



# COMMONWEALTH of VIRGINIA

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## MEMORANDUM

**TO:** David A. Johnson, Director  
Department of Conservation and Recreation

**FROM:** Elizabeth A. Andrews *EAO*  
Senior Assistant Attorney General

**DATE:** November 1, 2010

**RE:** Final Amendments to 4 VAC 50-20, Virginia Impounding Structure Regulations, to Conform the Regulations to 2010 Legislative Changes

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I have reviewed the above-referenced amendments to the Virginia Impounding Structure Regulations [“the Regulations”] to conform the Regulations to the requirements of legislation passed during the 2010 legislative session.

It is my opinion as agency counsel that the Soil and Water Conservation Board has the statutory authority to promulgate this amendment to the Regulations pursuant to Article 2 of Chapter 6 of Title 10.1 of the Code of Virginia. In addition, because these regulatory amendments are necessary to conform to changes in Virginia statutory law where no agency discretion is involved, it is further my opinion that these revisions are exempt from the provisions of Article 2 of the Administrative Process Act, §§ 2.2-4000 *et seq.* of the Code of Virginia, pursuant to § 2.2-4006(A)(4)(a) thereof.

If I may be of further assistance, please advise.

cc: David C. Dowling