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COMMONWEALTH OF KENTUCKY
DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
BUREAU OF SURFACE MINING RECLAMATION AND ENFORCEMENT
GENE BRANDENBURG
COMMISSIONER
FRANKFORT, KENTUCKY 40601

MEMORANDUM

TO: All Area Engineers
All Coal Operators
All Consulting Engineers

FROM: Gene Brandenburg, Commissioner
Bureau of Surface Mining Reclamation and Enforcement

SUBJECT: Surface Mining Permits

DATE: February 16, 1978

On August 3, 1977, Public Law 95-87, the U. S. Surface Mining Control and Reclamation Act of 1977, became law with the approval of the President after the law was passed by the U. S. Congress.

This Department has not yet been authorized by the Kentucky Legislature to enforce Federal laws and regulations relating to surface mining. However, such a law is now being considered by the Kentucky Legislature. This law, when approved by the Kentucky General Assembly, will bring our State law into conformity with the Federal law. Following approval, it will be the duty of this agency to then enforce the new Federal requirements. In the interim, it is very important for all coal operators to understand that they are subject to the Federal law and Federal regulations, and violations of these Federal laws and regulations may be prosecuted by Federal officials in the Federal courts.

Since August 3, 1977, when the Federal Act became effective, constructive notice has been given to all strip mine permit holders in Kentucky that they are subject to Federal law. Such notice has been provided by attaching the following language to all permits issued by the Bureau of Surface Mining Reclamation and Enforcement:

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This permit is issued pursuant to KRS 350 and those regulations promulgated pursuant thereto. This permit does not confer an unqualified right to mine, but is subject to Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977, which became effective on August 3, 1977, and the regulations promulgated by the United States Secretary of Interior pursuant thereto.

Beginning February 3, 1978, individual transmittal letters will be attached with each permit approved, advising all permittees that the Kentucky permit does not constitute a complete and valid right to mine and that all permittees are subject to other requirements as they are set forth in Public Law 95-87.

After the Kentucky General Assembly has enacted a new surface mining law and after this agency has adopted the required revised State regulations, coal operators will be in compliance with Federal regulations if they are in compliance with State law and regulations.

Presently, the new Federal law extends to permits issued on or after February 3, 1978. On May 4, 1978, all coal mine operations mining under permits issued before or after February 3, 1978, must be brought into compliance with Federal regulations set forth in Section 502 of Public Law 95-87. There are some limited exemptions and, in a limited number of cases, extensions may be granted. These exemptions and extensions are set forth in the Federal regulations.

Should you have questions concerning this communication or the Federal requirements, you are encouraged to contact this office either by letter, personal visit, or telephone at 502-564-2320 or 502-564-6940.