**Section 2501.28 Rights of Entry**

a) Prior to entry onto private lands for any purpose other than the visual inspection of the property under the State Act or this Part, the Department shall obtain advance written consent from the owners of record of the property to be entered, when the owners can be located and contacted and the owners agree to reclamation on their property. The consent shall be in the form of a signed statement by the owner of record or his or her authorized agent which sufficiently identifies the land to be entered, the projected nature of the studies, exploration, or work to be performed on the land, and any special conditions for entry. The statement shall not include any commitment to perform reclamation work or to compensate the owner for entry. If entry is for purposes of visual inspection only, it shall be sufficient if verbal consent is obtained prior to entry from the owner or one authorized to consent to such entry.

b) If the owner cannot be found, or will not consent to the proposed reclamation activities, the Department may enter the land to perform reclamation activities. However, no such action shall be taken unless the Department first:

1) Finds, in writing with supporting reasons, that:

A) The land has been adversely affected by past mining practices; and

B) The adverse effects are at a state where, in the interest of the public health or safety, reclamation activities should be carried out;

2) Gives written notice of its intent to enter for purposes of conducting reclamation activities at least 30 days prior to entry. The notice shall be by certified mail, return receipt requested, and shall include a copy of the findings required by subsection (b)(1) of this Section. If the owner is not known, or cannot be found, the notice shall be posted in a conspicuous place on the property to be entered, and advertised once in a newspaper of general circulation in the county or municipality in which the property is located. The posted and published notice shall include a statement indicating where a copy of the findings required by subsection (b)(1) of this Section may be obtained. Posting and publication shall take place at least 30 days prior to entry.

c) If the Department finds that any lands may have been adversely affected by past mining practices, the Department may, if necessary, *enter the property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past mining practices and the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects.*

1) If the owner of such land will not consent to entry and the Department determines that a study or exploration is in the public interest, the Department shall give notice, in writing, to the owner at least 30 days prior to entry. The notice shall be by certified mail, return receipt requested, and shall include a statement of the reasons why entry is believed necessary.

2) If the owner is not known, or cannot be found, the notice shall be posted in a conspicuous place on the property to be entered, and advertised once in a newspaper of general circulation in the county or municipality in which the property is located. Posting and publication shall take place at least 30 days prior to entry.

d) *Entry under this Section shall be construed as an exercise of the police power for the protection of the public health, safety, and general welfare, and shall not be construed as an act of condemnation of property or trespass thereon* [20 ILCS 1920/2.05(d)].

(Source: Amended at 22 Ill. Reg. 11382, effective June 23, 1998)