

VIRGINIA SOIL AND WATER CONSERVATION BOARD

July 21, 2005 Meeting
at the Natural Resources Conservation Service
Richmond, Virginia

Motion to authorize and direct the filing of Notice of Intended Regulatory Actions (NOIRA) related to the Board's Virginia Impounding Structures Regulations and other associated actions:

The Board authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to prepare and submit a NOIRA to consider changes and solicit recommendations related to the Board's Virginia Impounding Structures Regulations. The changes may include, but not be limited to amendments:

- to address the Ad Hoc Dam Safety Committee's recommendations relative to Classes of Impounding Structures (§ 4 VAC50-20-40), Performance Standards Required for Impounding Structures (§ 4 VAC50-20-50), and the attendant Table 1 established in the 2004 Virginia Impounding Structures Regulations;
- to clarify vague words/wording (e.g. possible, probable, reasonable, appropriate, etc.);
- to make Table 1 more understandable and consistent in application;
- to eliminate the reference to "new" and "existing" dams;
- to establish alteration permit requirements similar to construction permit requirements;
- to remove DCR forms currently contained in the regulations; and
- to make other technical or administrative amendments necessary to improve and clarify the regulations.

As part of this process, the Board further authorizes a public meeting to be held by the Department not less than 30 days after publication of the NOIRA in the Virginia Register of Regulations, that a technical committee be established to make recommendations to the Director and the Board on potential regulatory changes, that the Department hold other stakeholder group meetings as it deems necessary, and that the Department prepare a draft proposed regulation for the Board's review and consideration.

This authorization is related to those changes that are subject to the Administrative Process Act and to the Virginia Register Act. The Department shall follow and conduct actions in accordance with the Administrative Process Act, the Virginia Register Act, the Board's Regulatory Public Participation Procedures, the Governor's Executive Order 21 (2002) on the "Development and Review of Regulations Proposed by State Agencies", and other technical rulemaking protocols.

This authorization extends to, but is not limited to, the drafting and filing of the NOIRA, the holding of public meetings, the development of the draft proposed regulation and other necessary documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings and for the Department to work with the Board's Dam Safety subcommittee during the regulatory process as deemed appropriate.

Motion made by: Linda S. Campell

Motion seconded by: Jean R. Packard

Action: Motion Carried

David L. Moyer
David L. Moyer
Chairman
(Signatures on file)

Joseph H. Maroon
Joseph H. Maroon
Secretary