

Kansas Administrative Regulations

Mined-Land Conservation and Reclamation (KDHE)

Article 16.—Reclamation

47-16-5. Entry and consent to reclaim.

(a) Notice shall be given of the secretary's intent to enter for purposes of conducting reclamation at least 30 days before entry upon the property. The notice shall be in writing and shall be mailed, return receipt requested, to the owner, if known, with a copy of the findings required by K.S.A. 49-432. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one or more places on the property to be entered where it is readily visible to the public. In addition, the notice shall be published once in a newspaper of general circulation in the locality in which the land is located. The notice shall include a statement of where the findings required by K.S.A. 49-432 may be inspected or obtained.

(b) Any land where an emergency exists and on any other land necessary to gain access to the land where an emergency exists may be entered by the secretary to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices and to do all things necessary to protect the public health, safety, or general welfare.

(1) Before entry a written finding shall be made by the secretary with reasons supporting the following conclusions:

(A) an emergency exists constituting a danger to the public health, safety, or general welfare; and

(B) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

(2) Notice to the owner shall not be required before entry for emergency reclamation. Reasonable efforts to notify the owner and obtain prior consent shall be made by the secretary. These efforts shall be consistent with the existing emergency conditions. Proper written notice shall be given to the owner as soon after entry as practical.

(Authorized by K.S.A. 49-405; implementing K.S.A. 49-432; effective May 1, 1983;
amended Feb. 11, 1991; amended May 2, 1997.)

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