

lowest coal seam to be mined which may be adversely impacted by mining. Since no coal mining will occur in a refuse disposal operation, Pennsylvania's revised language requiring a description of the stratum down to and including the lowest aquifer that could be affected is as effective as the Federal regulations in requiring the application to contain geologic information about strata that could be affected in a coal refuse disposal operation. The Director finds that this change is no less effective than the Federal regulations and is approving the change.

Former subsection (a)(1)(i) was moved in its entirety to (a)(1). Former subsection (a)(1)(ii) is now (a)(2) and was changed from "Depth, lithology and structure of overburden or underlying strata," to "Depth, lithology and structure of near-surface bedrock." As noted earlier, coal refuse disposal operations in Pennsylvania generally are fills that do not involve the mining of coal. Therefore, the requirement to provide the depth, lithology and structure of overburden or underlying strata, is not applicable since this requirement is tied to a coal seam to be mined. The Director finds that a description of the lithology and structure of the near-surface bedrock is no less effective than the Federal regulations requiring descriptions of the strata to be affected by refuse operations. Accordingly, the Director is approving this change.

Former subsection (a)(2) has been deleted. This section provided the geologic information to be included in an application for any portion of a permit area in which the strata will be removed. As noted earlier, this provision is not applicable to refuse disposal operations because coal mining (unless otherwise authorized under Pennsylvania's surface mining regulations) does not occur on such operations. The Director is approving this change.

Former subsection (b) has been deleted. This section provided that an applicant may request that the requirements for a statement of the results of the test borings or core samplings required under subsection (a)(2) may be waived in part or in its entirety by the Department. Since former subsection (a)(2) has been deleted there is no reason to get a waiver from its requirements, therefore, the Director is approving deletion of this section.

Pennsylvania added requirements (4) through (9) to subsection (a). These sections provide the application requirements for describing the soils,

geologic strata characteristics, aquifers, and mine workings below proposed refuse disposal areas. These additions do not correspond directly to any Federal regulations. However, they require operators to inform Pennsylvania of the conditions beneath and adjacent to the proposed coal refuse disposal area. Because they require additional descriptions of site conditions, they are not inconsistent with the Federal regulations, and the Director is approving them.

Pennsylvania added a new subsection (b) that provides that maps, cross-sections, and geologic descriptions required by this section shall be prepared and certified by a qualified registered professional geologist. The Director finds that this section is no less effective than the Federal regulations at 30 CFR 779/783.25(b), which provides that a professional geologist is among the professionals authorized to submit maps and cross-sections for permit information.

*25 Pa. Code 90.13 Groundwater information.* In subsection (2), Pennsylvania proposed to add the following sentence to the end of the subsection: "The application shall include a description of the groundwater flow system as it relates to the design and operation of the proposed groundwater and surface water protection system as described in § 90.50 (relating to Design criteria: groundwater and surface water protection system)." This section does not have a direct Federal counterpart. However, it is useful to provide a description of the groundwater flow system as it relates to design and operation of the groundwater and surface water protection system in the application so that Pennsylvania may evaluate the effectiveness of such systems. The information required by 25 Pa. Code 90.13(2) assists operators in meeting the requirements of, and is therefore consistent with, 30 CFR 816.81(a)(1), which requires operators to minimize adverse effects of leachate and surface water runoff on surface and ground water quality and quantity. As a result, the Director is approving this addition.

*25 Pa. Code 90.45 Prime farmland* The only change to this section was the addition of a reference to Subchapter E which now requires that a person who conducts or intends to conduct coal refuse disposal activities on prime farmlands historically used for cropland, in accordance with Subchapter E (relating to site selection), to submit a plan as part of the permit application for the disposal and restoration of the land. The addition of

this language clarifies that an operator must take into account the requirements of subchapter E when proposing to conduct refuse disposal on prime farmland sites. In Subchapter E, section 90.202(e)(1) provides that Pennsylvania will not approve coal refuse disposal on, or within, prime farmlands except on preferred sites. The Director finds that because this section provides protections for prime farmlands in addition to those found in 30 CFR 785.17, it is consistent with that Federal regulation and is hereby approved.

*25 Pa. Code 90.49 Stream buffer zone variance* This is a new section added to define the conditions when Pennsylvania will allow coal refuse disposal operations to occur within 100 feet of a stream. As such, it expands upon and clarifies the statutory provisions partially approved on April 22, 1998 (63 FR 19806). Subsection (a) provides that coal refuse disposal may not occur within 100 feet of a stream, however, the Department may grant a variance under subsection (c) if the application is consistent with Subchapter E (relating to site selection). Subsection (b) provides that surface mining operations supporting coal refuse disposal must comply with 25 Pa. Code 86.102(12) relating to areas where mining is prohibited or limited. Subsection (c) provides the procedures an operator must follow to obtain a variance for disposal of coal refuse within the 100-foot stream buffer zone (SBZ) and the circumstances under which the Department will grant such a variance.

This amendment responds to the required amendment codified at 30 CFR 938.16(www). This required amendment concerns application of the SBZ rule at 30 CFR 816/817.57. The required amendment stated:

By July 1, 1998, Pennsylvania shall amend the Pennsylvania program to authorize stream buffer zone variances for coal refuse disposal activities only where such activities will not cause or contribute to the violation of applicable State or Federal water quality standards, and will not adversely affect water quality and quantity, or other environmental resources of the stream.

Pennsylvania's submission of regulations at 25 Pa. Code 90.49(a), (b) and (c)(1), regarding coal refuse disposal activities within a SBZ, are substantially the same as the Federal regulations regarding surface mining activities within a SBZ found at 30 CFR 816/817.57. Those sections provide assurance that the activities will not cause or contribute to the violation of applicable State or Federal water quality standards, and will not adversely affect the water quantity and quality or other