14(h) of this chapter,” and “§784.14(i) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(E).”

(N) “§784.16(a) of this chapter” and “§784.16(c)(3)” shall be replaced by “K.A.R. 47-10-1(a)(2)(G).”

(O) “§784.19 of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(J).”

(P) “§784.20 of this chapter” and “§784.20(a) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(K).”

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(Q) “§784.24(c)” shall be replaced by “K.A.R. 47-10-1(a)(2)(O).”

(R) “§784.25 of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(P).”

(S) “§784.28(d) of this chapter and §817.43(b)(1) of this part” shall be replaced by “K.A.R. 47-10-1(a)(2)(R) and K.A.R. 47-9-1(d)(8).”

(T) “§784.28(e) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(R).”

(U) “§785.17 and subchapter J of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(61) and article 8 of these regulations.”

(V) “§785.17(a) of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(61).”

(W) “§785.18 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(62).”

(X) “§785.21 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(64).”

(Y) “§800.40(c)(2) of this chapter” shall be replaced by “K.A.R. 47-8-9(a)(13).”

(Z) “§816.11” and “§816.11 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(1).”

(AA) “§816.13” shall be replaced by “K.A.R. 47-9-1(c)(2).”

(BB) “§816.22,” “§816.22 of this chapter,” “§816.22 of this part,” “§816.22(b) of this part,” “§816.22(e),” “30 CFR 816.22(e)(1)(i),” and “30 CFR 816.22(e)(1)(ii)” shall be replaced by “K.A.R. 47-9-1(c)(5).”

(CC) “§816.22 or §817.22 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(5) or K.A.R. 47-9-1(d)(5).”

(DD) “§816.41 of this part,” “§816.41,” “§§816.41(d)(1) of this part,” and “§816.41(i)” shall be replaced by “K.A.R. 47-9-1(c)(6).”

(EE) “§§816.41(b), 816.41(f), and 816.102(e) of this chapter” shall be replaced by

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"K.A.R. 47-9-1(c)(6) and (35)."

(FF) "\$816.42" shall be replaced by "K.A.R. 47-9-1(c)(7)."

(GG) "\$816.43 of this chapter," "\$816.43(b) of this part," and "816.43" shall be replaced by "K.A.R. 47-9-1(c)(8)."

(HH) "\$816.45 through 816.47 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(9) through (11)."

(II) "\$816.45(a) of this part" and "\$816.45(a)" shall be replaced by "K.A.R. 47-9-1(c)(9)."

(JJ) "\$816.46" shall be replaced by "K.A.R. 47-9-1(c)(10)."

(KK) "\$816.49 of this chapter," "\$816.49(b) of this part," and "\$816.49(a)(9)" shall be replaced by "K.A.R. 47-9-1(c)(12)."

(LL) "\$816.56 of this part" shall be replaced by "K.A.R. 47-9-1(c)(13)."

(MM) "\$816.59 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(15)."

(NN) "\$816.64" shall be replaced by "K.A.R. 47-9-1(c)(18)."

(OO) "\$816.66(c)" shall be replaced by "K.A.R. 47-9-1(c)(19)."

(PP) "\$816.67" and "\$816.67(e)" shall be replaced by "K.A.R. 47-9-1(c)(20)."

(QQ) "\$816.68(p)" shall be replaced by "K.A.R. 47-9-1(c)(21)."

(RR) "\$816.71," "\$816.71 of this part," and "\$816.71(f)(3)" shall be replaced by "K.A.R. 47-9-1(c)(22)."

(SS) "\$816.79 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(24)."

(TT) "\$816.81" shall be replaced by "K.A.R. 47-9-1(c)(25)."

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(UU) “§816.83” shall be replaced by “K.A.R. 47-9-1(c)(26).”

(VV) “§816.84 of this chapter” and “§816.84” shall be replaced by “K.A.R. 47-9-1(c)(27).”

(WW) “§816.95 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(30).”

(XX) “§816.97 of this chapter,” “§816.97(a) of this part,” and “§816.97(f) of this part” shall be replaced by “K.A.R. 47-9-1(c)(31).”

(YY) “§816.102,” “§§816.102(c), (e) through (h), and (j),” “§§816.102(a)(2) through (j) of this part,” and “§816.102(a)(1) and (2)” shall be replaced by “K.A.R. 47-9-1(c)(35).”

(ZZ) “§816.104” shall be replaced by “K.A.R. 47-9-1(c)(36).”

(AAA) “§816.105” shall be replaced by “K.A.R. 47-9-1(c)(37).”

(BBB) “§816.106” shall be replaced by “K.A.R. 47-9-1(c)(38).”

(CCC) “§816.111” and “§816.111(b)” shall be replaced by “K.A.R. 47-9-1(c)(39).”

(DDD) “§816.181 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(49).”

(EEE) “§817.11” shall be replaced by “K.A.R. 47-9-1(d)(1).”

(FFF) “§817.13” shall be replaced by “K.A.R. 47-9-1(d)(2).”

(GGG) “§817.22,” “§817.22 of this chapter,” “§817.22 of this part,” and “§817.22(b) of this part” shall be replaced by “K.A.R. 47-9-1(d)(5).”

(HHH) “§817.41 of this part,” “§817.41,” “§817.41(d)(1) of this part,” “§817.41(h),” and “§817.41(j)” shall be replaced by “K.A.R. 47-9-1(d)(6).”

(III) “§817.42” shall be replaced by “K.A.R. 47-9-1(d)(7).”

(JJJ) “§817.43” and “§817.43(b) of this part” shall be replaced by “K.A.R. 47-9-1(d)(8).”

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(KKK) “§817.45(a) of this part” shall be replaced by “K.A.R. 47-9-1(d)(9).”

(LLL) “§817.46” shall be replaced by “K.A.R. 47-9-1(d)(10).”

(MMM) “§817.49 of this chapter,” “§817.49(a)(9),” “§817.49(b) of this part.” and “§817.49(a) and (c)” shall be replaced by “K.A.R. 47-9-1(d)(12).”

(NNN) “§817.56 of this part” shall be replaced by “K.A.R. 47-9-1(d)(13).”

(OOO) “§817.64(a)” shall be replaced by “K.A.R. 47-9-1(d)(18).”

(PPP) “§817.66(c)” shall be replaced by “K.A.R. 47-9-1(d)(19).”

(OOO) “§817.67” and “§817.67(e)” shall be replaced by “K.A.R. 47-9-1(d)(20).”

(RRR) “§817.68(p)” shall be replaced by “K.A.R. 47-9-1(d)(21).”

(SSS) “§817.71,” “paragraphs (a) and (f) of §817.71 of this part,” and “§817.71(f)(3)” shall be replaced by “K.A.R. 47-9-1(d)(22).”

(TTT) “§817.81” shall be replaced by “K.A.R. 47-9-1(d)(24).”

(UUU) “§817.83” shall be replaced by “K.A.R. 47-9-1(d)(25).”

(VVV) “§817.84 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(26).”

(WWW) “§817.97(a) of this part” and “§817.97(f) of this part” shall be replaced by “K.A.R. 47-9-1(d)(30).”

(XXX) “§817.102,” “§817.102(c), (e) through (h), and (j),” and “§817.102(a)(1) and (2)” shall be replaced by “K.A.R. 47-9-1(d)(33).”

(YYY) “§817.106” shall be replaced by “K.A.R. 47-9-1(d)(34).”

(ZZZ) “§817.111” and “§817.111(b)” shall be replaced by “K.A.R. 47-9-1(d)(35).”

(AAAA) “§817.116” shall be replaced by “K.A.R. 47-9-1(d)(38).”

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(BBBB) “§817.121(a) and (c) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(39).”

(CCCC) “§817.150” shall be replaced by “K.A.R. 47-9-1(d)(44).”

(DDDD) “§823.12(c)(2)” and “§823.12(c)(1)” shall be replaced by “K.A.R. 47-9-1(f)(3).”

(EEEE) “§823.14(b)” shall be replaced by “K.A.R. 47-9-1(f)(4).”

(FFFF) “§827.12” shall be replaced by “K.A.R. 47-9-1(g)(2).”

(GGGG) “§827.13 of this part” shall be replaced by “K.A.R. 47-9-1(g)(3).”

(HHHH) “§§773.17(e) and 784.14(g) of this chapter” shall be replaced by “K.A.R. 47-6-6(a) and K.A.R. 47-10-1(a)(2)(E).”

(IIII) “§§773.17(e) and 780.21(h) of this chapter” shall be replaced by “K.A.R. 47-6-6(a) and K.A.R. 47-3-42(a)(48).”

(JJJJ) “§§780.21 and 780.22 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(48) and (49).”

(KKKK) “§§780.21 and 784.14 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(48) and K.A.R. 47-10-1(a)(2)(E).”

(LLLL) “§§780.21 and 784.22 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(48) and K.A.R. 47-10-1(a)(2)(M).”

(MMMM) “§§780.28 and 816.57 of this chapter” shall be replaced by “K.A.R. 47-3-42(a)(53) and K.A.R. 47-9-1(c)(14).”

(NNNN) “§§784.28 and 817.57 of this chapter” shall be replaced by “K.A.R. 47-10-1

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(a)(2)(R) and K.A.R. 47-9-1(d)(14)."

(OOOO) "§§816.13 through 816.15 of this chapter" and "§§816.13 to 816.15" shall be replaced by "K.A.R. 47-9-1(c)(2) through (4)."

(PPPP) "§§816.22, 816.100, 816.102, 816.104, 816.106, 816.111, 816.113, 816.114, 816.116, and 816.133 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(5), (33), (35), (36), (38), (39), (40), (41), (42), and (45)."

(QQQQ) "§§816.22 and 816.111 through 816.116 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(5) and (39) through (42)."

(RRRR) "§§816.41 and 816.42 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(6) and (7)."

(SSSS) "§§816.41 through 816.43 and 816.57 of this chapter" and "§816.41 through 816.43 and 816.57 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(6) through (8) and (14)."

(TTTT) "§§816.41 through 816.49 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(6) through (12)."

(UUUU) "§§816.49 and 816.56" and "§§816.49 and 816.56 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(12) and (13)."

(VVVV) "§§816.71 through 816.74," "§§816.71 through 816.74 of this part," and "§§816.71- 816.74 of this chapter" shall be replaced by "K.A.R. 47-9-1(c)(22) through (23)."

(WWWW) "§§816.81 and 816.83" shall be replaced by "K.A.R. 47-9-1(c)(25) and (26)."

(XXXX) "§§816.81, 816.83, 816.84, 816.87, 816.89, and 816.71 through 816.74 of this

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chapter” shall be replaced by “K.A.R. 47-9-1(c)(22), (23), (25), (26), (27), (28), and (29).”

(YYYY) “§§816.81(a), 816.83(a), and 816.84 of this part” shall be replaced by “K.A.R. 47-9-1(c)(25), (26), and (27).”

(ZZZZ) “§§816.102 and 816.104 through 816.106 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(35) and (36) through (38).”

(AAAAA) “§§816.102 through 816.107 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(35) through (38).”

(BBBBB) “§§816.111, 816.113, 816.114, and 816.116 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(39), (40), (41), and (42).”

(CCCCC) “§§816.111 through 816.116 of this chapter” and “§§816.111 through 816.116” shall be replaced by “K.A.R. 47-9-1(c)(39) through (42).”

(DDDDD) “§§816.131 and 816.132 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(43) and (44).”

(EEEE) “§§816.150 and 816.151 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(46) and (47).”

(FFFF) “§§816.150, 816.151, and 816.181 of this part” shall be replaced by “K.A.R. 47-9-1(c)(46), (47), and (49).”

(GGGG) “§§816.150(b) through (f), 816.180, and 816.181 of this chapter” shall be replaced by “K.A.R. 47-9-1(c)(46), (48), and (49).”

(HHHH) “§§817.13 and 817.15” shall be replaced by “K.A.R. 47-9-1(d)(2) and (4).”

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(IIIII) “§§817.13 to 817.15” shall be replaced by “K.A.R. 47-9-1(d)(2) to (4).”

(JJJJJ) “§§817.22 and 817.111 through 817.116 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(5) and (35) through (38).”

(KKKKK) “§§817.41 through 817.43 and 817.57 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(6) through (8) and (14).”

(LLLLL) “§§817.49 and 817.56” shall be replaced by “K.A.R. 47-9-1(d)(12) and (13).”

(MMMMM) “§§817.71 through 817.74” and “§§817.71 through 817.74 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(22) and (23).”

(NNNNN) “§§817.81 and 817.83” shall be replaced by “K.A.R. 47-9-1(d)(24) and (25).”

(OOOOO) “§§817.81(a), 817.83(a), and 817.84 of this part” shall be replaced by “K.A.R. 47-9-1(d)(24), (25), and (26).”

(PPPPP) “§§817.102 through 817.107 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(33) and (34).”

(QQQQQ) “§§817.111, 817.113, 817.114, and 817.116 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(35), (36), (37), and (38).”

(RRRRR) “§§817.111 through 817.116 of this chapter” and “§§817.111 through 817.116” shall be replaced by “K.A.R. 47-9-1(d)(35) through (38).”

(SSSSS) “§§817.150, 817.151, and 817.181 of this part” shall be replaced by “K.A.R. 47-9-1(d)(44), (45), and (47).” (Authorized by K.S.A. 49-405; implementing K.S.A. 49-405, K.S.A. 2017 Supp. 49-408, and K.S.A. 49-409, 49-411, 49-413, 49-415, and 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended May 1, 1981; amended May 1, 1985; amended

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May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended P-_____.)

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47-9-4. Interim performance standards; adoption by reference. (a) The following regulations as in effect on July 1, ~~2001~~ 2012 are adopted by reference, except as ~~indicated~~ specified in this regulation:

(1) Definitions, 30 ~~CFR~~ C.F.R. 710.5; ~~except that in subsection (2)(i), the word "Act" shall refer to the federal government's surface mining control and reclamation act;~~

(2) applicability, 30 ~~CFR~~ C.F.R. 710.11(a), deleting subsection (a)(1) and the phrase "except as provided in §710.12 of this part";

(3) signs and markers, 30 ~~CFR~~ C.F.R. 715.12;

(4) postmining use of land, 30 ~~CFR~~ C.F.R. 715.13, deleting the last second sentence in (d);

(5) backfilling and grading, 30 ~~CFR~~ C.F.R. 715.14, deleting subsections (b)(3) and (c);

(6) disposal of excess spoil, 30 ~~CFR~~ C.F.R. 715.15, deleting subsection (c);

(7) topsoil handling, 30 ~~CFR~~ C.F.R. 715.16;

(8) protection of the hydrologic system, 30 ~~CFR~~ C.F.R. 715.17, deleting subsection (j);

(9) dams constructed of or impounding waste material, 30 ~~CFR~~ C.F.R. 715.18;

(10) revegetation, 30 ~~CFR~~ C.F.R. 715.20;

(11) interpretative rules related to general performance standards, 30 ~~CFR~~ C.F.R. 715.200; and

(12) prime farmland, 30 ~~CFR~~ C.F.R. 716.7.

(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 federal regulations adopted by reference in this regulation:

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(1) "[T]his part," "§716.2 of this chapter," "part 715 of this chapter," "this section," and "this chapter" shall be replaced by "these regulations."

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

(3) "[S]ubchapter B of this chapter" shall be replaced by "K.A.R. 47-9-4."

(4) "Subchapter K of this chapter" shall be replaced by "K.A.R. 47-9-1."

(5) "§715.17," "§715.17 of this part," "§715.17(a)," and "§715.17(c)" shall be replaced by "K.A.R. 47-9-4(a)(8)."

(6) "§715.16," "§715.16(e)," "§715.16(a)(4)," and "30 CFR 715.16(a)(4)(i)" shall be replaced by "K.A.R. 47-9-4(a)(7)."

(7) "§715.13" shall be replaced by "K.A.R. 47-9-4(a)(4)."

(8) "§715.20" and "§715.20(g)" shall be replaced by "K.A.R. 47-9-4(a)(10)."

(9) "§715.14," "§715.14(b)(2)," and "§715.14(j)" shall be replaced by "K.A.R. 47-9-4(a)(5)."

(10) "§§715.14 and 715.20" shall be replaced by "K.A.R. 47-9-4(a)(5) and (10)."

(11) "§715.12" shall be replaced by "K.A.R. 47-9-4(a)(3)."

(12) "§§715.14, 715.16, and 715.20" shall be replaced by "K.A.R. 47-9-4(a)(5), (7), and (10)."

(13) "§715.18" shall be replaced by "K.A.R. 47-9-4(a)(9)."

(14) "§§715.13 and 715.14" shall be replaced by "K.A.R. 47-9-4(a)(4) and (5)."

(15) "§716.7" shall be replaced by "K.A.R. 47-9-4(a)(12)."

(16) "§715.15 of this part" shall be replaced by "K.A.R. 47-9-4(a)(6)."

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

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

(C) "Subchapter K of this chapter" shall be replaced by "K.A.R. 47-9-1."

(D) "This part," "§716.2 of this chapter," "part 715 of this chapter," "this section," and "this chapter" shall be replaced by "these regulations."

(2)(A) "§715.12" shall be replaced by "K.A.R. 47-9-4(a)(3)."

(B) "§715.13" shall be replaced by "K.A.R. 47-9-4(a)(4)."

(C) "§715.14," "§715.14(b)(2)," and "§715.14(j)" shall be replaced by "K.A.R. 47-9-4(a)(5)."

(D) "§715.15 of this part" shall be replaced by "K.A.R. 47-9-4(a)(6)."

(E) "§715.16," "§715.16(c)," "§715.16(a)(4)," and "30 CFR 715.16(a)(4)(i)" shall be replaced by "K.A.R. 47-9-4(a)(7)."

(F) "§715.17," "§715.17 of this part," "§715.17(a)," and "§715.17(c)" shall be replaced by "K.A.R. 47-9-4(a)(8)."

(G) "§715.18" shall be replaced by "K.A.R. 47-9-4(a)(9)."

(H) "§715.20" and "§715.20(g)" shall be replaced by "K.A.R. 47-9-4(a)(10)."

(I) "§716.7" shall be replaced by "K.A.R. 47-9-4(a)(12)."

(J) "§§715.13 and 715.14" shall be replaced by "K.A.R. 47-9-4(a)(4) and (5)."

(K) "§§715.14 and 715.20" shall be replaced by "K.A.R. 47-9-4(a)(5) and (10)."

(L) "§§715.14, 715.16, and 715.20" shall be replaced by "K.A.R. 47-9-4(a)(5), (7), and (10)."



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(c) Each operator shall comply with the interim performance standards in an interim permit area, unless the secretary has approved, in writing, that operator's request to adhere to an applicable permanent program performance standard or other applicable substantive regulation.

(Authorized by and implementing K.S.A. 49-405; effective May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P- _____.)

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47-10-1. Adoption by reference; underground mining. (a) The following federal regulations, as in effect on July 1, ~~2001~~ 2012, are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

(1) Underground mining permit applications -- minimum requirements for information on environmental resources, 30 ~~CFR~~ C.F.R. Part 783:

- (A) Responsibilities, 30 ~~CFR~~ C.F.R. 783.4;
- (B) general requirements, 30 ~~CFR~~ C.F.R. 783.11;
- (C) general environmental resources information, 30 ~~CFR~~ C.F.R. 783.12;
- (D) climatological information, 30 ~~CFR~~ C.F.R. 783.18;
- (E) vegetation information, 30 ~~CFR~~ C.F.R. 783.19;
- (F) soil resources information, 30 ~~CFR~~ C.F.R. 783.21;
- (G) maps: general requirements, 30 ~~CFR~~ C.F.R. 783.24; and
- (H) cross sections, maps, and plans, 30 ~~CFR~~ C.F.R. 783.25;

(2) underground mining permit applications -- minimum requirements for reclamation and operation plan, 30 ~~CFR~~ C.F.R. Part 784:

- (A) Responsibilities, 30 ~~CFR~~ C.F.R. 784.4;
- (B) operation plan: general requirements, 30 ~~CFR~~ C.F.R. 784.11;
- (C) operation plan: existing structures, 30 ~~CFR~~ C.F.R. 784.12;
- (D) reclamation plan: general requirements, 30 ~~CFR~~ C.F.R. 784.13;
- (E) hydrologic information, 30 ~~CFR~~ C.F.R. 784.14;
- (F) reclamation plan: land use information, 30 ~~CFR~~ C.F.R. 784.15;
- (G) reclamation plan: siltation structures, impoundments, ~~banks, dams, and~~

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~~embankments refuse piles~~, 30 ~~CFR~~ C.F.R. 784.16;

(H) protection of ~~publie~~ publicly owned parks and historic places, 30 ~~CFR~~ C.F.R. 784.17;

(I) relocation or use of public roads, 30 ~~CFR~~ C.F.R. 784.18;

(J) ~~underground development waste~~ disposal of excess spoil, 30 ~~CFR~~ C.F.R. 784.19;

(K) subsidence control plan, 30 ~~CFR~~ C.F.R. 784.20, deleting the phrase “as described in §817.121(c)(4) of this chapter”;

(L) fish and wildlife information, 30 ~~CFR~~ C.F.R. 784.21;

(M) geologic information, 30 ~~CFR~~ C.F.R. 784.22;

(N) operation plan: maps and plans, 30 ~~CFR~~ C.F.R. 784.23;

(O) road systems, 30 ~~CFR~~ C.F.R. 784.24;

(P) return of coal processing waste to abandoned underground workings, 30 ~~CFR~~ C.F.R. 784.25;

(Q) air pollution control plan, 30 ~~CFR~~ C.F.R. 784.26;

(R) surface activities in or adjacent to perennial or intermittent streams, 30 ~~C.F.R.~~ 784.28;

(S) diversions, 30 ~~CFR~~ C.F.R. 784.29;

~~(S)~~ (T) support facilities, 30 ~~CFR~~ C.F.R. 784.30; and

~~(T)~~ (U) interpretive rules related to general performance standards, 30 ~~CFR~~ C.F.R. 784.200; except that “office of surface mining reclamation and enforcement” shall be replaced by “Kansas department of health and environment.”

(b) The following phrases and citations shall be replaced with the phrases and citations

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specified in this subsection wherever the phrases and citations appear in the text of the federal regulations adopted by reference in this regulation:

(1) ~~“[S]ubchapter K of this chapter” and “subchapter K (Permanent Program Standards) of this chapter” shall be replaced by “K.A.R. 47-9-1.”~~

(2) ~~“[S]ubchapter B (Interim Program Standards) of this chapter” shall be replaced by “K.A.R. 47-9-4.”~~

(3) ~~“[S]ections 515 and 516 of the Act” shall be replaced by “K.S.A. 49-405a, 49-408 through 49-413, and 49-429.”~~

(4) ~~“[S]ubchapter J of this chapter” shall be replaced by “article 8 of these regulations.”~~

(5) ~~“[T]his chapter,” “this section,” “subchapter,” and “this part” shall be replaced by “these regulations.”~~

(6) ~~“30 CFR Parts 773 and 775” shall be replaced by “K.A.R. 47-3-42(a)(46) through (64), K.A.R. 47-6-6, K.S.A. 49-407(d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations.”~~

(7) ~~“30 CFR 784.21” shall be replaced by “K.A.R. 47-10-1(a)(2)(L).”~~

(8) ~~“30 CFR 817.22,” “§817.22 of the chapter,” and “§817.22(b) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(5).”~~

(9) ~~“§817.133,” “30 CFR 817.133,” and “§817.133(a)” shall be replaced by “K.A.R. 47-9-1(d)(43).”~~

(10) ~~“30 CFR 784.13 through 784.26” shall be replaced by “K.A.R. 47-10-1(a)(2)(D) through (Q).”~~

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(11) ~~"30 CFR 817.102 through 817.107"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(33) and (34)."~~

(12) ~~"30 CFR 817.111 through 817.116"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(35) and (38)."~~

(13) ~~"30 CFR 817.116"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(38)."~~

(14) ~~"30 CFR 817.59"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(15)."~~

(15) ~~"30 CFR 817.89 and 817.102"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(28) and (33)."~~

(16) ~~"30 CFR 817.13-817.15"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(2) and (4)."~~

(17) ~~"[P]art 817 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)."~~

(18) ~~"§§817.41 to 817.43"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(6) through (8)."~~

(19) ~~"§§817.81 through 817.84 of this chapter"~~ and ~~"30 CFR 817.81 through 817.84"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(24) through (26)."~~

(20) ~~"§761.16 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-12-4(a)(6)."~~

(21) ~~"§761.17(d) of this chapter"~~ shall be replaced by ~~"K.A.R. 47-12-4(a)(7)."~~

(22) ~~"§761.14 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-12-4(a)(4)."~~

(23) ~~"30 CFR 817.71 through 817.74"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(22) and (23)."~~

(24) ~~"30 CFR 780.35"~~ shall be replaced by ~~"K.A.R. 47-3-42(a)(36)."~~

(25) ~~"§817.121(c) of this chapter"~~ and ~~"§817.121 of this chapter"~~ shall be replaced by ~~"K.A.R. 47-9-1(d)(39)."~~

(26) ~~"§§817.41(j) and 817.121(e) of this chapter"~~ shall be replaced by ~~"K.A.R.~~

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47-9-1(d)(6) and (39)."

(27) "~~§817.97 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(30)~~."

(28) "~~§784.20~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(K)~~."

(29) "~~§783.25 of this chapter~~" shall be replaced by "~~K.A.R. 47-10-1(a)(1)(H)~~."

(30) "~~30 CFR 783.24 and 783.25~~" shall be replaced by "~~K.A.R. 47-10-1(a)(1)(G) and (H)~~."

(31) "~~§784.15~~" and "~~§784.15(a)(2)~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(F)~~."

(32) "~~30 CFR 784.16~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(G)~~."

(33) "~~30 CFR 784.19~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(J)~~."

(34) "~~§§784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b), 817.73(e), 817.74(e), and 817.81(e) of this chapter~~" shall be replaced by "~~K.A.R. 47-10-1(a)(2)(G) and (J), and K.A.R. 47-9-1(d)(22), (23), and (24)~~."

(35) "~~§701.5 of this chapter~~" shall be replaced by "~~K.A.R. 47-2-75(b)~~."

(36) "~~§817.150(d)(1) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(44)~~."

(37) "~~§817.151(e)(2) of this chapter,~~" "~~§817.151(d)(5) of this chapter,~~" "~~§817.151(d)(6) of this chapter,~~" and "~~§817.151(b) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(45)~~."

(38) "~~30 CFR 817.81(f)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(24)~~."

(39) "~~30 CFR 817.95~~" shall be replaced by "~~K.A.R. 47-9-1(d)(29)~~."

(40) "~~30 CFR 817.81(f)~~" shall be replaced by "~~K.A.R. 47-9-1(d)(24)~~."

(41) "~~§817.43 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(8)~~."

(42) "~~§817.181 of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1(d)(47)~~."

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(43) “[P]art 784 of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2).”

(44) “§774.13” shall be replaced by “K.A.R. 47-6-2.”

(45) “§817.49 of this chapter” and “§817.49(a)(4)(ii) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(12).”

(46) “§817.46 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(10).”

(1)(A) “Paragraphs (b)(2) through (b)(4) of §817.57 of this chapter,” “paragraphs (b) and (c) of §817.57 of this chapter,” “§817.57(a)(1) of this chapter,” “§817.57(a)(2) of this chapter,” and “§817.57(a)(2) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(14).”

(B) “Subchapter B (Interim Program Standards) of this chapter” shall be replaced by “K.A.R. 47-9-4.”

(C) “Subchapter J of this chapter” shall be replaced by “article 8 of these regulations.”

(D) “Subchapter K of this chapter” and “subchapter K (Permanent Program Standards) of this chapter” shall be replaced by “K.A.R. 47-9-1.”

(E) “This chapter,” “this section,” “subchapter,” “subchapter G of this chapter,” and “this part” shall be replaced by “these regulations.”

(F) “This title” shall be replaced by “the 30 CFR.”

(2)(A) “Part 784 of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2).”

(B) “Part 817 of this chapter” shall be replaced by “K.A.R. 47-9-1(d).”

(C) “Sections 515 and 516 of the Act” shall be replaced by “K.S.A. 49-405a, 49-408 through 49-413, and 49-429.”

(3)(A) “30 CFR Parts 773 and 775” shall be replaced by “K.A.R. 47-3-42(a)(2)

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through (20), K.A.R. 47-6-6, K.S.A. 49-407(d), K.S.A. 49-416a, and K.S.A. 49-422a, and amendments thereto, and article 4 of these regulations.”

(B) “30 CFR 783.24 and 783.25” shall be replaced by “K.A.R. 47-10-1(a)(1)(G) and (H).”

(C) “30 CFR 784.13 through 784.26” shall be replaced by “K.A.R. 47-10-1(a)(2)(D) through (Q).”

(D) “30 CFR 784.16 of this part” shall be replaced by “K.A.R. 47-10-1(a)(2)(G).”

(E) “30 CFR 784.19 of this part” shall be replaced by “K.A.R. 47-10-1(a)(2)(J).”

(F) “30 CFR 784.21” shall be replaced by “K.A.R. 47-10-1(a)(2)(L).”

(G) “30 CFR 817.13-817.15” shall be replaced by “K.A.R. 47-9-1(d)(2) and (4).”

(H) “30 CFR 817.22,” “§817.22 of the chapter,” and “§817.22(b) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(5).”

(I) “30 CFR 817.59” and “§817.59 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(15).”

(J) “30 CFR 817.81(f)” shall be replaced by “K.A.R. 47-9-1(d)(24).”

(K) “30 CFR 817.89 and 817.102” shall be replaced by “K.A.R. 47-9-1(d)(28) and (33).”

(L) “30 CFR 817.95” shall be replaced by “K.A.R. 47-9-1(d)(29).”

(M) “30 CFR 817.102 through 817.107” shall be replaced by “K.A.R. 47-9-1(d)(33) and (34).”

(N) “30 CFR 817.111 through 817.116” shall be replaced by “K.A.R. 47-9-1(d)(35) through (38).”

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- (O) "30 CFR 817.116" shall be replaced by "K.A.R. 47-9-1(d)(38)."
- (4)(A) "\$701.5 of this chapter" shall be replaced by "K.A.R. 47-2-75(b)."
- (B) "\$761.14 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(4)."
- (C) "\$761.16 of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(6)."
- (D) "\$761.17(d) of this chapter" shall be replaced by "K.A.R. 47-12-4(a)(7)."
- (E) "\$774.13" shall be replaced by "K.A.R. 47-6-2."
- (F) "\$783.25 of this chapter" shall be replaced by "K.A.R. 47-10-1(a)(1)(H)."
- (G) "\$784.15" and "\$784.15(a)(2)" shall be replaced by "K.A.R. 47-10-1(a)(2)(F)."
- (H) "\$784.20" shall be replaced by "K.A.R. 47-10-1(a)(2)(K)."
- (I) "\$784.29 of this part and §817.43 of this chapter" shall be replaced by "K.A.R. 47-10-1(a)(2)(S) and K.A.R. 47-9-1(d)(8)."
- (J) "\$785.21 of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(64)."
- (K) "\$817.43 of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(8)."
- (L) "\$817.46 of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(10)."
- (M) "\$817.49 of this chapter," "paragraphs (a) and (c) of §817.49 of this chapter," and "\$817.49(a)(4)(ii) of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(12)."
- (N) "\$817.71(d) of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(22)."
- (O) "\$817.74 of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(23)."
- (P) "\$817.97 of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(30)."
- (Q) "\$817.121(c) of this chapter" and "\$817.121 of this chapter" shall be replaced by "K.A.R. 47-9-1(d)(39)."

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(R) “§817.133.” “30 CFR 817.133.” and “§817.133(a)” shall be replaced by “K.A.R. 47-9-1(d)(43).”

(S) “§817.150(d)(1) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(44).”

(T) “§817.151(c)(2) of this chapter,” “§817.151(d)(5) of this chapter,” “§817.151(d)(6) of this chapter,” and “§817.151(b) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(45).”

(U) “§817.181 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(47).”

(V) “§§784.14(g) and 817.41(d)(1) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(E) and K.A.R. 47-9-1(d)(6).”

(W) “§§784.16(a)(2), 784.16(a)(3), 784.19, 817.73(c), 817.74(c), and 817.81(c) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(G) and (J), and K.A.R. 47-9-1(d)(22), (23), and (24).”

(X) “§§784.21(b) and 817.97(a) of this chapter” shall be replaced by “K.A.R. 47-10-1(a)(2)(L) and K.A.R. 47-9-1(d)(30).”

(Y) “§§817.41 to 817.43” shall be replaced by “K.A.R. 47-9-1(d)(6) through (8).”

(Z) “§§817.41(j) and 817.121(c) of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(6) and (39).”

(AA) “§§817.71 through 817.74” shall be replaced by “K.A.R. 47-9-1(d)(22) and (23).”

(BB) “§§817.81 and 817.83 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(24) and (25).”

(CC) “§§817.81 and 817.84 of this chapter” shall be replaced by “K.A.R. 47-9-1(d)(24) and (26).”

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(DD) “§§817.81 through 817.84 of this chapter” and “30 CFR 817.81 through 817.84”
shall be replaced by “K.A.R. 47-9-1(d)(24) through (26).” (Authorized by K.S.A. 49-405;
implementing K.S.A. 49-429; effective May 1, 1980; amended, E-81-30, Oct. 8, 1980; amended
May 1, 1981; amended May 1, 1986; amended May 1, 1988; amended Feb. 11, 1991; amended
May 2, 1997; amended Dec. 1, 2006; amended P-_____.)

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47-11-8. Small operator assistance program; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

- (1) Definitions, 30 ~~CFR~~ C.F.R. 795.3;
- (2) eligibility for assistance, 30 ~~CFR~~ C.F.R. 795.6, deleting subsection (b);
- (3) filing for assistance, 30 ~~CFR~~ C.F.R. 795.7;
- (4) application approval and notice, 30 ~~CFR~~ C.F.R. 795.8;
- (5) program services and data requirements, 30 ~~CFR~~ C.F.R. 795.9;
- (6) qualified laboratories, 30 ~~CFR~~ C.F.R. 795.10;
- (7) assistance funding, 30 ~~CFR~~ C.F.R. 795.11; and
- (8) applicant liability, 30 ~~CFR~~ C.F.R. 795.12.

(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) "~~Act~~" shall be replaced by "~~state act~~."
- (2) "~~[T]his chapter~~" and "~~this section~~" shall be replaced by "~~these regulations~~."
- (3) "~~This part~~" shall be replaced by "~~K.A.R. 47-11-8~~."
- (4) "~~§795.9~~" and "~~§795.9(b)~~" shall be replaced by "~~K.A.R. 47-11-8(a)(5)~~."
- (5) "~~§795.10~~" shall be replaced by "~~K.A.R. 47-11-8(a)(6)~~."
- (6) "~~§795.6~~" shall be replaced by "~~K.A.R. 47-11-8(a)(2)~~."
- (7) "~~§§780.21(f), 784.14(e)~~" shall be replaced by "~~K.A.R. 47-3-42(a)(28) and K.A.R. 47-~~

~~10-1(a)(2)(E)~~"

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(8) "~~§§780.22(b) and 784.22(b)~~" shall be replaced by "K.A.R. 47-3-42(a)(29) and K.A.R. 47-10-1(a)(2)(M)."

(9) "~~§§779.25 and 783.25~~" shall be replaced by "K.A.R. 47-3-42(a)(19) and K.A.R. 47-10-1(a)(1)(H)."

(10) "~~§§779.12(b) and 783.12(b) and §§780.31 and 784.17~~" shall be replaced by "K.A.R. 47-3-42(a)(14) and K.A.R. 47-10-1(a)(1)(C) and K.A.R. 47-3-42(a)(34) and K.A.R. 47-10-1(a)(2)(H)."

(11) "~~§§780.16 and 784.21~~" shall be replaced by "K.A.R. 47-3-42(a)(26) and K.A.R. 47-10-1(a)(2)(L)."

(12) "~~§780.13~~" shall be replaced by "K.A.R. 47-3-42(a)(23)."

(13) "~~§773.6(d) of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(46)."

(14) "~~§§780.21, 780.22, 784.14, and 784.22~~" shall be replaced by "K.A.R. 47-3-42(a)(28) and (29), and K.A.R. 47-10-1(a)(2)(E) and (M)."

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

(B) "This chapter" and "this section" shall be replaced by "these regulations."

(C) "This part" shall be replaced by "K.A.R. 47-11-8."

(2)(A) "§773.6(d) of this chapter" shall be replaced by "K.A.R. 47-3-42(a)(2)."

(B) "§780.13" shall be replaced by "K.A.R. 47-3-42(a)(43)."

(C) "§795.6" shall be replaced by "K.A.R. 47-11-8(a)(2)."

(D) "§795.9" and "§795.9(b)" shall be replaced by "K.A.R. 47-11-8(a)(5)."

(E) "§795.10" shall be replaced by "K.A.R. 47-11-8(a)(6)."

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(F) "§§779.12(b) and 783.12(b) and §§780.31 and 784.17" shall be replaced by "K.A.R. 47-3-42(a)(34) and K.A.R. 47-10-1(a)(1)(C) and K.A.R. 47-3-42(a)(55) and K.A.R. 47-10-1(a)(2)(H)."

(G) "§§779.25 and 783.25" shall be replaced by "K.A.R. 47-3-42(a)(39) and K.A.R. 47-10-1(a)(1)(H)."

(H) "§§780.16 and 784.21" shall be replaced by "K.A.R. 47-3-42(a)(46) and K.A.R. 47-10-1(a)(2)(L)."

(I) "§§780.21, 780.22, 784.14, and 784.22" shall be replaced by "K.A.R. 47-3-42(a)(48) and (49), and K.A.R. 47-10-1(a)(2)(E) and (M)."

(J) "§§780.21(f), 784.14(e)" shall be replaced by "K.A.R. 47-3-42(a)(48) and K.A.R. 47-10-1(a)(2)(E)."

(K) "§§780.22(b) and 784.22(b)" shall be replaced by "K.A.R. 47-3-42(a)(49) and K.A.R. 47-10-1(a)(2)(M)." (Authorized by K.S.A. 49-405; implementing K.S.A. 2017 Supp. 49-406; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended

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47-12-4. Lands unsuitable for surface mining; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

(1) Definitions, 30 ~~CFR~~ 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 ~~is~~ operations are prohibited or limited, 30 ~~CFR~~ C.F.R. 761.11, deleting subsection (b);

(3) ~~procedures~~ exception for existing operations, 30 ~~CFR~~ 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 ~~for~~ of a public roads road, 30 ~~CFR~~ 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 ~~CFR~~ C.F.R. 761.15;

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

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

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

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

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

(11) additional criteria, 30 ~~CFR~~ 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 ~~CFR~~ C.F.R. 762.13;

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

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

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

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

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

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

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

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

(21) regulatory authority responsibility for implementation, 30 ~~CFR~~ 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:

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(1) "~~§§ 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.~~"

(2) "~~[S]ections 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) "~~[T]his chapter~~" shall be replaced by "~~these regulations.~~"

(4) "~~[S]ection 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.~~"

(5) "~~[S]ection 522 of the Act~~" and "~~section 522(e) of the Act~~" shall be replaced by "~~K.S.A. 49-405b, and amendments thereto.~~"

(6) "~~[S]ection 701(28) of the act~~" shall be replaced by "~~K.S.A. 49-403(r), and amendments thereto.~~"

(7) "~~[P]art 761, 762, or 764 of this chapter~~" shall be replaced by "~~K.A.R. 47-12-4.~~"

(8) "~~[P]art 772 of this chapter~~" shall be replaced by "~~K.A.R. 47-7-2.~~"

(9) "~~Act~~" shall be replaced by "~~state act.~~"

(10) "~~[T]his part~~" and "~~this subchapter~~" shall be replaced by "~~K.A.R. 47-12-4.~~"

(11) "~~[S]ubchapter 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.~~"

(12) "~~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).~~"

(13) "~~§ 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.~~"

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(14) "~~§761.11 or 30 U.S.C. 1272(e)~~" shall be replaced by "K.A.R. 47-12-4(a)(2) or K.S.A. 49-405b and 49-406(f), and amendments thereto."

(15) "~~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)."

(16) "~~[S]ection 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)."

(17) "~~§779.24(c) or §783.24(c)~~" shall be replaced by "K.A.R. 47-3-42(a)(18) or K.A.R. 47-10-1(a)(1)(G)."

(18) "~~§700.5 of this chapter~~" shall be replaced by "K.A.R. 47-2-75(a)."

(19) "~~Federal Register~~" shall be replaced by "Kansas Register."

(20) "~~§773.13(d) of this chapter~~" shall be replaced by "K.A.R. 47-3-42(a)(53)."

(21) "~~§840.14 or §842.16 of this chapter~~" shall be replaced by "K.A.R. 47-15-1a(a)(2)."

(22) "~~§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)."

(23) "~~§761.12~~" shall be replaced by "K.A.R. 47-12-4(a)(3)."

(24) "~~§761.16~~" shall be replaced by "K.A.R. 47-12-4(a)(6)."

(25) "~~§761.17(d)~~" shall be replaced by "K.A.R. 47-12-4(a)(7)."

(26) "~~§761.14~~" shall be replaced by "K.A.R. 47-12-4(a)(4)."

(27) "~~§761.15~~" shall be replaced by "K.A.R. 47-12-4(a)(5)."

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

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~~(29) “§761.5” shall be replaced by “K.A.R. 47-12-4(a)(1).”~~

~~(30) “§§761.13 through 761.15” shall be replaced by “K.A.R. 47-12-4(a)(4) and (5).”~~

~~(31) “[P]arts 764 and 769 of this chapter shall be replaced by “K.A.R. 47-12-4(a)(15) through (21).”~~

~~(32) “§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).”~~

~~(33) “§764.13(b) or (c)” and “§764.13(a)” shall be replaced by “K.A.R. 47-12-4(a)(15).”~~

~~(34) “§764.17” and “§764.17(e)” shall be replaced by “K.A.R. 47-12-4(a)(17).”~~

~~(35) “§764.21” shall be replaced by “K.A.R. 47-12-4(a)(19).”~~

(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.

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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).”

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(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).”



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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. 2017 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 P-_____.)

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47-13-4. Training and certification of blasters; adoption by reference. (a) The following portions of the "permanent regulatory program performance standards requirements--standards for certification of blasters," ~~CFR 30 C.F.R.~~ part 850, as in effect on July 1, ~~2004~~ 2012, are hereby adopted by reference ~~and altered, except~~ as specified in this regulation:

(1) ~~Definitions~~ Definition, 30 ~~CFR C.F.R.~~ 850.5;

(2) training, 30 ~~CFR C.F.R.~~ 850.13;

(3) examination, 30 ~~CFR C.F.R.~~ 850.14, except that for the purposes of this section only, the term "regulatory authority" shall be replaced by "secretary-approved blaster training program director"; and

(4) certification, 30 ~~CFR C.F.R.~~ 850.15, except that for the purposes of 30 ~~CFR C.F.R.~~ 850.15(a) only, "regulatory authority" shall be replaced by "state fire marshal."

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

(1) "~~§850.13(b)~~" shall be replaced by "K.A.R. 47-13-4(a)(2)."

(2) "~~[T]his part~~" shall be replaced by "these regulations."

(1) "This part" shall be replaced by "these regulations."

(2) "§850.13(b)" shall be replaced by "K.A.R. 47-13-4(a)(2)."

(c) The term "secretary-approved blaster training program director" shall mean the person who is in charge of a given blaster training program that has been specifically approved by the secretary as being in accordance with the state act, ~~the~~ these regulations, and the state program. (Authorized by and implementing K.S.A. 49-405 and 49-405a; effective May 1, 1985;

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47-14-7. Employee financial interest; adoption by reference. (a) The following federal regulations, as in effect on July 1, ~~2004~~ 2012, are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

- (1) Responsibility, 30 ~~CFR~~ C.F.R. 705.4(a) and (c), deleting subsection (b);
- (2) penalties, 30 ~~CFR~~ C.F.R. 705.6(b), deleting subsection (a);
- (3) who shall file, 30 ~~CFR~~ C.F.R. 705.11(a), (b), (c), and (d), deleting subsection (e);
- (4) when to file, 30 ~~CFR~~ C.F.R. 705.13;
- (5) where to file, 30 ~~CFR~~ C.F.R. 705.15;
- (6) what to report, 30 ~~CFR~~ C.F.R. 705.17;
- (7) gifts and gratuities, 30 ~~CFR~~ C.F.R. 705.18;
- (8) resolving prohibited interests, 30 ~~CFR~~ C.F.R. 705.19(a), deleting subsection (b); and
- (9) appeals procedures, 30 ~~CFR~~ C.F.R. 705.21.

(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) ~~"Act" shall be replaced by the term "state act," except in 30 CFR 705.6(d), where the term "Act" shall mean "the surface mining control and reclamation act of 1977, Pub. L. 95-87."~~

(2) ~~"Head of each State Regulatory Authority" and "Head of the State Regulatory Authority" shall be replaced by the term "secretary of the Kansas department of health and environment."~~

(3) ~~"[T]his section" and "this part" shall be replaced by "these regulations."~~

(4) ~~"§705.11" and "§705.11(b), (c), and (d)" shall be replaced by "K.A.R. 47-14-7"~~

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(a)(3).”

(5) “§705.13(a)” shall be replaced by “K.A.R. 47-14-7(a)(4).”

(6) “§705.6(a)” shall be replaced by “K.S.A. 49-404.”

(7) “§705.19” shall be replaced by “K.A.R. 47-14-7(a)(8).”

(8) “[S]ection 517(g) of the Act” and “section 517(g)” shall be replaced by “K.S.A. 49-404, and amendments thereto.”

(1)(A) “Act” shall be replaced by the term “state act,” except in 30 C.F.R. 705.6(b), where the term “Act” shall mean “the surface mining control and reclamation act of 1977, Pub. L. 95-87.”

(B) “Head of each State Regulatory Authority” and “Head of the State Regulatory Authority” shall be replaced by the term “secretary of the Kansas department of health and environment.”

(C) “This section” and “this part” shall be replaced by “these regulations.”

(2) “Section 517(g) of the Act” and “section 517(g)” shall be replaced by “K.S.A. 49-404, and amendments thereto.”

(3)(A) “§705.6(a)” shall be replaced by “K.S.A. 49-404.”

(B) “§705.11” and “§705.11(b), (c), and (d)” shall be replaced by “K.A.R. 47-14-7(a)(3).”

(C) “§705.13(a)” shall be replaced by “K.A.R. 47-14-7(a)(4).”

(D) “§705.19” shall be replaced by “K.A.R. 47-14-7(a)(8).” (Authorized by K.S.A. 49-404; implementing K.S.A. 49-405; effective, E-81-30, Oct. 8, 1980; effective May 1, 1981;

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amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended

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47-15-1a. Inspection and enforcement; adoption by reference. (a) The following regulations as in effect on July 1, ~~2004~~ 2012 are adopted by reference, except as otherwise ~~indicated~~ specified in this regulation:

- (1) Inspections by state regulatory authority, 30 ~~CFR~~ C.F.R. 840.11;
- (2) availability of records, 30 ~~CFR~~ C.F.R. 840.14;
- (3) definitions, 30 ~~CFR~~ C.F.R. 843.5;
- (4) right of entry, 30 ~~CFR~~ C.F.R. 840.12;
- (5) compliance conference, 30 ~~CFR~~ C.F.R. 840.16;
- (6) review of adequacy and completeness of inspections, 30 ~~CFR~~ C.F.R. 842.14, except

that the phrase "director or his or her designee" shall be replaced by "secretary or secretary's designee";

(7) review of decision not to inspect or enforce, 30 ~~CFR~~ C.F.R. 842.15, except that "OSM" shall be replaced with "Kansas department of health and environment";

(8) cessation orders, 30 ~~CFR~~ C.F.R. 843.11;

(9) notices of violations, 30 ~~CFR~~ C.F.R. 843.12, except for the following:

(A) In subsection (a) of 30 ~~CFR~~ C.F.R. 843.12, the following phrase shall be deleted:

"carried out during the enforcement of a federal program or federal lands program or during federal enforcement of a state program under sections 504(b) or 521(b) of the act and part 733 of this chapter"; and

(B) paragraph (a)(2) of 30 ~~CFR~~ C.F.R. 843.12 shall be deleted;

(10) suspension or revocation of permits: pattern of violations, 30 ~~CFR~~ C.F.R. 843.13, except that the phrase "or a federal lands program" in paragraph (a)(4)(i)(A) of 30 ~~CFR~~

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C.F.R. 843.13 shall be deleted, and paragraphs (a)(4)(i)(B) and (C) of 30 ~~CFR~~ C.F.R. 843.13 shall be deleted;

(11) service of notices of violation, cessation orders, and show cause orders, 30 ~~CFR~~ C.F.R. 843.14, except that the phrase ~~“Office of Surface Mining office”~~ shall be replaced by ~~“Kansas Department of Health and Environment office”~~ first sentence in subsection (c) shall be deleted and, in the second sentence, the word “office” shall be replaced with “Kansas department of health and environment”;

(12) informal public hearings ~~hearing~~, 30 ~~CFR~~ C.F.R. 843.15. However, the following sentence in ~~paragraph~~ subsection (e) shall be deleted: “Section 554 of title 5 of the United States code, regarding requirements for formal adjudicatory hearings, shall not govern public hearings”;

(13) formal review of citations, 30 ~~CFR~~ C.F.R. 843.16; and

(14) inability to comply, 30 ~~CFR~~ C.F.R. 843.18; and

(15) compliance conference, 30 C.F.R. 843.20.

(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) ~~“Act”~~ shall be replaced by ~~“state act.”~~

(2) ~~“[T]his chapter,” “this part,” and “this section”~~ shall be replaced by ~~“these regulations.”~~

(3) ~~“Federal”~~ shall be replaced by ~~“state.”~~

(4) ~~“Office”~~ shall be replaced by ~~“secretary or secretary’s designee.”~~

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- (5) ~~"[D]irector" shall be replaced by "secretary."~~
- (6) ~~"43 CFR part 4" shall be replaced by "K.A.R. 47-4-14a."~~
- (7) ~~"Office of hearings and appeals" shall be replaced by "department."~~
- (8) ~~"30 CFR Part 845" and "part 845 of this chapter" shall be replaced by "article 5 of these regulations."~~
- (9) ~~"43 CFR 4.1281" shall be replaced by "K.A.R. 47-4-14a(a)(1)-(8)."~~
- (10) ~~"[S]ection 521(a)(5) of the Act and §843.15" shall be replaced by "K.S.A. 49-405(m)(4), and amendments thereto and K.A.R. 47-15-1a(a)(12)."~~
- (11) ~~"[S]ection 521(a)(2) of the Act" shall be replaced by "K.S.A. 49-405(m)(1), and amendments thereto."~~
- (12) ~~"[S]ection 517 of the Act and §842.11" shall be replaced by "K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-405d, and amendments thereto."~~
- (13) ~~"[S]ection 518(b), 521(a)(4), or 525 of the Act" shall be replaced by "K.S.A. 49-405e(b), K.S.A. 49-405(m)(3), or K.S.A. 49-416a, and amendments thereto."~~
- (14) ~~"§842.12" shall be replaced by "K.A.R. 47-15-7 and K.A.R. 47-15-8."~~
- (15) ~~"[S]ection 520 of the Act" shall be replaced by "K.S.A. 49-426, and amendments thereto."~~
- (16) ~~"[S]ection 525 of the Act" shall be replaced by "K.S.A. 49-416a, and amendments thereto."~~
- (17) ~~"Director" shall be replaced by "secretary."~~
- (18) ~~"30 CFR 843.15(e)" shall be replaced by the following: "An informal public hearing~~

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shall be conducted in accordance with ~~K.A.R. 47-4-14a.~~"

(19) "~~§816.131(b) or §817.131(b) of this chapter~~" shall be replaced by "~~K.A.R. 47-9-1 (e)(43) or (d)(41).~~"

(20) "~~§800.40 of this chapter~~" shall be replaced by "~~K.A.R. 47-8-9(a)(13).~~"

(21) "~~[S]ection 518(e), 518(f), 521(a)(4), or 521(c) of the Act or their regulatory program counterparts~~" shall be replaced by "~~K.S.A. 49-405c(e) and (f) and K.S.A. 49-405(m), and amendments thereto.~~"

(22) "~~§772.15 and 773.6(d) of this chapter~~" shall be replaced by "~~K.A.R. 47-7-2(a)(5) and K.A.R. 47-3-42(a)(46).~~"

(23) "~~§843.12(a)~~" and "~~§843.12(c) and (f)~~" shall be replaced by "~~K.A.R. 47-15-1a (a)(9).~~"

(24) "~~§701.5 of this chapter~~" shall be replaced by "~~K.A.R. 47-2-75(b).~~"

(25) "~~§843.11~~" and "~~§843.11(b)~~" shall be replaced by "~~K.A.R. 47-15-1a(a)(8).~~"

(26) "~~§845.15(b)(2) of this chapter~~" shall be replaced by "~~K.A.R. 47-5-5a(a)(5).~~"

(27) "~~[R]ule 4 of the Federal Rules of Civil Procedure~~" shall be replaced by "~~K.A.R. 47-4-14a.~~"

(28) "~~§843.13(c)~~" shall be replaced by "~~K.A.R. 47-15-1a(a)(10).~~"

(29) "~~[S]ection 517 of the Act and §840.11~~" shall be replaced by "~~K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-405d, and amendments thereto and K.A.R. 47-15-1a(a)(1).~~"

(30) "~~Freedom of Information Act or other Federal law~~" shall be replaced by "~~Kansas Open Records Act or other State law.~~"

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(31) "§842.12" shall be replaced by "K.A.R. 47-15-8."

(32) "§843.11 or §843.12" shall be replaced by "K.A.R. 47-15-1a(a)(8) and (9)."

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

(B) "Director" shall be replaced by "director of OSM."

(C) "Federal" shall be replaced by "state."

(D) "Freedom of Information Act or other Federal law" shall be replaced by "Kansas Open Records Act or other State law."

(E) "Office" shall be replaced by "secretary or secretary's designee."

(F) "Office of hearings and appeals" shall be replaced by "department."

(G) "Office of Surface Mining" shall be replaced by "Kansas department of health and environment."

(H) "Rule 4 of the Federal Rules of Civil Procedure" shall be replaced by "K.A.R. 47-4-14a."

(I) "Secretary" shall be replaced by "secretary of KDHE."

(J) "This chapter," "this part," and "this section" shall be replaced by "these regulations."

(2)(A) "Section 517 of the Act and §840.11" shall be replaced by "K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-405d, and amendments thereto, and K.A.R. 47-15-1a(a)(1)."

(B) "Section 517 of the Act and §842.11" shall be replaced by "K.S.A. 49-404, K.S.A. 49-405, and K.S.A. 49-405d, and amendments thereto."

(C) "Section 518(b), 521(a)(4), or 525 of the Act" shall be replaced by "K.S.A. 49-405c(b), K.S.A. 49-405(m)(3), or K.S.A. 49-416a and amendments thereto."

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(D) "Section 518(e), 518(f), 521(a)(4), or 521(c) of the Act or their regulatory program counterparts" shall be replaced by "K.S.A. 49-405c(e) and (f) and K.S.A. 49-405(m), and amendments thereto."

(E) "Section 520 of the Act" shall be replaced by "K.S.A. 49-426, and amendments thereto."

(F) "Section 521(a)(2) of the Act" shall be replaced by "K.S.A. 49-405(m)(1), and amendments thereto."

(G) "Section 521(a)(5) of the Act and §843.15" shall be replaced by "K.S.A. 49-405 (m)(4), and amendments thereto, and K.A.R. 47-15-1a(a)(12)."

(H) "Section 525 of the Act" shall be replaced by "K.S.A. 49-416a, and amendments thereto."

(3)(A) "30 CFR Part 845" and "part 845 of this chapter" shall be replaced by "article 5 of these regulations."

(B) "43 CFR part 4" shall be replaced by "K.A.R. 47-4-14a."

(C) "43 CFR 4.1281" shall be replaced by "K.A.R. 47-4-14a(a)(1)-(8)."

(4)(A) "§701.5 of this chapter" shall be replaced by "K.A.R. 47-2-75(b)."

(B) "§772.15 and 773.6(d) of this chapter" shall be replaced by "K.A.R. 47-7-2(a)(5) and K.A.R. 47-3-42(a)(2)."

(C) "§800.40 of this chapter" shall be replaced by "K.A.R. 47-8-9(a)(13)."

(D) "§816.131(b) or §817.131(b) of this chapter" shall be replaced by "K.A.R. 47-9-1 (c)(43) or (d)(41)."

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(E) “§842.12” shall be replaced by “K.A.R. 47-15-7 and K.A.R. 47-15-8.”

(F) “§843.11” and “§843.11(b)” shall be replaced by “K.A.R. 47-15-1a(a)(8).”

(G) “§843.11 or §843.12” shall be replaced by “K.A.R. 47-15-1a(a)(8) and (9).”

(H) “§843.12(a)” and “§843.12(c) and (f)” shall be replaced by “K.A.R. 47-15-1a (a)(9).”

(I) “§843.13(c)” shall be replaced by “K.A.R. 47-15-1a(a)(10).”

(J) “§845.15(b)(2) of this chapter” shall be replaced by “K.A.R. 47-5-5a(a)(5).”

(Authorized by K.S.A. 49-405; implementing K.S.A. 49-404, 49-405, 49-405c, and 49-405d, K.S.A. 2017 Supp. 49-406, K.S.A. 49-416, 49-416a, and 49-427; effective May 1, 1985; amended May 1, 1986; amended Feb. 11, 1991; amended May 2, 1997; amended Dec. 1, 2006; amended P-_____.)

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47-16-6. Liens. (a) A lien shall may be placed by the secretary on land reclaimed if the reclamation results in a significant increase in the fair market value based on the pre- and post-reclamation appraisals, except that the lien may be waived by the secretary or the secretary's designee if ~~any~~ at least one of these the following conditions is met:

(1) The lien amount would be less than the cost of filing the lien.

(2) The reclamation work primarily ~~increases~~ improves the health, safety, or condition of the environment of the community or area affected.

(3) The reclamation is necessitated by an unforeseen occurrence, and the work performed to restore the land will not significantly increase the market value of the land as it existed immediately before the occurrence.

(b) A lien shall not be placed against land reclaimed if the current owner of the property acquired title before May 2, 1977 and did not consent to, participate in, or exercise control over the mining operation that caused or contributed to the unreclaimed conditions.

(c) If a lien is to be filed, within six months after completion of the reclamation work, a statement shall be filed by the secretary in the office having responsibility under applicable law for recording judgments and placing liens against land. The statement shall include the following:

(1) An account of monies expended for the reclamation work; and

(2) a notarized summary of the appraisal report.

(d) The increase in the appraised value of the property shall constitute the amount of the lien recorded and shall have priority second only to a real estate tax lien. The landowner shall be afforded the following:

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- (1) Notified before the time of filing the lien of the amount of the proposed lien; and
- (2) allowed a reasonable time to pay that amount in lieu of filing the lien. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 1, 1983; amended Feb. 11, 1991; amended May 2, 1997; amended July 31, 1998; amended P-_____.)

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47-16-9. Contractor responsibility. (a) Each successful bidder for an abandoned mined-land reclamation project contract shall be eligible under 30 ~~CFR~~ C.F.R. 773.12(a), as adopted by reference in K.A.R. 47-3-42(a)(~~52~~)(8), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

(b) Before any contract may be awarded to a bidder, that bidder's eligibility shall be confirmed by the office of surface mining's automated applicant violator system. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended P- _____.)

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47-16-10. Exclusion of certain noncoal reclamation sites. (a) Money from the abandoned mined-land fund shall not be used for either of the following:

(1) The reclamation of sites and areas designated for remedial action pursuant to the uranium mill tailings radiation control act of 1978, 42 U.S.C. 7901; et seq. ~~and amendments thereto~~ as amended; or

(2) sites listed for remedial action pursuant to the comprehensive environmental response compensation and liability act of 1980, 42 U.S.C. 9601; et seq. ~~and amendments thereto~~ as amended.

(b)(1) Each successful bidder for an abandoned mined-land contract for noncoal reclamation shall be eligible under 30 ~~CFR~~ C.F.R. 773.12(a), as adopted by reference in K.A.R. 47-3-42(a)~~(52)~~(8), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

(2) Bidder eligibility shall be confirmed by the office of surface mining's automated applicant violator system for each contract to be awarded. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective May 2, 1997; amended July 31, 1998; amended Dec. 1, 2006; amended P- _____.)

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47-16-12. Surface mining section's procedures for reclamation projects receiving less than 50 percent government funding. 30 CFR C.F.R. 874.17, as in effect on July 1, ~~2004~~ 2012, is adopted by reference, except that the following terms shall be replaced with the terms specified:

(a) ~~"[P]art 707 of this chapter" and "the part 707 exemption or counterpart State/Indian Tribe laws and regulations"~~ shall be replaced by "K.A.R. 47-6-9."

(b) ~~"30 CFR subchapter R"~~ shall be replaced by "Article 12 of these regulations."

(c) ~~"Title V" and "Title V of SMCRA"~~ shall be replaced by "K.S.A. 49-401 et seq."

(a) "Title V" and "Title V of SMCRA" shall be replaced by "K.S.A. 49-401 et seq."

(b) "Part 707 of this chapter" and "the part 707 exemption or counterpart State/Indian Tribe laws and regulations" shall be replaced by "K.A.R. 47-6-9."

(c) "30 CFR subchapter R" shall be replaced by "Article 12 of these regulations."

(Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; amended Dec. 1, 2006; amended

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47-16-13. Reclamation of non-coal-mined lands and associated waters. (a) Non-coal-mined lands and associated waters shall be eligible for reclamation if all of the following conditions are met:

(1) The lands and waters were mined or affected by mining processes.

(2) The lands and waters were left or abandoned in an unreclaimed or inadequately reclaimed condition before August 3, 1977.

(3) There is no ongoing responsibility for reclamation by the operator, permittee, or agent of the permittee under state or federal statutes or by the state as a result of bond forfeiture. Bond forfeiture shall render the lands and waters ineligible if the amount forfeited is sufficient to pay the total cost of necessary reclamation. If the forfeited bond is insufficient to pay the total cost of reclamation, moneys sufficient to complete the reclamation may be used from the abandoned mined-land fund.

(4) The reclamation has been requested by the governor.

(5) The reclamation is necessary to protect public health, safety, general welfare, and property from extreme danger of adverse effects of non-coal-mining practices.

(b) Each successful bidder for a contract for a non-coal-reclamation project under this regulation shall be eligible under 30 C.F.R. 773.12, as adopted by reference in K.A.R. 47-3-42, at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. (Authorized by K.S.A. 49-405; implementing K.S.A. 49-428; effective P-_____.)

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