

chapter 47 of the Kansas administrative regulations. Copies of the order shall be sent to the permittee.

(f) Permits may be suspended or revoked in accordance with articles 5 and 15 of chapter 47 of the Kansas administrative regulations.

We find that Kansas' new regulations at K.A.R. 47-6-1(b), (c), (d), (e), and (f) are substantively the same as the counterpart Federal regulations at 30 CFR 774.10(a)(2), (a)(3), (b), (c), and (d), respectively. Therefore, we are approving them.

2. K.A.R. 47-16-12 AML Agency Procedures for Reclamation Projects Receiving Less Than 50 Percent Government Funding

Kansas added K.A.R. 47-16-12 to its regulations to provide procedures for certain eligible abandoned mine land reclamation projects approved under Title IV of SMCRA. These projects must receive government funding that is less than 50 percent of the project cost, and any coal removal associated with the project must be incidental to it. As shown below, the procedures include specific consultations and concurrences with the Title V regulatory authority for each project, documentation of the consultations and concurrences, special requirements for each project, and a contractor limitation on coal extraction.

AML agency procedures for reclamation projects receiving less than 50 percent government funding. This section only applies if the level of funding for the construction will be less than 50 percent of the total cost because of planned coal extraction.

(a) Consultation with the active coal mining portion of the regulatory authority. In consultation with the active mining portion of the regulatory authority, the surface mining section must make the following determinations:

(1) They must determine the likelihood of the coal being mined under an active coal mining permit. This determination must take into account available information such as:

- (i) Coal reserves from existing mine maps or other sources;
- (ii) Existing environmental conditions;
- (iii) All prior mining activity on or adjacent to the site;
- (iv) Current and historic coal production in the area; and
- (v) Any known or anticipated interest in mining the site.

(2) They must determine the likelihood that nearby or adjacent mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

(3) They must determine the likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

(b) Concurrence with the active mining portion of the regulatory authority. If, after

consulting with the active mining portion of the regulatory authority, it has been decided to proceed with the reclamation project, then the abandoned mine land and active mining portions of the regulatory authority must concur in the following determinations:

(1) They must concur in a determination of the limits on any coal refuse, coal waste, or other coal deposits which can be extracted under K.A.R. 47-6-9.

(2) They must concur in the delineation of the boundaries of the AML project.

(c) Documentation. The surface mining section must include in the AML case file:

(1) The determinations made under paragraphs (a) and (b) of this section;

(2) The information taken into account in making the determinations; and

(3) The names of the parties making the determinations.

(d) Special requirements. For each project, the surface mining section must:

(1) Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials, hydrologic balance, and other AML hazards associated with the project;

(2) Ensure that the reclamation project is conducted in accordance with the provisions of K.A.R. 47-16-1 *et seq.*;

(3) Develop specific-site reclamation requirements, including performance bonds when appropriate in accordance with state procedures; and

(4) Require the contractor conducting the reclamation to provide, prior to the time reclamation begins, applicable documents that clearly authorize the extraction of coal and payment of royalties.

(e) Limitation. If the reclamation contractor extracts coal beyond the limits of the incidental coal specified in paragraph (b)(1) of this section, the contractor must obtain a permit under 49-401 *et seq.* and K.A.R. 47-1-1 *et seq.* for such coal.

We find that K.A.R. 47-16-12 contains substantively the same requirements as the counterpart Federal regulation at 30 CFR 874.17. Therefore, we are approving it.

C. Minor Revisions to Kansas' Regulations.

1. K.A.R. 47-2-75 Definitions; Adoption by Reference.

K.A.R. 47-2-75(a) adopts by reference the definitions at 30 CFR 700.5, with exceptions. The exceptions include entire definitions, portions of definitions, and the meaning of terms in specific cases. At paragraph (a)(4), Kansas revised its previously approved exception for the definition of "anthracite" by adding the address of the Federal Register Library in Washington, DC.

We find that Kansas' addition of the address is consistent with the Federal definition language, and we are approving it.

2. K.A.R. 47-4-14a(c) Administrative Hearing Procedure—Rules of Procedure.

In paragraph (c)(2), Kansas proposed to update the address of the administrative appeals section of the Kansas Department of Health and Environment.

We find that this revision will not make Kansas' regulations at K.A.R. 47-4-14a(c) less effective than the Federal regulations at 43 CFR 4.1104 through 4.1116, concerning general rules relating to procedure and practice.

3. Updated State Citation References and Cross-references to Federal Citations.

Kansas updated State citation references and cross-references to the Federal citations in the following sections of its regulations: K.A.R. 47-6-2, permit revision; K.A.R. 47-16-9, contractor responsibility; and K.A.R. 47-16-10, exclusion of certain noncoal reclamation sites.

Because these changes are minor, we find that they will not make Kansas' regulations less effective than the corresponding Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On August 5, 2002, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Kansas program (Administrative Record No. KS-623.1). The U.S. Fish and Wildlife Service responded on August 15, 2002, that it had reviewed the amendment and had no comments to offer (Administrative Record No. KS-623.02).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the changes that Kansas proposed to make in this amendment revised air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On August 5, 2002, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA