



U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
**DIRECTIVES SYSTEM**

Subject Number:

TSR-9

Transmittal Number:  
441

Date: 4/27/88

Subject:

Construction Certification of Siltation Structures

Approval:

Title:

Acting  
Director

1. Purpose. This directive provides guidance to the Office of Surface Mining Reclamation and Enforcement (OSMRE) employees who review or approve construction certifications of siltation structures or who inspect siltation structures.

2. Definitions. None.

3. Policy/Procedures.

a. Background. Section 816.46(b)(3) and 816.49(a)(10)(ii) of the permanent program regulations require that siltation structures be certified by a qualified registered professional engineer or a qualified registered professional land surveyor, (if authorized by the applicable regulatory program) as being constructed as designed and in accordance with the approved reclamation plan. Certified inspection reports are required to be submitted to the regulatory authority upon completion of construction. This directive identifies procedures for processing construction certifications when they indicate that a structure has been constructed differently from the approved design. Typically, construction certifications are submitted to the regulatory authority in one of three forms:

(1) The inspection report contains the certification that the structure has been built according to the approved design without modification.

(2) The inspection report certifies that the structure has been constructed in accordance with the approved design except as noted in the report.

(3) The inspection report contains the certification that the structure has been changed from the approved design and now includes the design changes and "as-built" drawings.

The action to be taken by the reviewer of the report is dictated by whichever certification is provided to the regulatory authority.

b. Policy. A construction certification must (1) accurately reflect the constructed pond and (2) match or become the approved design contained in the approved permit.

c. Procedures.

(1) Inspection certification approval. The contents of the inspection report dictate the regulatory authority (OSMRE) response and level of review.

(a) An inspection report that certifies the constructed pond has been built in accordance with the approved design requires no action unless it is apparent that it is inaccurate.

(b) An inspection report that certifies that it accurately describes the constructed structure, identifies any deviation from the approved design, and is accompanied by a request for approval of those deviations constitutes an acceptable application for a permit revision in accordance with current requirements and procedures. An inspection report that notes minor changes that do not affect the safety, stability, operation and reliability of the structure from the approved design is acceptable, if it is readily apparent that the parameters upon which the initial approval was based have not changed. Otherwise, the report must be accompanied by supporting calculations, designs, demonstrations required by the regulations and "as-built" drawings to establish that the constructed pond meets applicable performance standards.

(c) Upon acceptance of a certified inspection report as described in (b) above, the original designs should be marked to show the changes, removed or noted as superseded in the permit file.

(2) State Program Oversight.

(a) If the State regulatory authority has accepted a construction inspection certification and incorporated it into the permit file, the operator is in conformance with the permit and no further action is required.

(b) If the State regulatory authority has accepted a certification without adequate supporting documentation to demonstrate that the performance standards have been met, the issue is with the State approval process and must be noted in the oversight report (unless the condition of the structure justifies an IHCO).

(c) If the inspection certification (1) does not exist, (2) does not match the constructed pond, or (3) the revised design has not been accepted by the regulatory authority as a revision, then a violation would appear to exist and a 10-day notice should be written (unless the condition of the structure justifies an IHCO).

4. Reporting Requirements. None.
5. References.
  - a. Public Law 95-87, Section 515(b)(10)(B)(ii).
  - b. 30 CFR 774.13, 816.46(b)(3) and (c)(iii)(C), and 816.49(a)(10).
6. Effect on Other Documents. None.
7. Effective Date. Upon issuance.
8. Contact. Division of Technical Services (202) 343-1480.