ILLINOIS DEPARTMENT OF MINES AND MINERALS
Richard R. Shockley
Director

LAND RECLAMATION DIVISION
300 WEST JEFFERSON STREET - SUITE 300
P.O. BOX 10197
SPRINGFIELD, ILLINOIS 62791-0197
TELEPHONE: (217) 782-4970

LAND RECLAMATION DIVISION MEMORANDUM 90-4

TO; All Underground Coal Mine Operators

FROM: Paul J. Ehret, Supervisor
Land Reclamation Division Michael Sponsler for PJE

DATE: March 22, 1990

RE: Yearly Map of Underground Workings
Required by 62 Ill. Adm. Code 1817.121(g)

The Department wishes to remind all underground coal operators of the need to submit maps of underground workings on or before April 1 of each year. As required by 62 Ill. Adm. Code 1817.121(g) maps must be submitted on or before April 1, 1990. Maps should clearly detail the mine workings developed for the calendar year of 1988 and the calendar year of 1989, and a projection of the anticipated extent of mining for the calendar year of 1990. Please be advised all parts of 62 Ill. Adm. Code 1817.121(g) must be addressed in this map submittal in addition to the following points:

1. The Department requires all shadow area additions and incidental boundary revisions approved prior to, and within that calendar year be incorporated. It should indicate the boundary of the revision and the date of approval.

2. Any active mine that has not operated in the past year and is not anticipating mining operations in the following year will not be required to submit a mine map. However, a letter confirming that no mining was performed in the last calendar year, and is not anticipated in the following calendar year will be required for our records.

3. The total required number of maps is three (3).

If you should have any questions, please do not hesitate to call this office.

Illinois Environmental Protection Agency · P.O. Box 19276, Springfield, IL 62794-9276

782-5544 March 11, 1990

Ms. Karen E. Jacobson, Esq.
Legal Counsel
Illinois Department of Mines and Minerals
300 West Jefferson Street, Suite 300
P. O. Box 10137
Springfield Illinois 62791-0137

Re: Fugitive Emissions at Coal Mines

Dear Ms. Jacobson,

Mr. Mathur has asked me to respond to your letter of February 8, 1990 concerning IEPA's regulation of its air pollution regulations as regards dust generated by coal mining activities. I apologize for my delay.

The IEPA has essentially two ways of regulating dust generated by mining-related activities: the visible emissions regulation of 35 Ill. Adm. Code 212.301, which you cite in your letter, and the statutory prohibition against "air pollution" contained in Section 9(a) of the Illinois Environmental Protection Act. In addition, coal preparation plants built after October 24, 1974 which process more than 200 tons per day are subject to federal New Source Performance Standards ("NSPS"), which specify opacity standards for thermal dryers, pneumatic coal cleaning equipment and coal processing and conveying equipment, coal storage systems or coal transfer and loading systems.

Generally, 35 Ill. Adm. Code 212.301 is enforced by IEPA Field Operations inspectors during either their scheduled annual inspections of coal mines or during inspections to follow up on complaints. The actual observation is made as described in the regulation, i. e., the inspector stands at the property line and looks either upward at or down along the property line to observe whether dust is being carried onto the adjoining property. Any observation of visible dust constitutes a violation of Section 212.301. Citizen complaints concerning dust are handled as potential violations of the prohibition contained in Section 9(a) of the Illinois Environmental Protection Act against causing or allowing air pollution:

> No person shall cause or allow the discharge or emission of any contaminant into the environment in any state so as to cause or tend to cause air pollution in Illinois...

xc: Sheet
Schmitz
Counsel

"Air pollution" is defined in Section 3.02 of the Act as:

> the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

"Contaminant" is defined in Section 3.06 of the Act as:

> any solid, liquid or gaseous mater, any odor, or any form of energy, from whatever source.

It is well established under the case law that dust is a "contaminant" and there is no question that, under the circumstances described in Section 3.02 of the Act, dust from blasting, mine haul roads or other mine-related activities would constitute "air pollution."

Coal preparation plants constructed or modified after October 24, 1974 are subject to the NSPS standards found at 40 CFR 60 Subpart Y. These standards are administered by IEPA pursuant to a delegation agreement with USEPA. In addition, the NSPS standards are made directly applicable to Illinois facilities under Section 9.1(d) of the Illinois Environmental Protection Act. 40 CFR 60 Subpart Y contains opacity standards and specifies a method of "reading" opacity to determine the existence of violations of the standard. Dust problems created by preparation plants may be treated as both potential Section 9(a) violations and violations of 40 CFR 60 Subpart Y, depending on whether opacity observations were made according to the specified method by a person who is certified by the IEPA.

As regards the IEPA's actual enforcement practices, a good deal of our air pollution enforcement activities at coal mines are prompted by citizen complaints. Generally, when a complaint is received and confirmed (either by a call to the coal company or an inspection, depending on the circumstances), a Compliance Inquiry Letter, or "CIL," is sent to the company to document the violation and to request a plan for abatement of the problem. If the proposed plan is acceptable, it may be incorporated into the company's mine pollution control permit. If the proposed plan is unsatisfactory or if it is determined through inspections or continuing complaints that the problem is continuing, either a compliance conference is held at the IEPA (if there appear to be prospects of settling the matter at a face-to-face discussion) or a direct referral is made to the Attorney General's office for prosecution before the Pollution Control Board or in Circuit Court. (It should be noted that the IEPA does not have administrative citation authority.)

In those instances where a referral is made, we generally seek both an abatement program and a penalty. It has been our experience that most of the active mines have been cooperative in voluntarily establishing and adhering to dust abatement programs; problems have most often arisen in connection with inactive sites.

I hope this information is useful to you. If you have any further questions, please do not hesitate to call me.

Sincerely,

Lisa E. Moreno
Staff Attorney