**§ 139-41.2. Review of watershed work plans.**

(a) Watershed work plans developed under Public Law 566 (83rd Congress) as amended, and all other work plans developed pursuant to this Chapter, shall be submitted to the Soil and Water Conservation Commission for review and approval or disapproval. No work of improvement may be constructed or established without the approval of work plans by the Soil and Water Conservation Commission pursuant to this section.

(b) The Soil and Water Conservation Commission shall approve a watershed work plan if, in its judgment, it:

(1) Provides for proper and safe construction of proposed works of improvement;

(2) Shows that the construction and operation of the proposed works of improvement (in conjunction with other such works and related structures of the district and the watershed) will not appreciably diminish the flow of useful water that would otherwise be available to existing downstream water users during critical periods;

(3) Determines whether a program of floodplain management in connection with such proposed works is in the public interest, and the Soil and Water Conservation Commission may withhold approval until satisfactory floodplain management measures are incorporated; and

(4) Is otherwise in compliance with law.

(c) Amendments to the work plan involving major changes shall be approved by the Soil and Water Conservation Commission. Determinations by the Soil and Water Conservation Commission that an amendment involve major changes shall be conclusive for purposes of this section. No work of improvement may be constructed or established without the approval of work plans by the Soil and Water Conservation Commission pursuant to this subsection. The construction or establishment of any such work of improvement without such approval, or without conforming to a work plan approved by the Soil and Water Conservation Commission, may be enjoined. The Soil and Water Conservation Commission may institute an action for such injunctive relief in the superior court of any county wherein such construction or establishment takes place.

(d) In conjunction with any work plans submitted to the Soil and Water Conservation Commission under subsection (c) of this section, a county shall submit in such form as the Soil and Water Conservation Commission may prescribe a plan of its proposed method of operations for works of improvement covered by the work plans and for related structures. With the approval of the Soil and Water Conservation Commission, the county may amend its initial plan of operations from time to time. Soil and Water Conservation Commission approval of the initial plan of operations shall not be required.

(e) If the Soil and Water Conservation Commission has reason to believe that a county is not operating any work of improvement or properly related structure in accordance with its plan of operations as amended, the Soil and Water Conservation Commission on its own motion or upon complaint may order a hearing to be held thereon upon not less than 30 days' written notification to the county and complainant, if any, by personal service or registered mail. Notice of such hearing shall be published at least once a week for two successive weeks. In connection with any such hearing the Soil and Water Conservation Commission shall be empowered to administer oaths; to take testimony; and, in the same manner as the superior court, to order the taking of depositions, issue subpoenas, and to compel the attendance of witnesses and production of documents. If the Soil and Water Conservation Commission determines from evidence of record that the county is not operating any work of improvement or related structure in accordance with its plan of operations, as amended, the Soil and Water

Conservation Commission may issue an order directing the county to comply therewith or to take other appropriate corrective action. Upon failure by a county to comply with any such order, the Soil and Water Conservation Commission may institute an action for injunctive relief in the superior court of any county wherein such noncompliance occurs. (1981, c. 326, s. 6; 2007-495, s. 16.)