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DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF MINING AND RECLAMATION

DOCUMENT NUMBER: 562-2500-702

TITLE: Insurance Requirements for Surface Coal Mines and Large Noncoal Mines

EFFECTIVE DATE: June 28, 2002 (anticipated)

AUTHORITY: Surface Mining Conservation and Reclamation Act, Noncoal Surface Mining Conservation and Reclamation Act

POLICY: Liability insurance is required to conduct mining activities in Pennsylvania. In addition to the general liability insurance requirements, financial assurance must be provided to cover damage caused by the use of explosives and coverage for damage to public and private water supplies.

PURPOSE: The purpose of this guidance is to outline the methods of insuring mining operations and describe the method by which water supplies, which may be affected by surface mining activities, will be assured of replacement.

APPLICABILITY: This guidance applies to all surface coal mining activities and mining activities conducted by large noncoal licensees. It does not apply to underground operations.

DISCLAIMER: The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements. The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the Department to give these rules that weight or deference. This document establishes the framework, within which the Department shall exercise its administrative discretion in the future. The Department reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH:

LOCATION: Vol. 12, Tab 35.

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1 TECHNICAL GUIDANCE:

3 BACKGROUND:

5 One of the conditions for obtaining a coal mining license or large noncoal mining license is that
6 the operator maintain liability insurance. Generally, this liability insurance covers all of an
7 operator's permits. If blasting is to take place on any of the permits, the insurance must
8 specifically cover damage from the use of explosives. If the Department determines that the
9 operator's mining activities have the potential to affect private or public water supplies, the
10 operator must provide financial assurance for replacement of those supplies. Financial assurance
11 may be through insurance or by a bond.

13 The operator may choose the option they wish to pursue for assuring replacement of water
14 supplies. By choosing the bond option for water supply replacement the operator is relieved of
15 only the requirement to provide for water supply replacement insurance. General liability
16 coverage must still be maintained for bodily injury, property damage and, when applicable,
17 damage caused by use of explosives. Bond amounts must be determined for all water supplies
18 that may be impacted using site-specific cost data.

20 **This guidance does not address or consider long-term operation and maintenance costs for
21 replacement water supplies. This issue is addressed in two other guidance documents: 563-
22 2112-605, Water Supply Replacement and Permitting; and 562-4000-101, Water Supply
23 Replacement and Compliance.**

26 PROCEDURE

28 I. INSURANCE COVERAGE

30 A. General Terms and Conditions

32 The operator must submit, prior to the issuance of the license or annually for those
33 operations not requiring licenses, a Certificate of Insurance. Insurance coverage is
34 to be provided as a blanket policy for all of a mining company's operations. The
35 certificate must contain the following terms and conditions:

- 37 1. The operator has in force, or will have in force with the issuance of the
38 license, a public liability insurance policy covering all of the permittee's
39 mining and reclamation operations in Pennsylvania.
- 41 2. The licensee/permittee must be the insured.
- 43 3. The Certificate Holder must be:

45 Commonwealth of Pennsylvania

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4. The certificate shall include a statement that the policy includes a rider requiring that the insurer notify the Department 30 days prior to substantive changes being made in the policy, or prior to any termination or failure to renew.
5. The certificate of insurance shall include a statement that the policy includes a rider covering personal injury and property damage caused by use of explosives, if blasting will occur on any of the operator's permits.
6. The certificate of insurance must indicate the policy includes a separate rider covering degradation, loss or diminution of quantity or quality of public or private water supplies, if mining on any of the operator's permits may impact any water supplies.
7. The following minimum insurance coverages apply to coal operations (§ 86.168(b)). The Department on a case-by-case basis may require greater coverage:
 - (a) The insurance must be written on an occurrence basis.
 - (b) Bodily Injury: Minimum insurance coverage for bodily injury must be \$500,000 per person and \$1,000,000 aggregate.
 - (c) Property Damage: Minimum insurance coverage for property damage must be \$500,000 for each occurrence and \$1,000,000 aggregate.
 - (d) Combined Coverage: For those insurance certificates that show bodily injury and property damage combined (B.I. & P.D.) the amounts must be \$1,000,000 single occurrence and \$2,000,000 aggregate.
 - (e) Water Supply Replacement: If the District Mining Office (DMO) determines that cost of water supply replacements is estimated as less than \$250,000 per water supply or group of water supplies affected at one time and less than \$500,000 aggregate, the property damage insurance, with a rider for water supply replacement, will be deemed adequate coverage. If the DMO estimated cost of replacement is greater than \$250,000 per water supply or group of water supplies affected at one time or greater than \$500,000

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1 aggregate, then the insurance policy must be increased to an amount
2 estimated by the DMO to be adequate to insure replacement of all
3 supplies. The \$250,000 per occurrence and \$500,000 aggregate
4 were chosen to assure that not more than half the property damage
5 liability policy be committed to water supply replacement.[†]
6

- 7 (f) Where a public water supply is involved that could exceed
8 \$250,000 for replacement or where more than 60 private water
9 supplies may be impacted by mining (or a lesser number, if more
10 expensive to replace than is typical*), then the DMO will use
11 Appendix C to determine the actual replacement costs and
12 insurance or bond adjusted accordingly. For example, if the DMO
13 determines that a public water supply would cost \$1,000,000 to
14 replace, the property damage policy, or water supply replacement
15 bond, would have to be increased by \$750,000.
16

- 17 8. The following minimum insurance coverages apply to noncoal operations
18 (§ 77.231(b)). The Department on a case-by-case basis may require greater
19 coverage. Separate certificates of insurance may be submitted for general
20 liability, blasting coverage and water loss coverage if the licensee is shown
21 as the insured and not listed separately on the certificate as an additional
22 insured.
23

- 24 (a) The insurance must be written on an occurrence basis.
25 (b) Bodily Injury: Minimum insurance coverage for bodily injury
26 must be \$300,000 per person and \$500,000 aggregate.
27 (c) Property Damage: Minimum insurance coverage for property
28 damage must be \$300,000 for each occurrence and \$500,000
29 aggregate.
30 (d) Combined Coverage: For those insurance certificates that show
31 bodily injury and property damage combined (B.I. & P.D.) the
32 amounts must be \$600,000 single occurrence and \$1,000,000
33 aggregate.

[†] Typically the liability coverage discussed above for water supply replacement will be adequate if a mining company on all its permits will not potentially impact a public water supply and/or impact more than 60 private water supplies. Replacement costs for private water supplies typically are \$5,000 to \$10,000 per water supply. Dividing the average of \$7,500 into \$500,000 assures coverage of 60 supplies (realizing that some supplies will cost more and less than this amount).

* Examples of water supplies that can cost more than typical are (a) where a well or spring is being replaced by public water that requires the laying of a public water supply line and (b) a well or spring that is being replaced by a deep well that requires grouting-off of an overlying polluted aquifer.

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1 (e) Water Supply Replacement: If the DMO determines that cost of
2 water supply replacements is estimated at less than \$150,000
3 per water supply or group of water supplies affected at one time
4 and less than \$250,000 aggregate, the property damage
5 insurance, with a rider for water supply replacement, will be
6 deemed adequate coverage. If the DMO determines that
7 estimated cost of replacement is greater than \$150,000 per water
8 supply or group of water supplies affected at one time or greater
9 than \$250,000 aggregate, then the insurance policy must be
10 increased to an amount estimated by the DMO to be adequate to
11 insure replacement of all supplies.[†]
12

13 (f) Where a public water supply is involved that could exceed \$150,000
14 for replacement or where more than 40 private water supplies may
15 be impacted by mining (or a lesser number, if more expensive to
16 replace than is typical), then the DMO will use Appendix C to
17 determine the actual replacement costs and insurance or bond
18 adjusted accordingly. For example, if it is determined that a public
19 water supply would cost \$1,000,000 to replace, the property damage
20 policy, or water supply replacement bond, would have to be
21 increased by \$850,000.
22

23 B. Exemptions: Coal and Noncoal

- 24
- 25 1. Blasting: In the event that no blasting will be conducted on any of the
26 operator's sites by anyone, including contract blasters, the operator may
27 request through the District Mining Office that this coverage not be
28 required. If the District Office agrees, it will complete the Appendix A
29 memorandum. All permits must be conditioned that no blasting will be
30 allowed. The non-coverage request must be renewed each year with the
31 license renewal application to ascertain that permit conditions have not
32 changed and no new permits have been issued that allow blasting. District
33 Office permit sections will be responsible for checking this condition prior
34 to the issuance of a new permit or permit amendment.
35
 - 36 2. Water Supplies: If the permittee believes with a reasonable certainty that
37 no public or private water supplies may be affected, the permittee/applicant
38 may request that coverage for water supply replacement not be required.
39 The request must be made in writing to the District Mining Office. After

[†] Typically the liability coverage discussed above for water supply replacement will be adequate if a mining company on all its permits will not potentially impact a public water supplies and/or impact more than 40 private water supplies. Where public water supply replacement may exceed \$150,000 and where more than 40 private water supplies may be impacted by mining, the mining company must either increase their liability insurance such that the liability coverage will minimally be \$150,000 per occurrence, plus any amount over \$150,000 for public water supplies, and/or \$250,000 aggregate plus any amount over \$250,000.

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1 review by the Permits Section, this requirement may be exempted if it is
2 determined that no public and/or private water supplies will be affected in
3 quantity and/or quality (See Appendix B). The request for this exemption
4 must be renewed each year with the license renewal application to ascertain
5 that permit conditions have not changed and/or no new permits have been
6 issued where water supplies may be affected. District Mining Office
7 permit sections will be responsible for checking this requirement prior to
8 issuing a new permit. The District Mining Offices(s) will be responsible
9 for tracking bonds and insurance coverage that has been submitted on
10 individual permits.

11 C. Other Provisions

12 The operator has the option of providing water supply replacement liability
13 insurance on a permit-by-permit basis. The permit-specific liability insurance
14 must:
15

- 16 • conform to the general terms and conditions outlined in section I. A,
- 17 • be posted for a full year term, and
- 18 • coincide with the license term (where licenses are required).

19 Unless the insurance company cancels the operator's insurance and the
20 Department has been notified in writing of this cancellation the operator may
21 switch options only at insurance/license renewal.
22

23 II. WATER SUPPLY ASSURANCE BOND

24 The mine operator has the option of providing bond in lieu of insurance to ensure the
25 replacement of public and private water supplies. If an operator chooses to use
26 bond(s) to assure replacement of water supplies, the water supply insurance coverage
27 described above is not necessary. The requirements for bond are listed below.

- 28 1. If an operator chooses to use bonds to assure water supply replacement, each
29 site where water supplies may be affected must be bonded. Each water supply
30 replacement bond must be calculated on a supply-specific basis.
- 31 2. Bond coverage for private and public water supplies must be the total cost of
32 replacement for all water supplies at risk of degradation, diminution, or loss of
33 quantity or quality.
- 34 3. Phased Deposit of Collateral will not be accepted as water supply assurance
35 bonds.

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- 1 4. Water supply assurance bonds must meet the criteria established in 25 Pa.
2 Code §§86.155 - 86.158, 86.168 and §77.231 relating to bonds.
3
- 4 5. Water supply assurance bonds will be processed using bond forms 5600-FM-
5 MR0405 or 5600-FM-MR0406 as Original Bonds.
6
- 7 6. Standard procedures for processing bonds will be followed when submitting
8 and reviewing bonds. Each bond submitted to the Department for approval
9 must be accompanied by a Bond Submittal Form (5600-FM-MR0018), marked
10 “original” and “water loss replacement.”
11
- 12 7. The water supply assurance bond must be a separate bond form from the
13 reclamation bond.
14
- 15 8. The water supply assurance bond cannot be rolled over.
16
- 17 9. No release of the water supply assurance bond can be made until the final
18 Stage 2 coal or Stage 1 non-coal release on the site is made.
19
- 20 10. The release of the bond is subject to the provisions of 25 Pa. Code §§86.170 -
21 86.182 and 77.241 - 77.243.
22

23 **APPENDICES:** Four Sample Memos.
24
25

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1 **APPENDIX A**

2 **COMMONWEALTH OF PENNSYLVANIA**
3 **Department of Environmental Protection**
4 (DATE)
5 717-787-5103
6

7
8 **SUBJECT:** Explosives Damage Coverage
9 File Copy for (name of operator)
10 (License number)
11

12
13 **TO:** (Name)
14 Chief, Compliance Section
15 Division of Monitoring and Compliance
16 Bureau of Mining and Reclamation
17

18
19 **FROM:** (Name)
20 District Mining Manager or Chief,
21 Permits and Technical Services
22 District Office Name
23

24
25
26 This office has reviewed the permits listed below as requested in writing by the above referenced
27 operator on date.
28

29 S.M.P EXPLOSIVES USED (YES/NO)

30 (COMPLETE ONE LINE FOR EACH SMP OR APPLICATION)
31

32
33 Based on this review, this office recommends that the license insurance requirement regarding
34 explosives coverage (IS/IS NOT) necessary. If blasting will not be conducted, all permits will be
35 conditioned as such.
36

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1 **APPENDIX B**

2 **COMMONWEALTH OF PENNSYLVANIA**
3 **Department of Environmental Protection**
4 (DATE)
5

6
7 **SUBJECT:** Water Loss Coverage, No Water
8 Supplies Will Be Impacted
9 File Copy for (name of operator)
10 (License number)
11

12
13 **TO:** (Name)
14 Chief, Compliance Section
15 Division of Monitoring and Compliance
16 Bureau of Mining and Reclamation
17

18
19 **FROM:** (Name)
20 District Mining Manager or Chief,
21 Permits and Technical Services
22 District Office Name
23

24
25
26 This office has reviewed the permits listed below as requested in writing by the above referenced
27 operator on (date) and no water supplies on any of this operator’s permits will be affected by
28 conducting surface mining activities.
29

30 (COMPLETE ONE LINE FOR EACH SMP OR APPLICATION)
31

32 Based on this review, this office recommends that coverage regarding water loss IS NOT
33 necessary.
34

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APPENDIX C

COMMONWEALTH OF PENNSYLVANIA
Department of Environmental Protection
(DATE)

SUBJECT: Water Loss Coverage Coal Mining
File Copy for (name of operator)
(License number)
Water Supply(s) Will Be Impacted

TO: (Name)
Chief, Compliance Section
Division of Monitoring and Compliance
Bureau of Mining and Reclamation

FROM: (Name)
District Mining Manager or Chief,
Permits and Technical Services
District Office Name

This office has reviewed the permits listed below as requested in writing by the above referenced operator on (date) and determined that water supply(s) will be impacted. PLACE A CHECK MARK IN THE APPROPRIATE BOX AND COMPLETE THE REQUIRED INFORMATION, IF APPLICABLE.

- The estimated cost of water supply replacement is less than \$250,000 per water supply or group of water supplies affected at one time and/or \$500,000 aggregate, and the water supply replacement rider on the property damage insurance with coverage of \$5000,000 per occurrence and \$1,000,000 aggregate is adequate for replacement of water supplies.
- The estimated cost of water supply replacement is greater than \$250,000 per water supply or group of water supplies affected at one time and/or \$500,000 aggregate. The property damage insurance must be increased to \$ _____ and \$ _____ to cover the additional costs above \$250,000 and \$500,000 aggregate. *
- The estimated cost of water supply replacement exceeds \$250,000 per water supply or group of water supplies affected at one time and/or \$500,000 aggregate. The mine operator has chosen to post bond for \$ _____ (the amount above \$250,000 and/or \$500,000 aggregate). *

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APPENDIX D

COMMONWEALTH OF PENNSYLVANIA
Department of Environmental Protection
(DATE)

SUBJECT: Water Loss Coverage Noncoal Mining
File Copy for (name of operator)
(License number)
Water Supply(s) Will Be Impacted

TO: (Name)
Chief, Compliance Section
Division of Monitoring and Compliance
Bureau of Mining and Reclamation

FROM: (Name)
District Mining Manager or Chief,
Permits and Technical Services
District Office Name

This office has reviewed the permits listed below as requested in writing by the above referenced operator on (date) and determined that water supply(s) will be impacted. PLACE A CHECK MARK IN THE APPROPRIATE BOX AND COMPLETE THE REQUIRED INFORMATION, IF APPLICABLE.

- The estimated cost of water supply replacement is less than \$150,000 per water supply or group of water supplies affected at one time and/or \$300,000 aggregate and the water supply replacement rider on the property damage insurance with coverage of \$300,000 per occurrence and \$500,000 aggregate is adequate for replacement of water supplies.
- The estimated cost of water supply replacement is greater than \$150,000 per water supply or group of water supplies affected at one time and/or \$300,000 aggregate and the property damage insurance must be increased to \$_____ and \$_____ to cover the additional costs above \$150,000 and \$300,000 aggregate.*
- The estimated cost of water supply replacement exceeds \$150,000 per water supply or group of water supplies affected at one time and/or \$300,000 aggregate. The mine operator has chosen to post bond for \$_____ (the amount above \$150,000 and/or \$300,000 aggregate).*

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APPENDIX E: COST CALCULATION WORK SHEET

Calculate the replacement costs for each water supply. This work sheet is provided to assist in the calculations.

A. Well (costs must be provided by a certified well driller):

1. Cost of Drilling: _____ ft at \$ _____ per foot = \$ _____

2. Cost of Appurtenances (such as casing, pump, riser pipe, pressure tank, piping for water system, and labor). Itemize:

Subtotal Costs: \$ _____

3. Cost of Treatment System. Itemize:

Subtotal Costs: \$ _____

4. Other costs. (e.g., excavating). Itemize:

Subtotal Costs: \$ _____

5. Total Costs (add lines A1, A2, A3 and A4): \$ _____

B. Spring (costs must be supplied by a certified well driller familiar with spring construction or a registered professional engineer):

1. Cost of construction (such as containment structure and labor). Itemize:

Subtotal Costs: \$ _____

2. Cost of Appurtenances (such as pump, pressure tank, piping of water system, and labor):

Subtotal Costs: \$ _____

3. Cost of Treatment System. Itemize:

Subtotal Costs: \$ _____

4. Other costs. (e.g. excavating). Itemize:

Subtotal Costs: \$ _____

5. Total Costs (add lines B1, B2, B3 and B4): \$ _____

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- 1 **C. Public Water** (costs must be provided by a registered professional engineer)
- 2
- 3 1. Cost of right-of-way acquisition
- 4
- 5 Subtotal Costs: \$ _____
- 6
- 7 2. Cost of line construction materials and labors. Itemize:
- 8
- 9 Subtotal Costs: \$ _____
- 10
- 11 3. Cost of Appurtenances (such as piping of water system to house and labor).
- 12 Itemize:
- 13
- 14 Subtotal Costs: \$ _____
- 15
- 16 4. Other costs. (e.g. excavating). Itemize:
- 17
- 18 Subtotal Costs: \$ _____
- 19
- 20 5. Total costs (add lines C1, C2, C3 and C4): \$ _____.