

environmental resources of the stream. In addition, at 25 Pa. Code 90.49(c)(2), Pennsylvania contains regulations regarding public notice of a potential variance and a method by which the public can file an exception to the proposed variance with the aim of receiving a public hearing. These sections are no less effective than the Federal regulations and we are approving them. As a result, we will remove the required amendment at 30 CFR 938.16(www).

In 25 Pa. Code 90.49(c)(3), Pennsylvania has indicated that variances to SBZs will be issued as written orders specifying the methods and techniques to be employed to prevent or mitigate adverse impacts. Mitigation can include, but is not limited to, compensatory restoration and enhancements of nearby streams or stream segments. The first sentence of this provision is essentially identical to the statutory language previously approved on April 22, 1998, which states "The variance shall be issued as a written order specifying the methods and techniques that must be employed to prevent or mitigate adverse impacts." Therefore, there is no issue in approving that language in regulation here. The second sentence merely elaborates on the scope of that mitigation concept we have previously accepted by indicating that it may include off-site restoration or enhancement. Therefore, it is also approved.

25 Pa. Code 90.50 Design criteria: groundwater and surface water protection system. This entire section was added by the amendment and provides the application requirements for the performance standards of section 30.56a(i) of the CRDCA. Subsection (a) provides that the application must include a description of the system that will be installed to prevent adverse impacts to groundwater and surface water, while subsection (b) requires the application to include a description of the system that will be installed to prevent precipitation from coming in contact with the coal refuse. Subsection (c) provides that the Department's Technical Guidance Document number 563-2112-656, titled, "Liners—Impoundments, Stockpiles and Coal Refuse Disposal Areas" shall be used as guidance for designing coal refuse disposal sites incorporating earthen, admixed, or synthetic liners or caps for preventing adverse impact to groundwater and surface water and for preventing precipitation from contacting coal refuse. Subsection (d) requires the application to include a description of the measures to be taken to ensure the long-term functionality of the systems

described in subsections (a) and (b). The description must address the site's susceptibility to mine subsidence and deterioration due to physical or chemical processes.

We approved Pennsylvania's use of a system to prevent adverse impacts to surface and ground water and to prevent precipitation from contacting the coal refuse, as described in section 30.56a(i) of the CRDCA, in the April 22, 1998, **Federal Register** (63 FR 19807). The requirements, as presented in the amendment, to describe such systems in the permit application including when and how the systems will be used and how they will be maintained are a logical extension of the requirements of their use. These permit application requirements, in conjunction with the requirements of previously approved sections 25 Pa. Code 90.35 concerning protection of the hydrologic balance, and 25 Pa. Code 90.101 concerning general requirements of the hydrologic balance, are consistent with the requirements of SMCRA section 515(b)(10) concerning protection of the hydrologic balance and 30 CFR 816.81(a) concerning coal mine waste, protection of surface and groundwater from leachate and surface water runoff. As a result, the Director is approving this section.

25 Pa. Code 90.101 Hydrologic balance: general requirements. Pennsylvania proposed only a minor change to this section. Subsection (b) previously required coal refuse disposal activities to be planned and conducted to prevent pollution of the water. In this amendment, Pennsylvania clarified that the water referred to in this section is groundwater and surface water. This clarification is consistent with the requirements of SMCRA section 515(b)(10) regarding minimizing disturbances to surface and ground water systems. As a result, the Director is approving this section.

25 Pa. Code 90.116a Hydrologic balance: water rights and replacement. This new section provides that an operator who conducts coal refuse disposal and adversely affects a water supply shall comply with 25 Pa. Code 87.119 (relating to water rights and replacement). Section 87.119 requires restoration or replacement of an affected water supply with an alternate source adequate in quantity and quality for the purpose served by the supply. While we are reviewing changes to 25 Pa. Code 87.119 as part of a different program amendment, the Director finds that the reference in 25 Pa. Code 90.116a to 25 Pa. Code 87.119 will insure that water supplies adversely affected by coal refuse disposal operation will be

restored or replaced. Therefore, the Director is approving this section.

25 Pa. Code 90.122 Coal refuse disposal. In this section, Pennsylvania deleted former subsections (e) and (g), and redesignated former subsection (f) as (e) and former subsection (h) as (f). Pennsylvania then added new subsections (g) and (h). In the former subsection (e) Pennsylvania required coal refuse disposal areas to be located on the most moderately sloping and naturally stable areas available. The section further provided that fill materials suitable for disposal are to be placed on or above a natural terrace, bench or berm to provide additional stability and prevent mass movement. Former subsection (g) required coal refuse disposal areas to be located in areas where groundwater discharge and surface water flows are minimal. These sections, which have no direct Federal counterparts, were designed to provide stability to refuse disposal fills and prevent pollution to surface and groundwater, both of which are provided for under the remaining and new subsections of 25 Pa. Code 90.122. Therefore, the Director is approving the deletion of these sections.

The new subsection (g) requires refuse disposal areas to be provided with a system to prevent adverse impacts to surface water and groundwater. New subsection (h) specifies how and when the system for preventing precipitation from coming into contact with coal refuse is to be installed. These sections are derived from, and are consistent with, section 30.56a(i) of the CRDCA that we approved in the April 22, 1998, **Federal Register** notice (63 FR 19807). Therefore, the Director is approving them.

Subchapter E. Site selection. Pennsylvania is proposing to add a new Subchapter E titled, "Site Selection" to the Chapter 90 regulations. Subchapter E will contain 25 Pa. Code 90.201 Definitions, 25 Pa. Code 90.202 General requirements, 25 Pa. Code 90.203 Proposing a preferred site, 25 Pa. Code 90.204 Proposing an alternate site, 25 Pa. Code 90.205 Alternatives analysis, 25 Pa. Code 90.206 Disapproval of a proposed site, and 25 Pa. Code 90.207 Approval of a selected site.

25 Pa. Code 90.201 Definitions. This section contains definitions of the terms "search area," and "selected site." These definitions are used to implement Pennsylvania's regulations for the selection of sites for coal refuse disposal operations.

Pennsylvania has defined the term "search area" to mean the geographic area within a 1-mile radius of an existing coal preparation facility or the