



Illinois Department of Natural Resources

One Natural Resources Way • Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

Rod R. Blagojevich, Governor

Sam Flood, Acting Director

LAND RECLAMATION DIVISION

Memorandum No. 2007-02

To: All Coal Mine Operators/Consultants

From: Scott K. Fowler, Supervisor
Land Reclamation Division

Date: April 27, 2007

Re: 62 Ill. Adm. Code 1817.122
Land Owner Notification of Future Underground Mining

The regulations at 62 Ill. Adm. Code 1817.122 requires the following:

At least six (6) months prior to mining, or within that period if approved by the Department, the underground mine operator shall mail a notification to all owners and occupants of surface property and structures above the underground workings....

Question has arisen as to whether or not this notification applies to utilities and pipelines since in many instances the structures owned by these entities are located on leased land or easements rather than on surface property owned by the structure owner.

The preamble to the initial Permanent Program rules [44 FR 15274 (March 13, 1979)] in referring the 30 CFR 817.122, the federal equivalent to the Illinois rule, states that, "Utilities, municipalities, and industries must also be advised as to when disruptions are possible and must be allowed adequate time to protect against loss of power, gas, or water services."

In light of this interpretation by OSM, all owners of surface property and structures above underground workings, including but not limited to utilities such as gas companies, pipeline companies, telephone companies, cable companies, public and private water suppliers, etc., shall be notified as required by Section 1817.122.

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Because of the difficulty in identifying surface easements and ownership of various underground cables and above ground lines, etc., it is recommended that underground mine operators identify all utilities whose service area falls within their underground mine's shadow area. The mine operator shall then, six months prior to commencing underground mining in the shadow area, notify these entities that it appears they may own structures that will be undermined. The notification shall also contain the information required in Section 1817.122. The notification need not identify or individually locate each structure owned by the utility or similar entity.

If there are utilities, or other similar surface structure owners, who will be undermined in less than six months or who have already been undermined, the mine operator may request an extension and the Department will evaluate such requests on a case by case basis.

If you have any questions concerning this matter please feel free to contact this office at (217) 782-4970.