

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

September 19, 1978

ATTORNEY GENERAL OPINION NO. 78- 296

Mr. G. T. Van Bebber, Chairman
Kansas Mined-Land Board
4th Floor, State Office Building
Topeka, Kansas 66612

RE: Mines and Mining -- Mined-Land Conservation
and Reclamation -- Powers of the Board

SYNOPSIS: The regulations of the Mined-Land Conservation
and Reclamation Board, K.A.R. 47-1-1, et seq.,
when read in conjunction with K.S.A. 49-401 et
seq., authorize Kansas to substantially comply
with the initial regulatory procedures set forth
in 30 U.S.C. 1252.

* * *

Dear Chairman Van Bebber:

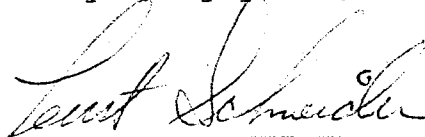
In my opinion No. 78-220, I addressed certain issues re-
garding the ability of the State of Kansas to comply with en-
forcement procedures mandated by the federal Surface Mining
Control and Reclamation Act of 1977, 30 U.S.C. 1201, et seq.
Particular attention was given to whether our Mined-Land
Conservation and Reclamation Act, K.S.A. 49-401, et seq.,
would allow the Kansas Mined-Land Conservation and Reclamation
Board (Board) to enforce provisions of the federal act which
are found at 30 U.S.C. 1253. Since writing opinion No. 78-220
I have been advised that the Department of the Interior has
queried as to whether the Board may also substantially comply
with the enforcement provisions of 30 U.S.C. 1252 which pertain
to initial regulatory procedures.

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30 U.S.C. 1252 enumerates several requirements which must be enforced by any state wishing to participate in the federal program which provides for the disbursement of funds for reclamation projects. In addition to the requirement that permits must be secured prior to the initiation of mining activities, there are other provisions which regulate land use restoration, original contour restoration, removal and preservation of topsoil, preservation of hydrologic balance, the use of coal mine waste piles, the use of explosives, revegetation and steep slope grading.

While our statutes and regulations do not specifically address the problems associated with coal mine waste piles and the use of explosives, it is my opinion that they do allow the Board to substantially comply with the other enforcement provisions which are set forth in 30 U.S.C. 1252. To further insure compliance with the federal requirements I would draw your attention to my opinion No. 78-97 wherein I discussed the disparities which existed between certain portions of the Kansas Mined-Land Reclamation Act and the federal regulations which govern the initial regulatory program, 30 C.F.R. 710, et seq. In that opinion I suggested that the Board might adopt the federal regulations on an interim basis to insure compliance. I would again urge the Board to consider this as a solution to resolving discrepancies between our program and that of the Department of Interior.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:CAB:gw