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

Environmental Quality Board Meeting
June 18, 2019
• 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
• **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.
• Multiple committee meetings and exchanges
• Recommendations incorporated.
• In October 2018, the MRAB recommended that the Department proceed with the rulemaking process.
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.
DEP recommends that the board adopt this proposed rulemaking. The proposed rulemaking would have a 30-day public comment period.
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