



**pennsylvania**

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Mining Programs

# Overview of Water Supply Replacement Regulations Revision

## Chapter 87 and 88

# Reason for Regulation Change

Office of Surface Mining rejected certain proposed program amendments (2005).

Regulatory changes to water supply replacement sections were required to fix the cited issues.

# Concepts in draft

## Definitions

- “de minimus cost increase” – removed (87)
- “operation and maintenance costs” – added
- “water supply survey” – relocated to own section and expanded

# Concepts in draft

## Definitions

Specific to 88.1

- “Water supply” - revised to exclude soil moisture

## 87.47 Alternative water supply information

- Application to include replacement cost calculations.
- Requirement to include notice to water supply owner/user to those supplies that may be affected including replacement or restoration details.

# Concepts in draft

## 87.119 and 88.107 Hydrologic balance: water rights and replacement

- Water supply surveys section
- Requirements of the survey information expanded
- Documentation required for refusal of survey

# ▶ Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Water supply replacement obligations (Revised):

- “to any extent” added
- General clarifications
- Requirement to supply DEP with notice of a replaced supply

# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Adequacy of restored or replaced supply (NEW)

- “Reliability,” “quality,” “quantity” descriptions



# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Increased operation and maintenance (O&M) costs (NEW):

- Determining these costs
- Provisions for payment (bond)
- How to calculate O&M bond
- Release of obligation

# ▶ Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Special provisions (NEW)

- Waiver for abandoned supplies
- Transferrable O&M costs to new owner (87 only)

# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Presumption of liability (Revised)

- “diminution” added
- Explicit exclusion of haul and access roads
- Clarification of liability for affected areas, even if off permit

# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Defenses to presumption of liability (Revised)

- Clarification language

# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Temporary Water Supplies (NEW):

- Requirements to supply temporary supply (within RP area) sufficient to meet users needs.

# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Reimbursement (NEW):

- Requirements for the operator to reimburse a supply owner who has incurred costs due to mining activity.
- Process of disputing the cost

# Concepts in draft

87.119 and 88.107 Hydrologic balance: water rights and replacement

Issuance of New Permits (Revised)

- “release of bonds” wording eliminated



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**Sharon Hill**  
**Permits and Technical Section**  
**717-787-6842**  
**[shill@pa.gov](mailto:shill@pa.gov)**