



Kentucky

Department for Surface Mining
Reclamation and Enforcement

Reclamation Advisory Memorandum

From: Elmore C. Grim, Commissioner *E.C.G.*
Subject: Certificates of Liability Insurance Update

Date: June 10, 1983

RAM# 64

The purpose of this Reclamation Advisory Memorandum is to clarify the Department's policy regarding certificates of liability insurance and to modify the standard form included in Reclamation Advisory Memorandum #59. Original standard forms already submitted need not be replaced since the changes are minor.

Some representatives of insurance companies have asked whether a permittee must have a policy which meets the \$300,000/\$500,000 limits for each permit area. The Department previously interpreted the regulation to require separate and full coverage for each permit area. Upon reexamining the regulation, however, we have determined that a single policy meeting the regulatory limits will be adequate as long as all permit areas are covered by a policy. The Department still requires, however, a certificate of liability insurance for each permit area. For example, if a permittee holds five permits in Kentucky, he must submit five certificates of liability insurance, each covering a different permit, but the policy number may be the same on all five if the one policy applies to all five. Later, if that policy is cancelled or not renewed or modified, the operator must submit five Notices of Cancellation, Non-Renewal or Change of Liability Insurance (Form SME-30).

Several people have asked if the policy amount may be in excess of the regulatory minimum. The Department would not only approve excess coverage, but highly recommends it, especially for a permittee holding more than one permit.

Some insurance professionals have questioned the Department's requirement that property damage and bodily injury coverage not be combined. The regulations currently clearly provide that bodily injury coverage and property damage coverage be separate and that each category be covered by the \$300,000/\$500,000 minimum. However, any excess coverage over those minimum levels (i.e., umbrella policies) may be in the form of combined coverage.

If a permittee cancels his insurance policy or fails to renew it, and no replacement insurance is provided prior to the effective date of the cancellation or non-renewal, the Department will issue a cessation order to the permittee for failure to maintain insurance coverage. If the permittee wishes to continue mining, he must either renew his earlier policy or provide a new policy. Notice of such new coverage should be sent to the Division of Field Services in Frankfort with an explanatory cover letter.

If a permittee has switched his coverage to a different insurance company, the permittee should send a letter along with the new certificate of liability insurance explaining what the new certificate is for. If the Department previously had a policy with insurance company "A" in effect and receives a policy for the same permit area in the name of insurance company "B", it may not be clear that the company "B" certificate is to be substituted for the company "A" certificate. The permittee should send the Department a letter clarifying the permittee's intent.

Attached is a revised certificate of liability insurance form. Only two changes have been made to this form. (1) The requirement for a power of attorney has been deleted. Instead, the Department is requesting that the insurance agent who signs the certificate also sign and have notarized the statement at the bottom of the form that he has authority to act for the named insurance company. (2) In addition, the Department has revised the standard form to state, "effective from _____, 19 ____, and continuing until cancelled, non-renewed, or changed as provided herein...."

CERTIFICATE OF LIABILITY INSURANCE
Issued to: Kentucky Department for
Surface Mining Reclamation and Enforcement
(hereinafter called DEPARTMENT)

THIS IS TO CERTIFY, That the _____
(Name of Insurance Company)

of _____
(Home Office Address of Company)

has issued to _____ of
(Name of Permit Applicant)

_____ Policy No. _____
(Address of Permit Applicant)

effective from _____ 19, _____ and continuing until cancelled,
non-renewed, or changed as provided herein, which policy provides personal injury and
property damage insurance covering the obligations imposed upon such permit applicant
with regard to Permit No. _____ by the provisions of the surface coal
mining law of the Commonwealth of Kentucky (KRS Chapter 350) or regulations promulgated
in accordance therewith (405 KAR 10:030 Section 4).

Underwriting Agent _____

Company Name _____ Phone _____

Address _____

The above-named insurance company agrees to notify the Department in writing of any
substantive change in the above coverage, including cancellation, failure to renew, or
other material change. No change shall be effective until at least twenty (20) days
after such notice is received by the Department.

All notices of material change, including cancellation and failure to renew, shall
be made on Form No. SME-30 and shall be sent to Director, Division of Field Services,
Department for Surface Mining Reclamation and Enforcement, Frankfort, Kentucky 40601.

The undersigned affirms that the above information is true and complete to the best
of his or her knowledge and belief, and that he or she is an authorized representative
of the above-named insurance company.

Date Signature of Authorized Representative of Insurance Company

Signed and sworn to before me by _____ this the _____ day of

_____, 19 ____.

Notary
My commission expires _____.