

(2) In lieu of meeting the requirements in paragraph (a)(9)(i) of this section, the regulatory authority may approve an impoundment that relies primarily on storage to control the runoff from the design precipitation event when it is demonstrated by the operator and certified by a qualified registered professional engineer or qualified registered professional land surveyor in accordance with § 780.25(a) of this chapter that the impoundment will safely control the design precipitation event, the water from which shall be safely removed in accordance with current, prudent, engineering practices. Such an impoundment shall be located where failure would not be expected to cause loss of life or serious property damage, except where:

(i) Impoundments meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of § 77.216(a) of this title shall be designed to control the precipitation of the probable maximum precipitation of a 6-hour event, or greater event specified by the regulatory authority.

(ii) Impoundments not included in paragraph (c)(2)(i) of this section shall be designed to control the precipitation of the 100-year 6-hour event, or greater event specified by the regulatory authority.

[48 FR 44004, Sept. 26, 1983, as amended at 50 FR 16200, Apr. 24, 1985; 53 FR 43605, Oct. 27, 1988; 59 FR 53029, 53030, Oct. 20, 1994; 66 FR 14317, Mar. 12, 2001]

§ 816.56 Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning a permit area or seeking bond release, the operator shall ensure that all temporary structures are removed and reclaimed, and that all permanent sedimentation ponds, diversions, impoundments, and treatment facilities meet the requirements of this chapter for permanent structures, have been maintained properly, and meet the requirements of the approved reclamation plan for permanent structures and impoundments. The operator shall renovate such structures if necessary to meet the require-

ments of this chapter and to conform to the approved reclamation plan.

[48 FR 44005, Sept. 26, 1983]

§ 816.57 Hydrologic balance: Activities in or adjacent to perennial or intermittent streams.

(a)(1) *Buffer requirement.* Except as provided in paragraph (b) of this section and consistent with paragraph (a)(2) of this section, you, the permittee or operator, may not conduct surface mining activities that would disturb the surface of land within 100 feet, measured horizontally, of a perennial or intermittent stream, unless the regulatory authority authorizes you to do so under § 780.28(e) of this chapter.

(2) *Clean Water Act requirements.* Surface mining activities, including those activities in paragraphs (b)(1) through (b)(4) of this section, may be authorized in perennial or intermittent streams only where those activities would not cause or contribute to the violation of applicable State or Federal water quality standards developed pursuant to the Clean Water Act, as determined through certification under section 401 of the Clean Water Act or a permit under section 402 or 404 of the Clean Water Act.

(b) *Exception.* The buffer requirement of paragraph (a) of this section does not apply to those segments of a perennial or intermittent stream for which the regulatory authority, in accordance with § 780.28(d) of this chapter or § 816.43(b)(1) of this part, approves one or more of the activities listed in paragraphs (b)(1) through (b)(4) of this section.

(1) Diversion of a perennial or intermittent stream. You must comply with all other applicable requirements of the regulatory program, including the requirements of § 816.43(b) of this part for the permanent or temporary diversion of a perennial or intermittent stream.

(2) Placement of bridge abutments, culverts, or other structures in or within 100 feet of a perennial or intermittent stream to facilitate crossing of the stream by roads, railroads, conveyors, pipelines, utilities, or similar facilities. You must comply with all other applicable requirements of the