



# Public Service Commission

## State of North Dakota

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### Policy Memorandum No. 12 to Mine Operators

DATE: July 12, 2006 (Updated)  
(Original issue Date February 12, 1985, Updated March 8, 1995 and December 19, 2001)

TO: All Mine Operators and Lignite Energy Council

FROM: Commissioners Clark, Wefald and Cramer

SUBJECT: Impoundment Certifications and Impoundment Inspection Reports by a Registered Professional Engineer

This memorandum provides guidance to mine operators on the requirements for carrying out and filing reports for 1) inspections during the construction of impoundments, 2) post-construction certification of impoundments, and 3) annual impoundment inspections. **All of these inspection and certification reports must be signed by a registered professional engineer.** Also, copies of the impoundment inspection reports and certifications must be maintained at or near the mine site. The regular inspections during construction and the annual impoundment inspections are required by North Dakota Administrative Code (NDAC) 69-05.2-16-09(19), and post-construction certification for impoundments is required by North Dakota Century Code Section 38-14.1-24(8)(c) and NDAC 69-05.2-16-09(19).

#### **Inspections During Impoundment Construction**

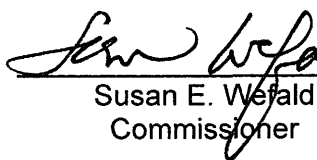
Inspection reports for regular inspections that occur during the construction of an impoundment must be filed with the Commission within 45 days after each inspection. A pond inspection report may address a single inspection, more than one inspection, or all the inspections that occurred regularly during the construction of an impoundment; however, the report must be filed with the Commission within 45 days of the first inspection. If more than one inspection is discussed in a single report, include the time period over which the inspection occurred, the construction phase at the time of each inspection, any aspect of construction that would affect the stability of the impoundment, any minor deviations from the approved design plan, and a statement that the impoundment was constructed according to the approved design plan (except as otherwise noted) and NDAC Chapter 69-05.2-16.

### Post-Construction Impoundment Certifications

Post-construction certification of impoundments must be completed and filed with the Commission no later than 30 days after completion of the construction. The certification must address all of the items specified in NDAC 69-05.2-16-09(19)(c) and affirm that the impoundment was constructed according to the approved design plan (except as otherwise noted). The post-construction certification and/or actual as-built drawings and specifications must acknowledge any changes or field conditions different from those shown by plans in the permit application. If significant changes occurred during construction due to unexpected conditions, a permit revision application must be filed to modify the approved design plan.

### Annual Impoundment Inspections

Annual impoundment inspections must be conducted and reports by a registered professional engineer must be filed with the Commission within 30 days after the inspections. The inspection report must address all of the items specified in NDAC 69-05.2-16-09(19)(c). A single report can address more than one impoundment; however, the conditions of each pond must be noted separately. Also, operators should note that additional impoundment inspections are required by NDAC 69-05.2-16-09(21).

  
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