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§ 87.1. Definitions. [88.1]

Water supply—For the purpose of § 87.47 (relating to alternative water supply information) and § 87.119a, an existing, **[or currently]** designated, or **currently** planned source of water or facility or system for the supply of water for human consumption or for agricultural, commercial, industrial or other uses. **Natural soil moisture utilized by vegetation or crops is not a water supply.**

Commented [HS1]: Previously deleted, now restored.

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§ 87.47. Alternative water supply information. [88.27]

(a) The application shall identify the extent to which the proposed surface mining activities may result in contamination, diminution or interruption of **[an underground or surface source of water] any water supply** within the proposed permit or adjacent area **[for domestic, agricultural, industrial or other legitimate use]**. If contamination, pollution, diminution or interruption may result, then the description shall identify the means to restore or replace the affected water supply in accordance with § 87.119a (relating to hydrologic balance: water rights and replacement), **including cost calculations. The Department provides notification to the owner of any potentially affected supply.**

Commented [HS2]: (b) is deleted and this is added to match with the existing policy.

~~(b) The applicant shall provide notice to the water supply owner/user for those water supplies where the proposed surface mining activities may result in contamination, diminution or interruption within the proposed permit or adjacent area. The notice shall include the details of the proposed replacement or restoration of the water supply.~~

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§ 87.119a. Hydrologic balance: water rights and replacement. [88.107a]

(a) **Water supply surveys. The operator shall conduct a survey of the quantity and quality of all water supplies within the permit area and those in adjacent areas that may be affected by mining activities, except where the landowner denies the operator access for the survey.**

(1) The survey must include the following information to the extent that it can be collected without excessive inconvenience to the landowner:

[...]

(iii) The chemical and physical characteristics of the water, including, at a minimum, total dissolved solids or specific conductance corrected to 25° C, pH, total iron, total manganese, acidity, alkalinity and sulfates. Additional parameters, including hardness and total coliform, may be required by the Department based on the local

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aquifer conditions and the characteristics of the water supply and uses. An operator who obtains water samples in a premining or postmining survey shall utilize a certified laboratory to analyze the samples. For water supplies with treatment, the treatment system must be documented and a chemical analyses of the untreated water should be obtained if a sample that bypasses the treatment can be collected.

Commented [HS3]: Hardness and coliform made optional.

Commented [HS4]: Language revised to include collection of sample where it's available.

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(e) Reimbursement. If a water supply is restored or replaced by the owner or user prior to establishing that mining activity is responsible for the pollution or diminution, the responsible operator shall reimburse the water supply owner or user the cost of replacing or restoring the supply including payment of operation and maintenance costs as described in paragraph (g). If the operator disputes the cost as presented by the water supply owner or user, the operator may present to the Department comparable estimates meeting the requirements of subparagraph (b)(1) from three (3) water supply installers in the area. The Department will determine fair cost of reimbursement based upon these estimates and any other applicable information. Reimbursement claims against an operator can only be registered until final release of the reclamation bond for the site.

Commented [HS5]: Comparable clarified to refer to the estimates. Added reference to (b)(1) for additional clarity. Changed well "drillers" to "installers".

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(f) Adequacy of permanently restored or replaced water supply. A permanently restored or replaced water supply shall include any well, spring, municipal water supply system or other supply approved by the Department which meets the following criteria for adequacy:

[...]

(2) Quality. A restored or replaced water supply will be deemed adequate in quality if it meets the following:

(i) For a domestic supply, the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 750.1—750.20) standards, or a quality comparable to the premining water supply if that water supply did not meet these standards. The Department may require that the quality of the restored or replaced water supply be equivalent to the premining supply in particular circumstances where the water user has demonstrated that this standard is necessary for the purposes served by the current supply.

Commented [HS6]: Requested "site specific" but "particular circumstances" seems more appropriate as it's not related to a "site". "Higher quality" was removed.

(3) Quantity. A restored or replaced water supply will be deemed adequate in quantity if it meets one of the following:

(i) It delivers the amount of water necessary to satisfy the purposes served by the supply as documented in the water supply survey including the demands of any reasonably foreseeable uses.

Commented [HS7]: addition

CROSS REFERENCES TO BE REVISED

§ 88.381. General requirements.

(b) The following performance standards shall be met:

(13) Water rights shall be protected in accordance with § 88.107a (relating to hydrologic balance: water rights and replacement).

§ 89.173. Performance standards.

Construction, operation, maintenance, modification, removal and reclamation of coal preparation activities shall comply with the following:

(3) The hydrologic balance shall be protected under §§ 87.102(b), 87.106, 87.107, 87.119a, 89.52, 89.53, 89.55 and 89.57—89.60.

§ 90.116a. Hydrologic balance: water rights and replacement.

An operator who conducts coal refuse disposal and adversely affects a water supply by contamination, pollution, diminution or interruption shall comply with § 87.119a (relating to water rights and replacement).