

**DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINED LAND RECLAMATION**

GUIDANCE MEMORANDUM¹ No. 39-19

Issue Date: January 10, 2019

Subject: Coal Waste Impoundments

This Guidance Memorandum addresses the requirements for construction of coal waste impoundments as required by §4VAC25-130-784.16 and §4VAC25-130-816.81 of the Virginia Coal Surface Mining Reclamation Regulations (VCSMRR). Specifically, this memorandum addresses the submittal of additional information necessary to determine the potential for breakthrough of coal waste slurry into underlying or adjacent underground mine workings located in proximity to a coal waste impoundment.

To all permittees holding a DMLR permit containing a coal waste impoundment:

You are hereby directed to provide to DMLR the following information, no later than the next mid-term or renewal submittal date of your permit or 7-1-20, whichever comes first. If the next mid-term or renewal submittal date is in less than twelve months from the date of this directive, the information shall be provided by 7-1-20. The information shall be prepared and certified by a Registered Professional Engineer licensed in the State of Virginia (the “certifying engineer”) and submitted in a Permit Revision under E-Forms.

1. A geologic cross-section that identifies all coal seams adjacent to or subjacent to the coal waste impoundment and identification of any that are equal to or greater than 24-inches in seam thickness.
2. Of those coal seams equal to or greater than 24-inches, identify those that have previously been underground mined or surface mined by auger or highwall miner. Provide mapping of the mine works for each seam mined. This investigation shall not rely on the presence or absence of mine mapping alone but should be reinforced through other sources such as interviews with local residents or miners, research of historical documents, surface reconnaissance, outcrop exploration, drilling, or geophysical surveys as deemed appropriate by the certifying engineer.
3. Provide a narrative and supporting documentation that meets one of the following requirements:
 - a. A written statement from the certifying engineer that the impoundment has been reviewed and meets the explicit requirements of “*Bureau of Mines Information*”

¹ This Memorandum is to be considered a guideline issued under the authority of § 45.1-230.A1 of the Code of Virginia which reads:

In addition to the adoption of regulations under this chapter, the Director may at his discretion issue or distribute to the public interpretative, advisory or procedural bulletins or guidelines pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). The materials shall be clearly designated as to their nature, shall be solely for purposes of public information and education, and shall not have the force of regulations under this chapter or under any other provision of this Code.

Circular IC-8741” as it relates to safety zones for no extraction or limited extraction beneath the embankment and the impoundment.

- b. A written statement from the certifying engineer (along with supporting data and calculations) that the impoundment does not meet the explicit requirements of IC-8741, but meets similar criteria which provide equivalent protection to the impoundment as would be afforded under IC-8741 and/or its underlying assumptions.
 - c. A written statement from the certifying engineer that the impoundment does not meet the explicit requirements of IC-8741 or similar criteria, but plans are currently approved by MSHA which specifically address minimizing the potential for a breakthrough from the impoundment into underground mine workings. If the approved MSHA plans were previously provided to DMLR in an approved revision, the approved revision should be referenced and digital copies of the plans and specifications attached (if not previously provided to DMLR in digital format). If the approved MSHA plans were not previously provided to DMLR, digital copies of these approved MSHA plans should be attached to the revision via E-Forms.
 - d. A written statement from the certifying engineer that the impoundment does not meet the explicit requirements of IC-8741 or similar criteria and plans are not currently approved by MSHA which specifically address minimizing the potential for a breakthrough from the impoundment into underground mine workings, but plans to minimize breakthrough potential have been submitted to MSHA for review. In this case, digital copies of the plans submitted to MSHA should be attached to the revision and replaced with final plans upon approval by MSHA along with documentation of final MSHA approval.
4. Include in the narrative an assessment of “Breakthrough Potential” using MSHA Procedure Instruction Letter (PIL) No. I99-V-3.

In addition, all future impoundment plans, revisions, response to review comments, and certifications that are submitted to MSHA for review and approval shall at the same time be sent to the DMLR Chief Engineer. These should be in electronic format rather than paper copies. File formats in pdf and dwg are required.