

MINING: FED COURT STRIKES DOWN MINING ENFORCEMENT RULE

"One of the most powerful tools" for enforcing the federal surface-mining law was struck down on 1/31 by a federal appeals court in DC, raising the prospect that environmental regulators will lose their ability to withhold permits from coal companies that violate the mining law.

The Surface Mining Control and Reclamation Act of 1977 required coal companies to restore mined lands and allowed regulators to deny permits to companies that violate the law. But after some companies set up "complex corporate webs" to avoid penalties, the Office of Surface Mining in 1988 extended the rule to cover any company or person that controls a permit applicant.

The appeals judges ruled that the OSM regs were an overly broad interpretation of the law.

Bill Caylor, VP and general counsel of the Kentucky Coal Assn., said that while the rule once served a purpose, it's no longer needed because the industry is dominated by law-abiding companies. But Glenn **Sugameli** of the National Wildlife Federation said the ruling could bring back the old problems.

Alan Cole, a spokesperson for the OSM, said the government's lawyers are still reviewing the case. The government has 45 days to seek an appeal (Bob Geiger, KNIGHT-RIDDER/Charleston SUNDAY GAZETTE MAIL, 2/23).