

The Department shall be responsible for any other damages that may be incurred as a result of such entry on private property.]

(2) If an operator fails to comply with requirements of this subtitle, any rule or regulation or permit condition, the Department immediately shall notify the operator by certified mail or personal delivery of the failure and require compliance within a reasonable time but not to exceed 90 days. The Department may extend beyond 90 days the total time for abatement of a violation, if the operator demonstrates by clear and convincing evidence, and the Department makes a written finding, that compliance within 90 days is unattainable either because of conditions totally beyond the control of the operator, or because abatement of the violation within 90 days would require action violative of mine safety standards established under federal or State law or would clearly cause more environmental harm than it would prevent. If the operator does not comply within the time specified, or any extension which may be granted, the Department shall issue a cease and desist order requiring the operator immediately to cease all or a portion of the open-pit mining operation in question until the Department determines that the operator is in full compliance. Copies of all records, reports, inspection materials, and information shall be available to the public. If the operator persistently or repeatedly fails to comply with a notice or order, the Department, after a hearing and final determination that the operator has failed to show cause, shall suspend or cancel the permit on this operation. The Department also may order the immediate stopping of any operation conducted by an operator who lacks the license or permit required by this subtitle.

(3) Committee members may enter on any open-pit operation to determine land reclamation conditions and progress. Any deficiency noted shall be reported to the Department. The Committee may order the Department to suspend the permit until corrective action is taken.

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(C) FOR THE PURPOSE OF PERFORMING DUTIES UNDER THIS SECTION, THE DEPARTMENT, ITS AGENTS, EMPLOYEES, AND CONTRACTORS MAY ENTER ON PRIVATE PROPERTY FOR ACCESS TO AND RECLAMATION OF ANY LAND AFFECTED BY OPEN-PIT MINING OR PROSPECTING. ENTRY ONTO PRIVATE PROPERTY FOR PURPOSES OTHER THAN RECLAMATION OF LAND ON WHICH LIABILITY WAS CHARGED ON A FORFEITED BOND MAY NOT BE UNDERTAKEN WITHOUT PRIOR CONSENT OF THE PROPERTY OWNER. IF, AFTER REAL AND BONA FIDE EFFORT, THE CONSENT OF THE PROPERTY OWNER CANNOT BE SECURED, THE DEPARTMENT MAY APPLY TO A COURT WHERE THE PROPERTY OR ANY PART OF IT IS LOCATED FOR AN ORDER DIRECTING THE ENTRY BE PERMITTED. "BONA FIDE EFFORT" SHALL INCLUDE EITHER 30 DAYS ADVANCE NOTICE IN WRITING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER OR POSTING NOTICE ON THE PROPERTY NOT LESS THAN 30 DAYS IN ADVANCE, OR OTHER REQUIREMENTS AS THE COURT MAY DEEM APPROPRIATE. THE DEPARTMENT SHALL REIMBURSE THE LANDOWNER OR