

## Appendix B (continued)

### Regulations for Mine Subsidence Control, Subsidence Damage Repair and Water Supply Replacement

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(c) If the affected water supply has not been restored or an alternate water supply has not been provided by the operator or if the operator provides and later discontinues an alternate source, the landowner or water supply user may so notify the Department and request that the Department conduct an investigation in accordance with the following procedure:

(1) Within 10 days of notification, the Department will commence an investigation of landowner's or water supply user's claim.

(2) Within 45 days of notification, the Department will make a determination of whether the contamination, diminution or interruption was caused by the operator's underground mining activities and will notify all affected parties of the Department's determination.

(3) If the Department determines that the operator's underground mining activities caused the water supply to be contaminated, diminished or interrupted, the Department will issue any orders that are necessary to assure compliance with The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21) and this chapter.

#### § 89.152. Water supply replacement: relief from responsibility.

(a) The operator will not be required to restore or replace a water supply if the operator can demonstrate one of the following:

(1) The contamination, diminution or interruption existed prior to the underground mining activities as determined by a premining survey, and the operator's underground mining activities did not worsen the preexisting contamination, diminution or interruption.

(2) The contamination, diminution or interruption is due to underground mining activities which occurred more than 3 years prior to the onset of water supply contamination, diminution or interruption.

(3) The contamination, diminution or interruption occurred as the result of some cause other than the underground mining activities.

(4) The claim for contamination, diminution or interruption of the water supply was made more than 2 years after the water supply was adversely affected by the underground mining activities.

(5) That the operator has done one of the following:

(i) Has purchased the property for a sum equal to the property's fair market value immediately prior to the time the water supply was affected or has made a one-time payment equal to the difference between the property's fair market value determined immediately prior to the time the water supply was affected and the fair market value determined at the time payment is made.

(ii) The landowner and operator have entered into a valid voluntary agreement under section 5.3 of The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. § 1406.5c) which does not require restoration or replacement of the water supply or authorizes a lesser amount of compensation to the landowner than provided by section 5.3(a)(5) of The Bituminous Mine Subsidence and Land Conservation Act.

(b) This section does not apply to underground mining activities which are governed by Chapter 87 (relating to surface mining of coal).

#### § 89.153. Water supply replacement: rebuttable presumption.

(a) In a determination or proceeding under section 5.2 of The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. § 1406.5b), it is presumed that the operator is responsible for the contamination, diminution or interruption of a water supply that is within the rebuttable presumption area.

(b) The operator may successfully rebut the presumption by affirmatively proving that the landowner denied the operator access to the property on which the water supply is located to conduct a premining survey or a postmining survey of the quality and quantity of the water supply and that the operator complied with the notification procedure in § 89.145(a)(3) (relating to water supply replacement: performance standards).

(c) Affirmatively proving that an operator was denied access to conduct a premining or postmining survey of a water supply does not relieve the operator of liability for the contamination, diminution or interruption when the landowner, affected water use or the Department proves the operator's underground mining activities caused the contamination, diminution or interruption.

#### § 89.154. Maps.

(a) *General mine map.* The application shall include maps prepared under the supervision of and certified by a qualified registered professional engineer or qualified registered professional land surveyor drawn to a scale of 1 inch = 500 feet in a manner satisfactory to the Department, updated as requested by the Department, showing the items identified in this subsection. The map shall cover all areas where structures may be damaged and surface lands may suffer material damage as a result of mine subsidence. At a minimum, the map shall cover the entire area above the mine, and all areas within a 30° angle of draw of the limits of the mine. The requirements of paragraphs (2)—(7) may be satisfied by referencing the maps required by Subchapter B (relating to operations). The map, at a minimum, shall show the following:

(1) The boundaries of areas proposed to be affected over the estimated total life of the underground mining activity, with a description of the size, sequence and the schedule for mining subareas of the mine.

(2) The location of test borings and core samplings, and surface and coal elevations at these locations.

(3) Coal crop lines and the contours of the coal seam to be mined within the permit and adjacent areas.

(4) The location and extent of known workings of active, inactive or abandoned, underground or surface mines, including identification of the coal seams mined and location of mine openings to the surface within, above and below the proposed permit and adjacent areas.

(5) The portrayal of major aquifers on cross-sections.

(6) The area covered by the subsidence control plan submitted under § 89.141(d) (relating to subsidence control: application requirements) with the following information identified:

(i) The boundaries of lands and names of current surface and subsurface owners of record.

(ii) Dwellings, public buildings and facilities, churches, schools, hospitals and impoundments with a storage

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capacity of 20 acre-feet (2.47 hectare-meters), identified by numerical reference.

(iii) Structures or classes of structures listed in § 89.142a(f)(1)(i)–(v) (relating to subsidence control: performance standards), identified by numerical reference.

(iv) Urbanized areas, cities, towns, communities and industrial or commercial buildings.

(v) Public parks and historic structures.

(vi) Other structures which are entitled to support, identified by numerical reference.

(vii) Water supplies.

(viii) Major electric transmission lines, including identification by name or numerical reference.

(ix) Public roads and railroads.

(x) Oil, gas and coal slurry pipelines larger than 4 inches (10.16 centimeters) in diameter, including identification by name or numerical reference.

(xi) Water and sewer mains and transmission lines, including identification by name or numerical reference.

(xii) Surface water bodies, including perennial streams, lakes, ponds, dams and impoundments with a volume of 20 acre-feet (2.47 hectare meters) or more, indicating by numerical reference those perennial streams and other bodies of water which are a significant source for a public water supply system.

(xiii) Coal refuse disposal areas, solid and hazardous waste disposal areas, and other air and water pollution control facilities, all identified by numerical reference.

(xiv) Gas, oil and water wells, identified by numerical reference.

(xv) Surface sites and facilities associated with the underground permit application.

(xvi) Aquifers which serve as a significant source for a public water supply system, identified by numerical reference.

(xvii) Political subdivisions.

(xviii) Landslide prone areas.

(xix) Proposed underground workings including a description of the location and extent of the areas in which planned subsidence mining methods will be used and the identification of all areas where the measures described in § 89.141(d)(3), (5) and (7) will be taken to prevent or minimize subsidence and subsidence-related damage; and when applicable, to repair subsidence-related damage.

(7) Areas over the proposed mine where the overburden is 100 feet (30.48 meters) or less.

(b) *Six-month maps.* The operator shall submit mine maps to the Department every 6 months. The maps shall:

(1) Be drawn to a scale of 1 inch = 100 feet or 1 inch = 200 feet.

(2) Be prepared under the supervision of and certified by a qualified registered professional engineer or qualified registered professional land surveyor.

(3) Show the area in which mining is projected to occur in the next 6 months.

(4) Show the area where underground mining occurred over the last 6 months, including pillar locations, and the areas abandoned or completed within the last 6 months.

(5) Provide the following information:

(i) The location and identifying number for structures and surface features required to be identified by number in subsection (a)(6)(i)–(xviii).

(ii) The location and identifying number of structures and surface features required to be identified by number in subsection (a)(6)(i)–(xviii), which have appeared since the permit application.

(iii) The location of surface boundaries and identification of surface owners of record and the owners of record of the coal seam being mined.

(iv) The boundaries of the projected mining area and within that area designated coal areas to be mined and coal areas to be left unmined, including:

(A) A description of the areas to be supported by the pillar plan required by § 89.142a(c)(2).

(B) Coal left in place in compliance with other statutes including those listed in § 89.141(d)(12) (relating to subsidence control; application requirements).

(C) Identification of other areas of planned and controlled subsidence.

(v) Existing mine working adjacent to the area to be mined in the next 6 months, including a designation of any survey stations, elevations of the bottom of the coal seam and areas of geologic faults.

(vi) Other information requested by the Department.

(c) *Map to be filed with recorder of deeds.* After the Department has determined that the 6-month map is in accordance with the subsidence control plan, the operator shall file a copy of the map with the recorder of deeds for each county in which underground mining is projected, and submit to the Department proof of this filing.

(d) *Restriction of activity.* No underground mining may occur until it is shown as projected underground mining on the maps required by subsection (b) and the maps have been on file with the recorder of deeds' office for 10 days.

#### § 89.155. Public notice.

(a) The operator shall send a notice by certified mail, return receipt requested, to the owner of record of each property and each utility, and each political subdivision overlying its underground mining operations. A notice shall be sent to the resident and owner of each structure overlying the mining operation. The notice shall be sent at least 6 months, but not more than 5 years, prior to mining beneath that property or structure or within that political subdivision. The operator shall provide the Department with a copy of each notice and return receipt, or, if the certified mail is not accepted, a copy of the returned envelope documenting that the notice was not accepted or not deliverable.

(b) The notice shall identify:

(1) The area in which underground mining will take place.

(2) The approximate time frame, within the permit term, when the underground mining that may cause subsidence and affect specific structures is expected to occur.

(3) The location of the offices where the applications and maps submitted under this chapter are available for inspection and a schedule of dates for the submission of the 6-month maps under § 89.154(b) (relating to maps).

(4) The location of the offices of both the operator and the Department where a surface owner can submit

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written complaints alleging subsidence damage or water supply contamination, diminution or interruption.

(c) The operator shall establish and implement a procedure to notify Federal, State or local government agencies responsible for administering public facilities, such as roads, when the underground mining beneath or adjacent to the public facility will occur. The notification shall be given 6 months prior to underground mining beneath the

public facility or shall be timed to enable the agency to take appropriate measures to protect the facility and to prevent conditions which may endanger the health, safety or welfare of the public.

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