

2002 (Administrative Record Nos. KS-623.05 and KS-623.06, respectively).

During a telephone conference on January 15, 2003, Kansas notified us that it had made the editorial changes required by our letter dated October 31, 2002, and e-mail dated November 6, 2002 (Administrative Record No. KS-623.07).

After further review of the amendment, we realized that we had not announced receipt of Kansas' proposed regulation at K.A.R. 47-16-12 in the proposed rule published on September 23, 2002. This proposed regulation concerns AML agency procedures for reclamation projects

receiving less than 50 percent government funding. Therefore, we reopened the comment period in the January 16, 2003, **Federal Register** (68 FR 2265). The public comment period ended on January 31, 2003. We did not receive any comments.

### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15, 732.17, 884.14, and 884.15. We are approving the amendment as described below. Any revisions that we do not specifically

discuss below concern nonsubstantive wording or editorial changes.

#### A. Adoptions by Reference of 30 CFR Part 700 to End

##### 1. Updated Adoptions by Reference

Kansas updated its adoptions by reference of applicable sections of 30 CFR part 700 to End from those in effect as of July 1, 1995, to those in effect as of July 1, 2001. Kansas also revised terms and cross-references to the Federal regulations, as necessary. The Kansas regulations that were updated, along with the applicable sections of the Federal regulations, are shown in the table below.

Kansas administrative regulations (K.A.R.)	Topic	Federal regulations adopted by reference (30 CFR)
47-2-75 .....	Definitions .....	700.5, 701.5, and 705.5.
47-3-2 .....	Application for mining permit .....	Part 777.
47-3-42 .....	Application for mining permit .....	Parts 773, 778, 779, 780, 785, and 701.11(e).
47-5-5a .....	Civil penalties .....	Parts 845 and 846.
47-6-3 .....	Permit renewals .....	774.15.
47-6-4 .....	Permit transfers, assignments, and sales .....	774.17.
47-6-6 .....	Permit conditions .....	773.17.
47-6-8 .....	Termination of jurisdiction .....	700.11.
47-6-9 .....	Exemption for coal extraction incident to government-financed highway or other construction.	Part 707.
47-6-10 .....	Exemption for coal extraction incidental to the extraction of other minerals.	Part 702.
47-7-2 .....	Coal exploration .....	Part 772.
47-8-9 .....	Bonding procedures .....	Part 800.
47-9-1 .....	Permanent program performance standards .....	Parts 810, 815, 816, 817, 819, 823, 827, and 828.
47-9-4 .....	Interim performance standards .....	Parts 710, 715, and 716.7.
47-10-1 .....	Underground mining permit applications .....	Parts 783 and 784.
47-11-8 .....	Small operator assistance program .....	Part 795.
47-12-4 .....	Lands unsuitable for surface mining .....	Parts 761, 762, and 764.
47-13-4 .....	Training and certification of blasters .....	Part 850.
47-14-7 .....	Employee financial interest .....	Part 705.
47-15-1a .....	Inspection and enforcement .....	Parts 840, 842, and 843.

We find that Kansas' revised regulations are no less effective than the counterpart Federal regulations, and we are approving the adoptions by reference.

#### 2. New Adoptions by Reference.

##### a. Alternate Enforcement.

At K.A.R. 47-5-17(a), Kansas adopted by reference 30 CFR 847.2(a), (b), and (d); 847.11; and 847.16, as in effect on July 1, 2001. At K.A.R. 47-5-17(b), Kansas replaced Federal terms and cross-references with State terms and cross-references, as needed.

We find that Kansas' new regulation at K.A.R. 47-5-17 is no less effective than the counterpart Federal regulations at 30 CFR 847.2, 847.11, and 847.16, concerning alternative enforcement. Therefore, we are approving this adoption by reference.

##### b. Post-Permit Issuance Requirements.

At K.A.R. 47-6-11(a), Kansas adopted by reference 30 CFR 774.11 and 774.12,

as in effect on July 1, 2001. At K.A.R. 47-6-11(b), Kansas replaced Federal terms and cross-references with State terms and cross-references, as needed.

We find that Kansas' new regulation at K.A.R. 47-6-11 is no less effective than the counterpart Federal regulations at 30 CFR 774.11 and 774.12, concerning post-permit issuance requirements and post-permit issuance information requirements, respectively. Therefore, we are approving this adoption by reference.

#### B. Substantive Revisions to Kansas' Regulations.

##### 1. K.A.R. 47-6-1 Permit review.

Kansas proposed to designate the existing paragraph as paragraph (a) and to add new paragraphs (b) through (f) to read as follows:

(b) Permits with variances granted in accordance with K.A.R. 47-3-42(a)(41),

variances for delay in contemporaneous reclamation requirement in combined surface and underground mining activities, shall be reviewed no later than 3 years from the date of issuance.

(c) Permits containing experimental practices issued in accordance with K.A.R. 47-3-42(a)(39) shall be reviewed as set forth in the permit or at least every 2½ years from the date of issuance as required by the regulatory authority, in accordance with K.A.R. 47-3-42(a)(39), adopting by reference 30 CFR 785.13(g).

(d) After the review required by this section, or at any time, the Kansas department of health and environment may, by order, require reasonable revision of a permit in accordance with K.A.R. 47-6-2 to ensure compliance with the state act and the regulatory program.

(e) Any order of the Kansas department of health and environment 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), 49-416a, 49-422a, and article 4 of