

# **Kansas Administrative Regulations**

## **Mined-Land Conservation and Reclamation (KDHE)**

### **Article 15.—Inspections and Enforcement**

#### **47-15-1a. Inspection and enforcement; adoption by reference.**

(a) The following regulations as in effect on July 1, 2012 are adopted by reference, except as otherwise specified in this regulation:

- (1) Inspections by state regulatory authority, 30 C.F.R. 840.11;
- (2) availability of records, 30 C.F.R. 840.14;
- (3) definitions, 30 C.F.R. 843.5;
- (4) right of entry, 30 C.F.R. 840.12;
- (5) compliance conference, 30 C.F.R. 840.16;

(6) review of adequacy and completeness of inspections, 30 C.F.R. 842.14, except that "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 C.F.R. 842.15, except that "OSM" shall be replaced with "Kansas department of health and environment";

(8) cessation orders, 30 C.F.R. 843.11;

(9) notices of violations, 30 C.F.R. 843.12, except for the following:

(A) In subsection (a) of 30 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 C.F.R. 843.12 shall be deleted;

(10) suspension or revocation of permits: pattern of violations, 30 C.F.R. 843.13, except that the phrase "or a federal lands program" in paragraph (a)(4)(i)(A) of 30 C.F.R. 843.13 shall be deleted, and paragraphs (a)(4)(i)(B) and (C) of 30 C.F.R. 843.13 shall be deleted;

(11) service of notices of violation, cessation orders, and show cause orders, 30 C.F.R. 843.14, except that the 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 hearing, 30 C.F.R. 843.15. However, the following sentence in 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 C.F.R. 843.16;

(14) inability to comply, 30 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)(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."

(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)."

(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. 2018 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 Feb. 15, 2019.)

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