



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Mining Programs

Proposed Rulemaking: Water Supply Replacement for Surface Coal Mining (25 Pa. Code Chapters 87-90)

**Environmental Quality Board Meeting
June 18, 2019**

Tom Wolf, Governor

Patrick McDonnell, Secretary

Purpose

- Resolve inconsistency with Federal requirements
- Make language similar to underground provisions
- Codify language in regulation that currently exists in policy
- Provide clarity to operators and water supply owners/users

Background

- Program inconsistencies with Federal requirements
 - “De minimis” operator and maintenance (O&M) costs
 - Ability to release bond with an outstanding water replacement order
 - Lack of provisions for temporary water supply
 - Ability to waive replacement
 - Operator cost recovery

Background

- Stakeholder outreach
 - Public meetings held
- Technical Guidance Documents implemented

Proposed Rulemaking

- **Definitions:** Removal of “de minimus,” two additions, one revisions
- **Information requirements:** Alternative water supplies, water supply surveys (new section)
- **New:** Temporary supplies, reimbursement
- **Removed:** “De minimis” throughout, allowing bond release

Proposed Rulemaking

- Clarifications
 - Water supply replacement obligations
 - Immediate replacement
 - Adequacy of the supply
 - Clarification of O&M costs
 - Waivers for replacement
 - Presumption of liability

Proposed Rulemaking

- Operator cost recovery replaced with a new section.
- Chapters 89 and 90 revised only to change the referenced section number for water supply replacement that changed with this proposal.

▶ Mining & Reclamation Advisory Board

- Multiple committee meetings and exchanges
- Recommendations incorporated.
- In October 2018, the MRAB recommended that the Department proceed with the rulemaking process.

Summary

The proposed rulemaking:

- Rectifies inconsistencies between DEP regulations and federal requirements.
- Aligns the requirements with underground mining operations.
- Provides clarification to operators and the public.

Recommendation

DEP recommends that the board adopt this proposed rulemaking. The proposed rulemaking would have a 30-day public comment period.



Bureau of Mining Programs

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