

specified rain event approved by the District Manager.

(4) All inspections required by this paragraph (a) shall be performed by a qualified person designated by the person owning, operating, or controlling the impounding structure.

(b) When a potentially hazardous condition develops, the person owning, operating or controlling the impounding structure shall immediately:

(1) Take action to eliminate the potentially hazardous condition;

(2) Notify the District Manager;

(3) Notify and prepare to evacuate, if necessary, all coal miners from coal mine property which may be affected by the potentially hazardous conditions; and

(4) Direct a qualified person to monitor all instruments and examine the structure at least once every eight hours, or more often as required by an authorized representative of the Secretary.

(c) After each examination and instrumentation monitoring referred to in paragraphs (a) and (b) of this section, each qualified person who conducted all or any part of the examination or instrumentation monitoring shall promptly record the results of such examination or instrumentation monitoring in a book which shall be available at the mine for inspection by an authorized representative of the Secretary, and such qualified person shall also promptly report the results of the examination or monitoring to one of the persons specified in paragraph (d) of this section.

(d) All examination and instrumentation monitoring reports recorded in accordance with paragraph (c) of this section shall include a report of the action taken to abate hazardous conditions and shall be promptly signed or countersigned by at least one of the following persons:

(1) The mine foreman;

(2) The assistant superintendent of the mine;

(3) The superintendent of the mine;

(4) The person designated by the operator as responsible for health and safety at the mine.

(e) Before May 1, 1976, the person owning, operating, or controlling a water, sediment, or slurry impound-

ment which meets the requirements of § 77.216(a) shall adopt a program for carrying out the requirements of paragraphs (a) and (b) of this section. The program shall be submitted for approval to the District Manager. The program shall include as a minimum:

(1) A schedule and procedures for examining the impoundment and impounding structure by a designated qualified person;

(2) A schedule and procedures for monitoring any required or approved instrumentation by a designated qualified person;

(3) Procedures for evaluating hazardous conditions;

(4) Procedures for eliminating hazardous conditions;

(5) Procedures for notifying the District Manager;

(6) Procedures for evacuating coal miners from coal mine property which may be affected by the hazardous condition.

(f) Before making any changes or modifications in the program approved in accordance with paragraph (e) of this section, the person owning, operating, or controlling the impoundment shall obtain approval of such changes or modifications from the District Manager.

(g) The qualified person or persons referred to in paragraphs (a), (b)(4), (c), (e)(1), and (e)(2) of this section shall be trained to recognize specific signs of structural instability and other hazardous conditions by visual observation and, if applicable, to monitor instrumentation.

(Secs. 101, 508, Pub. L. 91-173, 83 Stat. 745, 803 (30 U.S.C. 811, 957))

[40 FR 41777, Sept. 9, 1975, as amended at 57 FR 7471, Mar. 2, 1992]

§ 77.216-4 Water, sediment or slurry impoundments and impounding structures; reporting requirements; certification.

(a) Except as provided in paragraph (b) of this section, every twelfth month following the date of the initial plan approval, the person owning, operating, or controlling a water, sediment, or slurry impoundment and impounding structure that has not been abandoned in accordance with an approved plan shall submit to the District Manager a

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report containing the following information:

(1) Changes in the geometry of the impounding structure for the reporting period.

(2) Location and type of installed instruments and the maximum and minimum recorded readings of each instrument for the reporting period.

(3) The minimum, maximum, and present depth and elevation of the impounded water, sediment, or slurry for the reporting period.

(4) Storage capacity of the impounding structure.

(5) The volume of the impounded water, sediment, or slurry at the end of the reporting period.

(6) Any other change which may have affected the stability or operation of the impounding structure that has occurred during the reporting period.

(7) A certification by a registered professional engineer that all construction, operation, and maintenance was in accordance with the approved plan.

(b) A report is not required under this section when the operator provides the District Manager with a certification by a registered professional engineer that there have been no changes under paragraphs (a)(1) through (a)(6) of this section to the impoundment or impounding structure. However, a report containing the information set out in paragraph (a) of this section shall be submitted to the District Manager at least every 5 years.

[57 FR 7471, Mar. 2, 1992]

§77.216-5 Water, sediment or slurry impoundments and impounding structures; abandonment.

(a) Prior to abandonment of any water, sediment, or slurry impoundment and impounding structure which meets the requirements of 30 CFR 77.216(a), the person owning, operating, or controlling such an impoundment and impounding structure shall submit to and obtain approval from the District Manager, a plan for abandonment based on current, prudent engineering practices. This plan shall provide for major slope stability, include a schedule for the plan's implementation and, except as provided in paragraph (b) of this section, contain provisions to preclude the probability of future im-

poundment of water, sediment, or slurry.

(b) An abandonment plan does not have to contain a provision to preclude the future impoundment of water if the plan is approved by the District Manager and documentation is included in the abandonment plan to ensure that the following requirements are met:

(1) A registered professional engineer, knowledgeable in the principles of dam design and in the design and construction of the structure, shall certify that it substantially conforms to the approved design plan and specifications and that there are no apparent defects.

(2) The current owner or prospective owner shall certify a willingness and ability to assume responsibility for operation and maintenance of the structure.

(3) A permit or approval for the continued existence of the impoundment or impounding structure shall be obtained from the Federal or State agency responsible for dam safety.

[57 FR 7472, Mar. 2, 1992]

§77.217 Definitions.

For the purpose of §§77.214 through 77.216-5, the term:

(a) *Abandoned* as applied to any refuse pile or impoundment and impounding structure means that work on such pile or structure has been completed in accordance with a plan for abandonment approved by the District Manager.

(b) *Area-capacity curves* means graphic curves which readily show the reservoir water surface area, in acres, at different elevations from the bottom of the reservoir to the maximum water surface, and the capacity or volume, in acre-feet, of the water contained in the reservoir at various elevations.

(c) *Impounding structure* means a structure which is used to impound water, sediment, or slurry, or any combination of such materials.

(d) *Probable maximum precipitation* means the value for a particular area which represents an envelopment of depth-duration-area rainfall relations for all storm types affecting that area adjusted meteorologically to maximum conditions.