



Standard Operating Procedure (SOP)¹ for District Mining Operations Impoundments Certification and Annual Recertification

SOP No. BMP-008

Rev February 26, 2020

BACKGROUND

25 Pa. Code Chapters 77.531, 87.112, and 89.101 require that all impoundments be certified by a professional engineer or professional land surveyor following construction. 25 Pa. Code Chapter 90.112 requires that all impoundments be certified by a professional engineer following construction. 25 Pa. Code Chapters 87.112 and 89.101 require that all impoundments at bituminous coal sites also be certified annually by a professional engineer (PE) or professional land surveyor (PLS). 25 Pa. Code Chapter 90.112 requires that all impoundments at coal refuse disposal sites also be certified annually by a professional engineer.

The term “impoundment” as used here includes sediment ponds, treatment ponds, sediment traps, and processing ponds with a capacity greater than 2,000 cubic feet. 2,000 cubic feet corresponds to the storage capacity required for a sediment trap with a drainage area of one acre. This threshold was developed by an internal workgroup to exclude low hazard structures such as haul road sumps.

This SOP outlines two work flow processes to provide clarity in handling impoundment construction certifications and the subsequent annual impoundment certifications.

PE or PLS

When a permit under Chapter 105 is required or when the impoundment meets or exceeds the MSHA size classification or other criteria of 30 CFR 77.216(a), the impoundment can be designed and certified only by a registered professional engineer – a PLS certification is not acceptable. A Chapter 105 permit is required when an impoundment meets any of the following criteria:

- inside embankment height of greater than 15 feet,
- storage capacity of greater than 50 acre-feet,

¹ Disclaimer: The process and procedures outlined in this SOP are intended to supplement existing requirements. Nothing in the SOP shall affect regulatory requirements. The process, procedures and interpretations herein are not an adjudication or a regulation. There is no intent on the part of the DEP to give the rules in this SOP that weight or deference. This document establishes the framework within which the DEP will exercise its administrative discretion in the future. The DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

- drainage area greater than 100 acres.

For all coal refuse disposal permits under Chapter 90, a PE certification is required. [§90.112].

Under 25 Pa. Code Section 88.53 (Anthracite Coal), designs for dams, ponds, embankments and impoundments must be certified by a PE but there is no post-construction or annual certification required.

Clarifications

Pit sumps excavated to collect water on the pit floor are not subject to these requirements.

Small noncoal permits under 25 Pa. Code Section 77.108 are exempt from Subchapter I which contains the requirement for certification. General permits (GP) under Subchapter J may also be exempt from the need for certifications. Refer to the specific GP to check.

PROGRAM SPECIFIC PRACTICES

Impoundment Construction Certification

The permittee is required to submit the impoundment construction certification to DEP upon completion of the impoundment. The information is supplied by completing the “as constructed” section of the form originally submitted in the permit application. The certification must be submitted and approved prior to any earth disturbance within the impoundment’s drainage area. If the Surface Mining Conservation Inspector (SMCI) notes that more than 30 days has passed and no certification has been submitted, they should remind the permittee of the requirement in writing.

Upon receipt of the certification:

1. The District Mining Office (DMO) staff creates an Initial Construction Certification (ICC) self-monitoring entry in eFACTS including the date when the certification is received and a designation in the comment field identifying which impoundment is being certified.
2. The certification is supplied to the DMO engineer and SMCI for their review.
3. The DMO engineer and SMCI review the certification concurrently. The SMCI field verifies the certification and refers any discrepancies or deficiencies to the DMO engineer for further evaluation. The SMCI may request that the DMO engineer accompany them on their field review.
4. After the DMO engineer and SMCI have completed their reviews, the DMO engineer drafts a letter to the permittee, consultant, SMCI, and permit file indicating that the certification has been accepted or outlining any deficiencies that need to be corrected.
5. DEP staff confirms that a monitoring point(s) is activated for the impoundment in both Sample Information System (SIS) and Water Management System (WMS) (as applicable) so that it shows up as an active monitoring point. This may not be applicable if a treatment impoundment does not discharge.
6. The SMCI will ensure that the deficiencies identified in the DMO engineer’s letter are corrected in a timely manner. The SMCI may instruct the permittee through an inspection report and, if necessary, a compliance action, to conduct any maintenance and/or repairs necessary to resolve

any deficiencies identified in the DMO engineer's letter.

A sample outline for the DMO engineer's letter is attached to this SOP.

Annual Impoundment Certification

1. Bituminous SMP's and coal refuse disposal permits should be issued with a special condition informing the permittee of the requirement to submit annual certification for any impoundments constructed on their site. The corresponding noncoal and anthracite regulations do not have the requirement for annual certification. Sample text for the special condition is as follows: "On or before {permit issuance anniversary date} of each year beginning with {permit issuance date + 1 year}, the permittee shall submit its annual impoundment certifications in accordance with 25 Pa. Code Section {87.112 or 90.112}."
2. Upon permit issuance, clerical staff creates an Annual Impoundment Certification (AIC) self-monitoring entry in the eFACTS self-monitoring screen. The due date will be set one year from the permit issuance date and will recur annually. If there are no impoundments built by the first anniversary date, the due date can be changed to the next year.
3. Approximately 60 days before the annual impoundment certifications are due, the SMCI reminds the permittee in their monthly inspection report when annual impoundment certifications will be due and lists the due date as well as which impoundments need to be certified.
4. The permittee submits the annual impoundment certifications by the due date which corresponds with the permit issuance anniversary date. Only one impoundment should be included per certification sheet.
5. The DMO staff enters the date that the annual impoundment certifications are received in the eFACTS self-monitoring record, including a designation in the comment field identifying which impoundment is being certified.
6. The AIC is forwarded to the DMO engineer and SMCI for review.
7. The DMO engineer and SMCI review the AICs concurrently. The review of the submittal should verify the following:
 - a. All responses and comments on the certification reflect field conditions.
 - b. The certification is signed and sealed by a PE or PLS as applicable.
 - c. A certification has been received for all impoundments that are in place at the site.
8. The SMCI should note any missing certifications in an inspection report.
9. The DMO engineer writes a memo that is distributed to the SMCI and the permit file indicating either that the certification is accepted or outlining any deficiencies to be corrected by the permittee. If the DMO engineer's memo identifies deficiencies that require corrective action the memo should also be distributed to the SMCIS.
10. The SMCI will instruct the permittee through an inspection report and, if necessary, a compliance action, to conduct any maintenance and/or repairs necessary to resolve any deficiencies identified in the DMO engineer's memo. The SMCI will ensure that the deficiencies identified in the DMO engineer's memo are corrected in a timely manner.

A sample template for the DMO engineer's memo is attached to this SOP.

Annual certifications must continue until removal of the structure or release of the performance bond.

Sample DMO Engineer's Letter

{Date}

{Operator's Name}
{Operator's Address}
{Operator's Address}

Re: {Operator's Name}
Permit No. {XXXXXXXX}
{Mine Name} Mine
{Township} Township
{County} County

Ladies and Gentlemen:

We recently received pond certification for {impoundment name} dated {date the impoundment was certified} for the above referenced permit.

___ This pond certification conforms to the approved design.

___ Minor deficiencies have been found. Mining activities may commence or continue at your discretion, but the following deficiencies must be corrected:

___ This pond contains major deficiencies from the approved plan. The certification is unacceptable. The following deficiencies must be corrected, and the pond recertified and approved prior to commencement of mining activities:

___ This pond certification is being returned to you because it does not meet the following criteria:

If you have any questions, please feel free to contact me.

Sincerely,

{Engineer's Name}
{Engineer's Title}
Bureau of District Mining Operations

{Enclosures}

cc: {Consultant}

bcc: Permit, w/Enc.
{MCI's Name}, w/Enc.
{Engineer's Name}, w/Enc.

Annual Impoundment Certification Memo

MEMO

TO {Inspectors Name}
 Mine Conservation Inspector
 Bureau of District Mining Operations

FROM {Engineer's Name}
 {Engineer's Title}
 Bureau of District Mining Operations

DATE {Date}

RE Annual Impoundment Certification Review
 {Company Name}
 Permit No. {XXXXXXXX}
 {Mine Name} Mine
 {Township} Township
 {County} County

MESSAGE:

We recently received an annual impoundment certification for {impoundment name} dated {date the impoundment was certified} for the above referenced permit.

_____ The annual impoundment certification does not identify any deficiencies that require corrective action.

_____ The annual impoundment certification identifies the following deficiencies for which corrective action must be taken:

Please instruct the permittee through an inspection report and, if necessary, a compliance action, to conduct any maintenance and/or repairs necessary to resolve the above-referenced deficiencies.

_____ The annual impoundment certification identifies the following deficiencies that render the certification unacceptable:

The above referenced deficiencies must be corrected through a compliance action and the annual impoundment certification must be resubmitted as soon as possible.

If you have any questions, please feel free to contact me.

cc: {Inspector Supervisor's Name} {only if options 2 or 3 are used}
{Engineer's Name}
Permit