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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO AGRICULTURE AND FORESTRY

Introduced By: Representatives Valencia, Walsh, Kennedy, Tanzi, and Dickinson

Date Introduced: February 28, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 2-1 of the General Laws entitled "Agriculture Functions of the  
2 Department of Environmental Management" is hereby amended by adding thereto the following  
3 section:

4           **2-1-1.1. Division of Agriculture.** -- (a) Powers and duties. The powers and duties of the  
5 department of environmental management with regard to agriculture shall be vested in the  
6 director and shall be put into effect through the division agriculture, established in section 42-  
7 17.1-4 and in accordance with the provisions of this section. The division of agriculture shall be  
8 considered the agricultural agency of the state of Rhode Island and Providence Plantations, and  
9 the chief of the division shall report directly to the director with regard to functions and duties  
10 pertaining to farms, farm operation, and agriculture as set forth in this section or elsewhere  
11 established in the general laws unless expressly assigned by law to another agency or entity.

12           (b) Findings and declaration of policy. The general assembly finds and declares that:

13           (1) Agriculture is both a basic human activity and a dynamic, natural resource based  
14 business sector that contributes significantly to Rhode Island's economy;

15           (2) Agricultural operations and the necessary business infrastructure to support  
16 agriculture are found in communities of all population densities in the state and contribute to the  
17 quality of life in the state;

18           (3) Agriculture has shaped and continues to inform the landscape of the state;

19           (4) Agriculture has been a significant state interest throughout Rhode Island's history;

1 (5) Agriculture has become a heavily regulated industry, while the preservation of  
2 agriculture has been a significant purpose and an area of on-going public investment;

3 (6) Agriculture, for its success, is dependent on the availability and quality of soil and  
4 other growing media and water supply, the quality and duration of the growing season, the  
5 expertise of farmers and other agriculturists, the access to capital, and availability of labor, and  
6 the presence of capacities for processing, aggregation and distribution, and sales of farm  
7 products;

8 (7) It is the established and declared policy of the state to promote, protect and secure the  
9 viability and appropriate expansion of agriculture in the state.

10 (c) Purposes. The purposes of this section are to:

11 (1) Recognize the division as the agricultural agency of the state;

12 (2) Provide explicitly for the coordination of the state's interests in agriculture through  
13 the division;

14 (3) Establish a common basic meaning of the terms pertaining to agriculture, farms, and  
15 farming to effectuate the specific agricultural purposes in the general laws in an effective,  
16 integrated, coherent, and consistent manner;

17 (4) Facilitate appropriate preservation, expansion, and sound development of agriculture  
18 in all communities of the state, including urban communities, as important to the economic  
19 development of the state and the health and well being of the people of the state;

20 (5) Make available to the people of the state and visitors to the state the products and  
21 services of Rhode Island agriculture, including through direct to consumer sales, restaurant and  
22 other hospitality venues, retail outlets, and public and private institutions including, but not  
23 limited, to schools and hospitals;

24 (6) Promote coordination and cooperation among state and local agencies, entities and  
25 political subdivisions with responsibilities established by law for agriculture, with associations,  
26 organizations, businesses and persons concerned with agriculture; and

27 (7) Provide for integrated planning, management, and regulatory activity as necessary for  
28 the preservation, expansion, viability and sound development of agriculture in the state.

29 (d) Definitions. As used in this chapter, the following words and terms shall have the  
30 following meanings, unless the context indicates another or different meaning or intent:

31 (1) "Agriculture" means propagation, care, cultivation, raising, and harvesting of the  
32 products of truck farming, horticulture, turf, viticulture, viniculture, floriculture, forestry/tree  
33 farming, sugar bush, stabling of five (5) or more horses, dairy farming, or aquaculture, or the  
34 raising of livestock, including for the production of fiber, furbearing animals, poultry, or bees.

1 Unless the context or intent indicates another or different meaning, the term "farming" shall be  
2 treated as a synonym for agriculture as herein defined.

3 (2) "Department" means the department of environmental management.

4 (3) "Director" means the director of the department of environmental management.

5 (4) "Division" means the division of agriculture as established in section 42-17.1-4 with  
6 the powers and duties set forth in this section.

7 (5) "Farm" means stock, dairy, poultry, fruit, furbearing animal, and truck farms,  
8 plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for  
9 the raising of agricultural or horticultural commodities including turf, orchards, vineyards and  
10 woodlands and sugar bush and all such other types of farming as are considered "agricultural  
11 operations" pursuant to section 2-23-4.

12 (6) "Farmland" means land, or other defined geographic area, that is owned or leased and  
13 is either devoted to agriculture or is being restored to use for agriculture or land that was  
14 previously devoted to agriculture and has not been developed for or converted or dedicated to  
15 another use.

16 (7) "Farm Operation" means activities for the purposes: (i) Improving or cultivating the  
17 soil or raising or harvesting any agricultural or horticultural commodity (including the raising,  
18 shearing, feeding, caring for, training, and management of animals) on a farm; (ii) Handling,  
19 drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its  
20 unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces  
21 more than one-half (½) of the commodity so treated; (iii) Processing, holding, storing on a farm  
22 any agricultural or horticultural commodity but only if the owner, tenant, or operator of the farm  
23 regularly produces more than one-half (½) of the commodity so treated, (iv) (A) The planting,  
24 cultivating, caring for, or cutting of trees, or (B) The preparation (other than milling) of trees for  
25 market, and (v) Selling any agricultural or horticultural commodity or product but only if the  
26 owner, tenant, or operator of the farm regularly produces more than one-half (½) of the  
27 commodity or product so being sold.

28 (8) "Farmer" means a person who is the owner or tenant of a farm and is actively engaged  
29 in farming and either files a 1040F U.S. Internal Revenue Form, or otherwise reports income  
30 from farming for income tax purposes with the Internal Revenue Service, and has a state tax  
31 number or is a nonprofit corporation that has as its purpose providing for agriculture.

32 (9) "Person" means an individual, partnership, trust or trustee, corporation, or association.

33 (e) Agricultural functions of the division.

34 (1) Providing for soil conservation and improvement;

- 1           (2) Preserving farmland;
- 2           (3) Marketing of Rhode Island farm products and services and Rhode Island produced  
3 food;
- 4           (4) Establishing and administering minimum standards as provided for by law for  
5 agriculture and farm operations;
- 6           (5) Protecting, maintaining, and improving farm viability throughout the state and  
7 farmland ecology;
- 8           (6) Protecting and, as necessary, regulating plant and animal health and quarantine;
- 9           (7) Regulating, as provided for by law, feed, seed, pesticides and soil amendments  
10 including lime;
- 11           (8) Taking such actions, consistent with law, as may be necessary or appropriate to  
12 provide for the viability of farms and the protection and expansion of agriculture in the state.
- 13           (f) Duties of the division:
- 14           (1) To perform the functions assigned to it by this section, by other provisions of law, and  
15 as otherwise may be delegated or assigned to it by the director;
- 16           (2) To act as the advocate for the state's interests in agriculture and to be a resource to  
17 state agencies, entities, and instrumentalities and to the political subdivision of the state on  
18 matters pertaining to agriculture;
- 19           (3) To represent the interests of the state with regard to agriculture in federal and regional  
20 processes and with federal and regional agencies, organizations, and entities;
- 21           (4) To collaborate with other state agencies, entities, and instrumentalities and the  
22 political subdivision of the state to effectuate the purposes of this section and the functions and  
23 duties of the division;
- 24           (5) To be the primary point of contact for farmers and other persons concerned about  
25 agriculture with regard to the agricultural interests, functions, and programs of the state;
- 26           (6) To prepare and maintain such plans as may be necessary or desirable to effectuate the  
27 purposes of this section, to accomplish the functions and perform the duties of the division;
- 28           (7) To foster, encourage, and support research and development and technical assistance  
29 with regard to agriculture, farms, farm operation, farmland ecology, and soil conservation;
- 30           (8) To participate in and promote Rhode Island and regional efforts to strengthen food  
31 systems;
- 32           (9) To develop and manage programs and to engage and participate in projects as may be  
33 necessary or desirable to effectuate the purposes of this section;
- 34           (10) To define agricultural best management practices and effectuate the use of such

1 [practices as authorized by law; and](#)

2 [\(11\) To undertake such other actions and engage in such projects as may necessary or](#)  
3 [appropriate to effectuate the purposes of this section.](#)

4 SECTION 2. Section 42-11-10 in chapter 42-11 of the General Laws entitled  
5 "Department of Administration" is hereby amended to read as follows:

6 **42-11-10. Statewide planning program.** -- (a) *Findings.* The general assembly finds  
7 that the people of this state have a fundamental interest in the orderly development of the state;  
8 the state has a positive interest and demonstrated need for establishment of a comprehensive  
9 strategic state planning process and the preparation, maintenance, and implementation of plans  
10 for the physical, economic, and social development of the state; the continued growth and  
11 development of the state presents problems that cannot be met by the cities and towns  
12 individually and that require effective planning by the state; and state and local plans and  
13 programs must be properly coordinated with the planning requirements and programs of the  
14 federal government.

15 [For the purposes of this section the term physical development shall be deemed to](#)  
16 [include, but not be limited to, the protection, preservation, management and improvement of the](#)  
17 [built environment and infrastructure of the state and the preservation, conservation, protection,](#)  
18 [ecological functioning, use, and management of the natural resources of the state as described in](#)  
19 [subdivision 42-17.1-2\(1\), as comprehended by the findings, intent and goals of chapter 45-22.2,](#)  
20 [and in consonance with the principles and protections set forth in Article 1 section 17 of the](#)  
21 [constitution of the state.](#)

22 (b) *Establishment of statewide planning program.*

23 (1) A statewide planning program is hereby established to prepare, adopt, and amend  
24 strategic plans for the physical, economic, and social development of the state and to recommend  
25 these to the governor, the general assembly, and all others concerned.

26 (2) All strategic planning, as defined in subsection (c) of this section, undertaken by all  
27 departments and agencies of the executive branch unless specifically exempted, shall be  
28 conducted by or under the supervision of the statewide planning program. The statewide planning  
29 program shall consist of a state planning council, and the division of planning, which shall be a  
30 division within the department of administration.

31 (c) *Strategic planning.* Strategic planning includes the following activities:

32 (1) Establishing or identifying general goals.

33 (2) Refining or detailing these goals and identifying relationships between them.

34 (3) Formulating, testing, and selecting policies and standards that will achieve desired

1 objectives.

2 (4) Preparing long-range or system plans or comprehensive programs that carry out the  
3 policies and set time schedules, performance measures, and targets.

4 (5) Preparing functional short-range plans or programs that are consistent with  
5 established or desired goals, objectives, and policies, and with long-range or system plans or  
6 comprehensive programs where applicable, and that establish measurable intermediate steps  
7 toward their accomplishment of the goals, objectives, policies, and/or long-range system plans.

8 (6) Monitoring the planning of specific projects and designing of specific programs of  
9 short duration by the operating departments, other agencies of the executive branch, and political  
10 subdivisions of the state to insure that these are consistent with and carry out the intent of  
11 applicable strategic plans.

12 (7) Reviewing the execution of strategic plans and the results obtained and making  
13 revisions necessary to achieve established goals.

14 (d) *State guide plan.* Components of strategic plans prepared and adopted in accordance  
15 with this section may be designated as elements of the state guide plan. The state guide plan shall  
16 be comprised of functional elements or plans dealing with land use; physical development and  
17 environmental concerns; economic development; housing production; energy supply, including  
18 the development of renewable energy resources in Rhode Island, and energy access, use, and  
19 conservation; human services; and other factors necessary to accomplish the objective of this  
20 section. The state guide plan shall be a means for centralizing, integrating, and monitoring long-  
21 range goals, policies, plans, and implementation activities related thereto. State agencies  
22 concerned with specific subject areas, local governments, and the public shall participate in the  
23 state guide planning process, which shall be closely coordinated with the budgeting process.

24 (e) *Membership of state planning council.* The state planning council shall consist of:

25 (1) The director of the department of administration as chairperson;

26 (2) The director, policy office, in the office of the governor, as vice-chairperson;

27 (3) The governor, or his or her designee;

28 (4) The budget officer;

29 (5) The chairperson of the housing resources commission;

30 (6) The highest-ranking administrative officer of the division of planning, as secretary;

31 (7) The president of the League of Cities and Towns or his or her designee and one  
32 official of local government, who shall be appointed by the governor from a list of not less than  
33 three (3) submitted by the Rhode Island League Cities and Towns;

34 (8) The executive director of the League of Cities and Towns;

1 (9) One representative of a nonprofit community development or housing organization  
2 appointed by the governor;

3 (10) Four (4) public members, appointed by the governor;

4 (11) Two (2) representatives of a private, nonprofit environmental advocacy  
5 organization, both to be appointed by the governor;

6 (12) The director of planning and development for the city of Providence;

7 (13) The director of the department of transportation;

8 (14) The director of the department of environmental management;

9 (15) The director of the department of health; and

10 (16) The executive director of the economic development corporation.

11 (f) *Powers and duties of state planning council.* The state planning council shall have  
12 the following powers and duties:

13 (1) To adopt strategic plans as defined in this section and the long-range state guide  
14 plan, and to modify and amend any of these, following the procedures for notification and public  
15 hearing set forth in § 42-35-3, and to recommend and encourage implementation of these goals to  
16 the general assembly, state and federal agencies, and other public and private bodies; approval of  
17 strategic plans by the governor; and to ensure that strategic plans and the long-range state guide  
18 plan are consistent with the findings, intent, and goals set forth in § 45-22.2-3, the "Rhode Island  
19 Comprehensive Planning and Land Use Regulation Act";

20 (2) To coordinate the planning and development activities of all state agencies, in  
21 accordance with strategic plans prepared and adopted as provided for by this section;

22 (3) To review and comment on the proposed annual work program of the statewide  
23 planning program;

24 (4) To adopt rules and standards and issue orders concerning any matters within its  
25 jurisdiction as established by this section and amendments to it;

26 (5) To establish advisory committees and appoint members thereto representing diverse  
27 interests and viewpoints as required in the state planning process and in the preparation or  
28 implementation of strategic plans. The state planning council shall appoint a permanent  
29 committee comprised of:

30 (i) Public members from different geographic areas of the state representing diverse  
31 interests, and

32 (ii) Officials of state, local and federal government, which shall review all proposed  
33 elements of the state guide plan, or amendment or repeal of any element of the plan, and shall  
34 advise the state planning council thereon before the council acts on any such proposal. This

1 committee shall also advise the state planning council on any other matter referred to it by the  
2 council; and

3 (6) To establish and appoint members to an executive committee consisting of major  
4 participants of a Rhode Island geographic information system with oversight responsibility for its  
5 activities.

6 (7) To adopt, amend and maintain as an element of the state guide plan or as an  
7 amendment to an existing element of the state guide plan, standards and guidelines for the  
8 location of eligible renewable energy resources and renewable energy facilities in Rhode Island  
9 with due consideration for the location of such resources and facilities in commercial and  
10 industrial areas, agricultural areas, areas occupied by public and private institutions, and property  
11 of the state and its agencies and corporations, provided such areas are of sufficient size, and in  
12 other areas of the state as appropriate.

13 (g) *Division of planning.*

14 (1) The division of planning shall be the principal staff agency of the state planning  
15 council for preparing and/or coordinating strategic plans for the comprehensive management of  
16 the state's human, economic, and physical resources. The division of planning shall recommend  
17 to the state planning council specific guidelines, standards, and programs to be adopted to  
18 implement strategic planning and the state guide plan and shall undertake any other duties  
19 established by this section and amendments thereto.

20 (2) The division of planning shall maintain records (which shall consist of files of  
21 complete copies) of all plans, recommendations, rules, and modifications or amendments thereto  
22 adopted or issued by the state planning council under this section. The records shall be open to  
23 the public.

24 (3) The division of planning shall manage and administer the Rhode Island geographic  
25 information system of land-related resources, and shall coordinate these efforts with other state  
26 departments and agencies, including the University of Rhode Island, which shall provide  
27 technical support and assistance in the development and maintenance of the system and its  
28 associated data base.

29 (4) The division of planning shall coordinate and oversee the provision of technical  
30 assistance to political subdivisions of the state in preparing and implementing plans to accomplish  
31 the purposes, goals, objectives, policies, and/or standards of applicable elements of the state guide  
32 plan and shall make available to cities and towns data and guidelines that may be used in  
33 preparing comprehensive plans and elements thereof and in evaluating comprehensive plans and  
34 elements thereby.

1 (h) [Deleted by P.L. 2011, ch. 215, § 4, and by P.L. 2011, ch. 313, § 4].

2 (i) The division of planning shall be the principal staff agency of the water resources  
3 board established pursuant to chapter 46-15 ("Water Resources Board") and the water resources  
4 board corporate established pursuant to chapter 46-15.1 ("Water Supply Facilities").

5 SECTION 3. Sections 42-17.1-2 and 42-17.1-4 of the General Laws in Chapter 42-17.1  
6 entitled "Department of Environmental Management" are hereby amended to read as follows:

7 **42-17.1-2. Powers and duties.** -- The director of environmental management shall have  
8 the following powers and duties:

9 (1) To supervise and control the protection, development, planning, and utilization of the  
10 natural resources of the state, such resources, including but not limited to, water, plants, trees,  
11 soil, clay, sand, gravel, rocks and other minerals, air, mammals, birds, reptiles, amphibians, fish,  
12 shellfish, and other forms of aquatic, insect, and animal life;

13 (2) To exercise all functions, powers, and duties [as described in section 2-1-1.1 or](#)  
14 [pertaining to agriculture or farming as are set forth in law and assigned to the department,](#) or  
15 heretofore vested in the department of agriculture and conservation, and in each of the divisions  
16 of the department, such as the promotion of agriculture and animal husbandry in their several  
17 branches, including the inspection and suppression of contagious diseases among animals, the  
18 regulation of the marketing of farm products, the inspection of orchards and nurseries, the  
19 protection of trees and shrubs from injurious insects and diseases, protection from forest fires, the  
20 inspection of apiaries and the suppression of contagious diseases among bees, prevention of the  
21 sale of adulterated or misbranded agricultural seeds, promotion and encouragement of the work of  
22 farm bureaus in cooperation with the University of Rhode Island, farmers' institutes and the  
23 various organizations established for the purpose of developing an interest in agriculture, together  
24 with such other agencies and activities as the governor and the general assembly may from time  
25 to time place under the control of the department, and as heretofore vested by such of the  
26 following chapters and sections of the general laws as are presently applicable to the department  
27 of environmental management and which were previously applicable to the department of natural  
28 resources and the department of agriculture and conservation or to any of its divisions: chapters 1  
29 through 22, inclusive, as amended, in title 2 entitled "Agriculture and Forestry;" chapters 1  
30 through 17, inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry;" chapters  
31 1 through 19, inclusive, as amended, in title 20 entitled "Fish and Wildlife;" chapters 1 through  
32 32, inclusive, as amended, in title 21 entitled "Food and Drugs;" chapter 7 of title 23 as amended,  
33 entitled "Mosquito Abatement;" and by any other general or public law relating to the department  
34 of agriculture and conservation or to any of its divisions or bureaus;

1           (3) To exercise all the functions, powers, and duties heretofore vested in the division of  
2 parks and recreation of the department of public works by chapters 1, 2, and 5 in title 32 entitled  
3 "Parks and Recreational Areas;" by chapter 22.5 of title 23, as amended, entitled "Drowning  
4 Prevention and Lifesaving;" and by any other general or public law relating to the division of  
5 parks and recreation;

6           (4) To exercise all the functions, powers, and duties heretofore vested in the division of  
7 harbors and rivers of the department of public works, or in the department itself by such as were  
8 previously applicable to the division or the department, of chapters 1 through 22 and sections  
9 thereof, as amended, in title 46 entitled "Waters and Navigation"; and by any other general or  
10 public law relating to the division of harbors and rivers;

11           (5) To exercise all the functions, powers and duties heretofore vested in the department  
12 of health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety;" and  
13 by chapters 12 and 16 of title 46, as amended, entitled "Waters and Navigation"; by chapters 3, 4,  
14 5, 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled "Animals and Animal Husbandry;"  
15 and those functions, powers, and duties specifically vested in the director of environmental  
16 management by the provisions of section 21-2-22, as amended, entitled "Inspection of Animals  
17 and Milk;" together with other powers and duties of the director of the department of health as are  
18 incidental to or necessary for the performance of the functions transferred by this section;

19           (6) To cooperate with the Rhode Island economic development corporation in its  
20 planning and promotional functions, particularly in regard to those resources relating to  
21 agriculture, fisheries, and recreation;

22           (7) To cooperate with, advise, and guide conservation commissions of cities and towns  
23 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter  
24 203 of the Public Laws, 1960;

25           (8) To assign or reassign, with the approval of the governor, any functions, duties, or  
26 powers established by this chapter to any agency within the department, except as hereinafter  
27 limited;

28           (9) To cooperate with the water resources board and to provide to the board facilities,  
29 administrative support, staff services, and such other services as the board shall reasonably  
30 require for its operation and, in cooperation with the board and the statewide planning program to  
31 formulate and maintain a long range guide plan and implementing program for development of  
32 major water sources transmissions systems needed to furnish water to regional and local  
33 distribution systems;

34           (10) To cooperate with the solid waste management corporation and to provide to the

1 corporation such facilities, administrative support, staff services and such other services within  
2 the department as the corporation shall reasonably require for its operation;

3 (11) To provide for the maintenance of waterways and boating facilities, consistent with  
4 chapter 6.1 of title 46, by: (i) establishing minimum standards for upland beneficial use and  
5 disposal of dredged material; (ii) promulgating and enforcing rules for water quality, ground  
6 water protection, and fish and wildlife protection pursuant to section 42-17.1-24; (iii) planning for  
7 the upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of  
8 the council pursuant to section 46-23-6(2); and (iv) cooperating with the coastal resources  
9 management council in the development and implementation of comprehensive programs for  
10 dredging as provided for in sections 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) monitoring dredge  
11 material management and disposal sites in accordance with the protocols established pursuant to  
12 section 46-6.1-5(3) and the comprehensive program provided for in section 46-23-6(1)(ii)(H); no  
13 powers or duties granted herein shall be construed to abrogate the powers or duties granted to the  
14 coastal resources management council under chapter 23 of title 46, as amended;

15 (12) To establish minimum standards, subject to the approval of the environmental  
16 standards board, relating to the location, design, construction and maintenance of all sewage  
17 disposal systems;

18 (13) To enforce, by such means as provided by law, the standards for the quality of air,  
19 and water, and the design, construction and operation of all sewage disposal systems; any order or  
20 notice issued by the director relating to the location, design, construction or maintenance of a  
21 sewage disposal system shall be eligible for recordation under chapter 13 of title 34. The director  
22 shall forward the order or notice to the city or town wherein the subject property is located and  
23 the order or notice shall be recorded in the general index by the appropriate municipal official in  
24 the land evidence records in the city or town wherein the subject property is located. Any  
25 subsequent transferee of that property shall be responsible for complying with the requirements of  
26 the order or notice. Upon satisfactory completion of the requirements of the order or notice, the  
27 director shall provide written notice of the same, which notice shall be similarly eligible for  
28 recordation. The original written notice shall be forwarded to the city or town wherein the subject  
29 property is located and the notice of satisfactory completion shall be recorded in the general index  
30 by the appropriate municipal official in the land evidence records in the city or town wherein the  
31 subject property is located. A copy of the written notice shall be forwarded to the owner of the  
32 subject property within five (5) days of a request for it, and, in any event, shall be forwarded to  
33 the owner of the subject property within thirty (30) days after correction;

34 (14) To establish minimum standards for the establishment and maintenance of salutary

1 environmental conditions, including standards and methods for the assessment and the  
2 consideration of the cumulative effects on the environment of regulatory actions and decisions,  
3 which standards for consideration of cumulative effects shall provide for: (i) evaluation of  
4 potential cumulative effects that could adversely effect public health and/or impair ecological  
5 functioning; (ii) analysis of such other matters relative to cumulative effects as the department  
6 may deem appropriate in fulfilling its duties, functions and powers; which standards and methods  
7 shall only be applicable to ISDS systems in the town of Jamestown in areas that are dependent for  
8 water supply on private and public wells, unless broader use is approved by the general assembly.  
9 The department shall report to the general assembly not later than March 15, 2008 with regard to  
10 the development and application of such standards and methods in Jamestown.

11 (15) To establish and enforce minimum standards for permissible types of septage,  
12 industrial waste disposal sites and waste oil disposal sites;

13 (16) To establish minimum standards subject to the approval of the environmental  
14 standards board for permissible types of refuse disposal facilities, the design, construction,  
15 operation, and maintenance of disposal facilities; and the location of various types of facilities;

16 (17) To exercise all functions, powers, and duties necessary for the administration of  
17 chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

18 (18) To designate in writing any person in any department of the state government or any  
19 official of a district, county, city, town, or other governmental unit, with that official's consent, to  
20 enforce any rule, regulation, or order promulgated and adopted by the director under any  
21 provision of law; provided, however, that enforcement of powers of the coastal resources  
22 management council shall be assigned only to employees of the department of environmental  
23 management, except by mutual agreement or as otherwise provided in chapter 23 of title 46;

24 (19) To issue and enforce such rules, regulations, and orders as may be necessary to  
25 carry out the duties assigned to the director and the department by any provision of law; and to  
26 conduct such investigations and hearings and to issue, suspend, and revoke such licenses as may  
27 be necessary to enforce those rules, regulations, and orders.

28 Notwithstanding the provisions of section 42-35-9 to the contrary, no informal  
29 disposition of a contested licensing matter shall occur where resolution substantially deviates  
30 from the original application unless all interested parties shall be notified of said proposed  
31 resolution and provided with opportunity to comment upon said resolution pursuant to applicable  
32 law and any rules and regulations established by the director.

33 (20) To enter, examine or survey at any reasonable time such places as the director  
34 deems necessary to carry out his or her responsibilities under any provision of law subject to the

1 following provisions:

2 (i) For criminal investigations, the director shall, pursuant to chapter 5 of title 12, seek a  
3 search warrant from an official of a court authorized to issue warrants, unless a search without a  
4 warrant is otherwise allowed or provided by law;

5 (ii) (A) All administrative inspections shall be conducted pursuant to administrative  
6 guidelines promulgated by the department in accordance with chapter 35 of title 42.

7 (B) A warrant shall not be required for administrative inspections if conducted under the  
8 following circumstances, in accordance with the applicable constitutional standards:

9 (I) For closely regulated industries;

10 (II) In situations involving open fields or conditions that are in plain view;

11 (III) In emergency situations;

12 (IV) In situations presenting an imminent threat to the environment or public health,  
13 safety or welfare;

14 (V) If the owner, operator, or agent in charge of the facility, property, site or location  
15 consents; or

16 (VI) In other situations in which a warrant is not constitutionally required.

17 (C) Whenever it shall be constitutionally or otherwise required by law, or whenever the  
18 director in his or her discretion deems it advisable, an administrative search warrant, or its  
19 functional equivalent, may be obtained by the director from a neutral magistrate for the purpose  
20 of conducting an administrative inspection. The warrant shall be issued in accordance with the  
21 applicable constitutional standards for the issuance of administrative search warrants. The  
22 administrative standard of probable cause, not the criminal standard of probable cause, shall  
23 apply to applications for administrative search warrants.

24 (I) The need for, or reliance upon, an administrative warrant shall not be construed as  
25 requiring the department to forfeit the element of surprise in its inspection efforts.

26 (II) An administrative warrant issued pursuant to this subsection must be executed and  
27 returned within ten (10) days of its issuance date unless, upon a showing of need for additional  
28 time, the court orders otherwise.

29 (III) An administrative warrant may authorize the review and copying of documents that  
30 are relevant to the purpose of the inspection. If documents must be seized for the purpose of  
31 copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare  
32 an inventory of the documents taken. The time, place and manner regarding the making of the  
33 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of  
34 the inventory shall be delivered to the person from whose possession or facility the documents

1 were taken. The seized documents shall be copied as soon as feasible under circumstances  
2 preserving their authenticity, then returned to the person from whose possession or facility the  
3 documents were taken.

4 (IV) An administrative warrant may authorize the taking of samples of air, water or soil  
5 or of materials generated, stored or treated at the facility, property, site or location. Upon request,  
6 the department shall make split samples available to the person whose facility, property, site or  
7 location is being inspected.

8 (V) Service of an administrative warrant may be required only to the extent provided for  
9 in the terms of the warrant itself, by the issuing court.

10 (D) Penalties. - Any willful and unjustified refusal of right of entry and inspection to  
11 department personnel pursuant to an administrative warrant shall constitute a contempt of court  
12 and shall subject the refusing party to sanctions, which in the court's discretion may result in up to  
13 six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000) per  
14 refusal.

15 (21) To give notice of an alleged violation of law to the person responsible therefor  
16 whenever the director determines that there are reasonable grounds to believe that there is a  
17 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted  
18 pursuant to authority granted to him or her, unless other notice and hearing procedure is  
19 specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney  
20 general to prosecute offenders as required by law.

21 (i) The notice shall provide for a time within which the alleged violation shall be  
22 remedied, and shall inform the person to whom it is directed that a written request for a hearing  
23 on the alleged violation may be filed with the director within ten (10) days after service of the  
24 notice. The notice will be deemed properly served upon a person if a copy thereof is served him  
25 or her personally, or sent by registered or certified mail to his or her last known address, or if he  
26 or she is served with notice by any other method of service now or hereafter authorized in a civil  
27 action under the laws of this state. If no written request for a hearing is made to the director  
28 within ten (10) days of the service of notice, the notice shall automatically become a compliance  
29 order.

30 (ii) (A) Whenever the director determines that there exists a violation of any law, rule, or  
31 regulation within his or her jurisdiction which requires immediate action to protect the  
32 environment, he or she may, without prior notice of violation or hearing, issue an immediate  
33 compliance order stating the existence of the violation and the action he or she deems necessary.  
34 The compliance order shall become effective immediately upon service or within such time as is

1 specified by the director in such order. No request for a hearing on an immediate compliance  
2 order may be made.

3 (B) Any immediate compliance order issued under this section without notice and prior  
4 hearing shall be effective for no longer than forty-five (45) days; provided, however, that for  
5 good cause shown the order may be extended one additional period not exceeding forty-five (45)  
6 days.

7 (iii) If a person upon whom a notice of violation has been served under the provisions of  
8 this section or if a person aggrieved by any such notice of violation requests a hearing before the  
9 director within ten (10) days of the service of notice of violation, the director shall set a time and  
10 place for the hearing, and shall give the person requesting that hearing at least five (5) days  
11 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,  
12 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that  
13 decision shall be deemed a compliance order and shall be served upon the person responsible in  
14 any manner provided for the service of the notice in this section.

15 (iv) The compliance order shall state a time within which the violation shall be remedied,  
16 and the original time specified in the notice of violation shall be extended to the time set in the  
17 order.

18 (v) Whenever a compliance order has become effective, whether automatically where no  
19 hearing has been requested, where an immediate compliance order has been issued, or upon  
20 decision following a hearing, the director may institute injunction proceedings in the superior  
21 court of the state for enforcement of the compliance order and for appropriate temporary relief,  
22 and in that proceeding the correctness of a compliance order shall be presumed and the person  
23 attacking the order shall bear the burden of proving error in the compliance order, except that the  
24 director shall bear the burden of proving in the proceeding the correctness of an immediate  
25 compliance order. The remedy provided for in this section shall be cumulative and not exclusive  
26 and shall be in addition to remedies relating to the removal or abatement of nuisances or any  
27 other remedies provided by law.

28 (vi) Any party aggrieved by a final judgment of the superior court may, within thirty (30)  
29 days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to  
30 review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the  
31 petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of  
32 certiorari;

33 (22) To impose administrative penalties in accordance with the provisions of chapter  
34 17.6 of this title and to direct that such penalties be paid into the account established by

1 subdivision (26); and

2 (23) The following definitions shall apply in the interpretation of the provisions of this  
3 chapter:

4 (i) Director: - The term "director" shall mean the director of environmental management  
5 of the state of Rhode Island or his or her duly authorized agent.

6 (ii) Person: - The term "person" shall include any individual, group of individuals, firm,  
7 corporation, association, partnership or private or public entity, including a district, county, city,  
8 town, or other governmental unit or agent thereof, and in the case of a corporation, any individual  
9 having active and general supervision of the properties of such corporation.

10 (iii) Service: - (A) Service upon a corporation under this section shall be deemed to  
11 include service upon both the corporation and upon the person having active and general  
12 supervision of the properties of such corporation.

13 (B) For purposes of calculating the time within which a claim for a hearing is made  
14 pursuant to subdivision (21)(i) of this section heretofore, service shall be deemed to be the date of  
15 receipt of such notice or three (3) days from the date of mailing of said notice, whichever shall  
16 first occur.

17 (24) (i) To conduct surveys of the present private and public camping and other  
18 recreational areas available and to determine the need for and location of such other camping and  
19 recreational areas as may be deemed necessary and in the public interest of the state of Rhode  
20 Island and to report back its findings on an annual basis to the general assembly on or before  
21 March 1 of every year;

22 (ii) Additionally, the director of the department of environmental management shall take  
23 such additional steps, including but not limited to, matters related to funding as may be necessary  
24 to establish such other additional recreational facilities and areas as are deemed to be in the public  
25 interest.

26 (25) (i) To apply for and accept grants and bequests of funds with the approval of the  
27 director of administration from other states, interstate agencies and independent authorities, and  
28 private firms, individuals and foundations, for the purpose of carrying out his or her lawful  
29 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt  
30 account created in the Natural Resources Program for funds made available for that program's  
31 purposes or in a restricted receipt account created in the Environmental Protection Program for  
32 funds made available for that program's purposes. All expenditures from the accounts shall be  
33 subject to appropriation by the general assembly, and shall be expended in accordance with the  
34 provisions of the grant or bequest. In the event that a donation or bequest is unspecified or in the

1 event that the trust account balance shows a surplus after the project as provided for in the grant  
2 or bequest has been completed, the director may utilize said appropriated unspecified or  
3 appropriated surplus funds for enhanced management of the department's forest and outdoor  
4 public recreation areas, or other projects or programs that promote the accessibility of recreational  
5 opportunities for Rhode Island residents and visitors.

6 (ii) The director shall submit to the house fiscal advisor and the senate fiscal advisor, by  
7 October 1 of each year, a detailed report on the amount of funds received and the uses made of  
8 such funds.

9 (26) To establish fee schedules by regulation with the approval of the governor for the  
10 processing of applications and the performing of related activities in connection with the  
11 department's responsibilities pursuant to subdivision (12) of this section, chapter 19.1 of title 23  
12 as it relates to inspections performed by the department to determine compliance with chapter  
13 19.1 and rules and regulations promulgated in accordance therewith, chapter 18.9 of title 23 as it  
14 relates to inspections performed by the department to determine compliance with chapter 18.9  
15 and the rules and regulations promulgated in accordance therewith, chapters 19.5 and 23 of title  
16 23; chapter 12 of title 46 insofar as it relates to water quality certifications and related reviews  
17 performed pursuant to provisions of the federal Clean Water Act, the regulation and  
18 administration of underground storage tanks and all other programs administered under chapter  
19 12 of title 46 and section 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46  
20 insofar as they relate to any reviews and related activities performed under the provisions of the  
21 Groundwater Protection Act, chapter 23-24.9 as it relates to the regulation and administration of  
22 mercury-added products, and chapter 17.7 of this title insofar as it relates to administrative  
23 appeals of all enforcement, permitting and licensing matters to the administrative adjudication  
24 division for environmental matters. Two (2) fee ranges shall be required: for "Appeal of  
25 enforcement actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for  
26 "Appeal of application decisions", a range of five hundred dollars (\$500) to ten thousand dollars  
27 (\$10,000). The monies from the administrative adjudication fees will be deposited as general  
28 revenues and the amounts appropriated shall be used for the costs associated with operating the  
29 administrative adjudication division.

30 There is hereby established an account within the general fund to be called the water and  
31 air protection program. The account shall consist of sums appropriated for water and air pollution  
32 control and waste monitoring programs and the state controller is hereby authorized and directed  
33 to draw his or her orders upon the general treasurer for the payment of such sums or such portions  
34 thereof as may be required from time to time upon receipt by him or her of properly authenticated

1 vouchers. All amounts collected under the authority of this subdivision for the sewage disposal  
2 system program and fresh waters wetlands program will be deposited as general revenues and the  
3 amounts appropriated shall be used for the purposes of administering and operating the programs.  
4 The director shall submit to the house fiscal advisor and the senate fiscal advisor by January 15 of  
5 each year a detailed report on the amount of funds obtained from fines and fees and the uses made  
6 of such funds.

7 (27) To establish and maintain a list or inventory of areas within the state worthy of  
8 special designation as "scenic" to include, but not be limited to, certain state roads or highways,  
9 scenic vistas and scenic areas, and to make the list available to the public.

10 (28) To establish and maintain an inventory of all interests in land held by public and  
11 private land trust and to exercise all powers vested herein to insure the preservation of all  
12 identified lands.

13 (i) The director may promulgate and enforce rules and regulations to provide for the  
14 orderly and consistent protection, management, continuity of ownership and purpose, and  
15 centralized records-keeping for lands, water, and open spaces owned in fee or controlled in full or  
16 in part through other interests, rights, or devices such as conservation easements or restrictions,  
17 by private and public land trusts in Rhode Island. The director may charge a reasonable fee for  
18 filing of each document submitted by a land trust.

19 (ii) The term "public land trust" means any public instrumentality created by a Rhode  
20 Island municipality for the purposes stated herein and financed by means of public funds  
21 collected and appropriated by the municipality. The term "private land trust" means any group of  
22 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode  
23 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such  
24 as the nature conservancy. The main purpose of either a public or a private land trust shall be the  
25 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other  
26 natural features, areas, or open space for the purpose of managing or maintaining, or causing to  
27 be managed or maintained by others, the land, water, and other natural amenities in any  
28 undeveloped and relatively natural state in perpetuity. A private land trust must be granted  
29 exemption from federal income tax under Internal Revenue Code 501(c)(3) [26 U.S.C. section  
30 501(c)(3)] within two (2) years of its incorporation in Rhode Island or it may not continue to  
31 function as a land trust in Rhode Island. A private land trust may not be incorporated for the  
32 exclusive purpose of acquiring or accepting property or rights in property from a single  
33 individual, family, corporation, business, partnership, or other entity. Membership in any private  
34 land trust must be open to any individual subscribing to the purposes of the land trust and

1 agreeing to abide by its rules and regulations including payment of reasonable dues.

2 (iii) (A) Private land trusts will, in their articles of association or their bylaws, as  
3 appropriate, provide for the transfer to an organization created for the same or similar purposes  
4 the assets, lands and land rights and interests held by the land trust in the event of termination or  
5 dissolution of the land trust.

6 (B) All land trusts, public and private, will record in the public records of the appropriate  
7 towns and cities in Rhode Island all deeds, conservation easements or restrictions or other  
8 interests and rights acquired in land and will also file copies of all such documents and current  
9 copies of their articles of association, their bylaws, and annual reports with the secretary of state,  
10 and with the director of the Rhode Island department of environmental management. The director  
11 is hereby directed to establish and maintain permanently a system for keeping records of all  
12 private and public land trust land holdings in Rhode Island.

13 (29) The director will contact in writing, not less often than once every two (2) years,  
14 each public or private land trust to ascertain: that all lands held by the land trust are recorded with  
15 the director; the current status and condition of each land holding; that any funds or other assets  
16 of the land trust held as endowment for specific lands have been properly audited at least once  
17 within the two (2) year period; the name of the successor organization named in the public or  
18 private land trust's bylaws or articles of association; and any other information the director deems  
19 essential to the proper and continuous protection and management of land and interests or rights  
20 in land held by the land trust. In the event that the director determines that a public or private land  
21 trust holding land or interest in land appears to have become inactive, he or she shall initiate  
22 proceedings to effect the termination of the land trust and the transfer of its lands, assets, land  
23 rights, and land interests to the successor organization named in the defaulting trust's bylaws or  
24 articles of association or to another organization created for the same or similar purposes. Should  
25 such a transfer not be possible, then the land trust, assets, and interest and rights in land will be  
26 held in trust by the state of Rhode Island and managed by the director for the purposes stated at  
27 the time of original acquisition by the trust. Any trust assets or interests other than land or rights  
28 in land accruing to the state under such circumstances will be held and managed as a separate  
29 fund for the benefit of the designated trust lands.

30 (30) Consistent with federal standards, issue and enforce such rules, regulations and  
31 orders as may be necessary to establish requirements for maintaining evidence of financial  
32 responsibility for taking corrective action and compensating third parties for bodily injury and  
33 property damage caused by sudden and non-sudden accidental releases arising from operating  
34 underground storage tanks.

1           (31) To enforce, by such means as provided by law, the standards for the quality of air,  
2 and water, and the location, design, construction and operation of all underground storage  
3 facilities used for storing petroleum products or hazardous materials; any order or notice issued  
4 by the director relating to the location, design construction, operation or maintenance of an  
5 underground storage facility used for storing petroleum products or hazardous materials shall be  
6 eligible for recordation under chapter 13 of title 34. The director shall forward the order or notice  
7 to the city or town wherein the subject facility is located, and the order or notice shall be recorded  
8 in the general index by the appropriate municipal officer in the land evidence records in the city  
9 or town wherein the subject facility is located. Any subsequent transferee of that facility shall be  
10 responsible for complying with the requirements of the order or notice. Upon satisfactory  
11 completion of the requirements of the order or notice, the director shall provide written notice of  
12 the same, which notice shall be eligible for recordation. The original written notice shall be  
13 forwarded to the city or town wherein the subject facility is located, and the notice of satisfactory  
14 completion shall be recorded in the general index by the appropriate municipal official in the land  
15 evidence records in the city or town wherein the subject facility is located. A copy of the written  
16 notice shall be forwarded to the owner of the subject facility within five (5) days of a request for  
17 it, and, in any event, shall be forwarded to the owner of the subject facility within thirty (30) days  
18 after correction.

19           (32) To manage and disburse any and all funds collected pursuant to section 46-12.9-4,  
20 in accordance with section 46-12.9-5, and other provisions of the Rhode Island Underground  
21 Storage Tank Financial Responsibility Act, as amended.

22           (33) To support, facilitate and assist the Rhode Island Natural History Survey, as  
23 appropriate and/or as necessary, in order to accomplish the important public purposes of the  
24 survey in gathering and maintaining data on Rhode Island natural history, making public  
25 presentations and reports on natural history topics, ranking species and natural communities,  
26 monitoring rare species and communities, consulting on open space acquisitions and management  
27 plans, reviewing proposed federal and state actions and regulations with regard to their potential  
28 impact on natural communities, and seeking outside funding for wildlife management, land  
29 management and research.

30           (34) To promote the effective stewardship of lakes and ponds including collaboration  
31 with associations of lakefront property owners on planning and management actions that will  
32 prevent and mitigate water quality degradation, the loss of native habitat due to infestation of  
33 non-native species and nuisance conditions that result from excessive growth of algal or non-  
34 native plant species. By January 31, 2012, the director shall prepare and submit a report to the

1 governor and general assembly that based upon available information provides: (a) an assessment  
2 of lake conditions including a description of the presence and extent of aquatic invasive species in  
3 lakes and ponds; (b) recommendations for improving the control and management of aquatic  
4 invasives species in lakes and ponds; and (c) an assessment of the feasibility of instituting a boat  
5 sticker program for the purpose of generating funds to support implementation actions to control  
6 aquatic invasive species in the freshwaters of the state.

7 **42-17.1-4. Divisions within department.** -- Within the department of environmental  
8 management there are established the following divisions:

9 (1) A division of parks and recreation which shall carry out those functions of the  
10 department relating to the operation and maintenance of parks and recreation areas and the  
11 establishment and maintenance of such additional recreation areas as may from time to time be  
12 acquired and such other functions and duties as may from time to time be assigned by the  
13 director;

14 (2) A division of fish and wildlife which shall carry out those functions of the  
15 department relating to the administration of hunting, fishing, and shell fisheries; the preservation  
16 of wetlands, marsh lands, and wildlife and such other functions and duties as may from time to  
17 time be assigned by the director;

18 (3) A division of agriculture, [which may be assigned to a bureau or other subdivision of](#)  
19 [the department for administrative purposes,](#) which shall carry out those functions of the  
20 department relating to agriculture, [including, but not limited to, the functions set forth in](#)  
21 [subdivisions 42-17.1-2\(2\) and 42-17.1-2\(6\) of this chapter and section 2-1-1.1 of chapter 2-1,](#) and  
22 such other functions and duties as may from time to time be assigned by the director, including,  
23 but not limited to, ~~plant industry, farm viability, marketing and promotion, farmland ecology and~~  
24 ~~protection, plant and animal health and quarantine, pesticides,~~ mosquito abatement, pest survey  
25 and response, food policy and security, and, in collaboration with the department of health, public  
26 health as it relates to farm production and direct marketing of farm products, and those agreed  
27 upon through memorandum of agreement with the department of health or other state agencies.  
28 The department of health shall continue to act as the lead agency for all public health issues in the  
29 state pursuant to chapter 23-1. Nothing herein contained shall limit the department of health's  
30 statutory authority, nor shall any provision herein be construed as a limitation upon the statutory  
31 authority of the department of health granted to the department under title 23 of the general laws,  
32 nor shall any provision herein be construed to limit the authority of the department of  
33 environmental management to enter into memoranda of agreement with any governmental  
34 agency.

1           (4) A division of coastal resources which shall carry out those functions of the  
2 department relating to harbors and harbor lines, pilotage, flood control, shore development,  
3 construction of port facilities, and the registration of boats and such other functions and duties as  
4 may from time to time be assigned by the director, except that the division shall not be  
5 responsible for the functions of inspection of dams and reservoirs, approving plans for  
6 construction or improvement of dams, reservoirs and other structures in non-tidal waters, and the  
7 operation of stream-gauging stations in cooperation with the United States Geological Survey,  
8 and provided further that the division and its staff shall be responsible through the director of  
9 environmental management, to the coastal resources management council, and the chief and the  
10 staff of the division shall serve as staff to the council;

11           (5) A division of planning and development which shall carry out those functions of the  
12 department relating to planning, programming, acquisition of land, engineering studies and such  
13 other studies as the director may direct, and which shall work with the board of governors for  
14 higher education and the board of regents for elementary and secondary education, with  
15 educational institutions at all levels and with the public in the dissemination of information and  
16 education relating to natural resources and shall perform the publication and public relations  
17 functions of the department, the functions of inspection of dams and reservoirs, approving plans  
18 for construction or improvement of dams, reservoirs, and other structures in non-tidal waters, and  
19 the operation of stream-gauging stations in cooperation with the United States Geological Survey;

20           (6) A division of enforcement which shall enforce all of the laws and regulations of the  
21 department and the coastal resources management council, which shall cooperate with the other  
22 enforcement agencies of the state and its municipalities, and which shall administer all of the  
23 policing, enforcing, licensing, registration, and inspection functions of the department and such  
24 other functions and duties as may from time to time be assigned by the director;

25           (7) A division of forest environment which shall carry out those functions of the  
26 department relating to the administration of forests and natural areas, including programs for  
27 utilization, conservation, forest fire protection, and improvements of these areas; assisting other  
28 agencies and local governments in urban programs relating to trees, forests, green belts, and  
29 environment and such other functions and duties as may from time to time be assigned by the  
30 director;

31           (8) (i) A division of boating safety which shall carry out those functions of the  
32 department relating to the development and administration of a coordinated safe boating program  
33 in accordance with the Model Safe Boating Act of 1971 as approved by the National Association  
34 of State Boating Law Administrators;

1 (ii) Administration of the division of boating safety shall be the responsibility of the state  
2 boating law administrator whose duties shall include:

3 (A) The enforcement of all laws relating to the act;

4 (B) The powers vested in the state boating law administrator and boating safety  
5 enforcement officer shall include the enforcement of laws, rules and regulations relating to  
6 "Regulation of Boats," title 46, chapter 22 and shall also include the power to:

7 (I) Execute all warrants and search warrants for the violation of laws, rules and  
8 regulations relating to the act.

9 (II) Serve subpoenas issued for the trial of all offenses hereunder.

10 (III) To carry firearms or other weapons, concealed or otherwise, in the course of and in  
11 performance of their duties under this chapter.

12 (IV) To arrest without warrant and on view any person found violating any law, rule, or  
13 regulation relating to the act, take that person before a court having jurisdiction for trial, detain  
14 that person in custody at the expense of the state until arraignment and to make and execute  
15 complaints within any district to the justice or clerk of the court against any person for any of the  
16 offenses enumerated under the act committed within the district.

17 (V) Boating safety enforcement officers shall not be required to give surety for costs  
18 upon any complaint made by him or her.

19 (iii) The development and administration of a coordinated safe boating program.

20 (iv) The establishment and enforcement of such rules and regulations as are deemed  
21 necessary to achieve the purposes of the Model Safe Boating Act as approved by the state boating  
22 law administrators.

23 (v) The state boating law administrator shall serve as the liaison to the United States  
24 Coast Guard.

25 SECTION 4. Section 42-82-2 of the General Laws in Chapter 42-82 entitled "Farmland  
26 Preservation Act" is hereby amended to read as follows:

27 **42-82-2. Definitions.** -- As used in this chapter, unless the context indicates a different  
28 meaning or intent:

29 (1) "Agricultural land" means any land in the state of five (5) contiguous acres or larger  
30 that is suitable for agriculture by reference to soil type, existing use for agricultural purposes and  
31 other criteria to be developed by the commission, [or any land devoted to agricultural operations](#)  
32 [as defined in this section](#), and may include adjacent pastures, ponds, natural drainage areas and  
33 other adjacent areas which the commission deems necessary for farm operations;

34 (2) "Agricultural lands preservation commission" or "commission" means the

1 commission established pursuant to § 42-82-3;

2 (3) "Agricultural operation" means any individual, partnership or corporation that  
3 complies with §§ 44-27-3 and ~~2-1-22(j)~~ [2-1-1.1 \(d\)\(7\) and \(8\)](#) ~~and produces and distributes a~~  
4 ~~commercial food, feed, fiber or horticultural product.~~

5 (4) "Cost," when used with reference to acquisition of development rights, means as of  
6 any particular date the cost subsequently incurred of purchasing the development rights, property  
7 rights and all other necessary expenses incident to planning, financing, and implementing the  
8 provisions of this chapter;

9 (5) "Development rights" means the rights of the fee simple owner to develop,  
10 construct on, divide, sell, lease, or otherwise change the property in such a way as to render the  
11 land unsuitable for agriculture; this includes the exercise of the owner's rights to sell or grant  
12 easements or rights of way, or to sell the mineral or water rights or other rights if by that exercise  
13 the use of the land as productive agricultural land is diminished; but does not include the rights of  
14 the owner to sell, lease, or otherwise improve the agricultural land to preserve, maintain, operate,  
15 or continue the land as agricultural land or all other customary rights and privileges of ownership,  
16 including the right to privacy. Specific restrictions to farm-related development shall be  
17 formulated by the commission for each parcel of land to which the development rights are  
18 purchased and appended to the covenant at the time of its making.

19 SECTION 5. Section 44-27-2 of the General Laws in Chapter 44-27 entitled "Taxation  
20 of Farm, Forest, and Open Space Land" is hereby amended to read as follows:

21 **44-27-2. Definitions.** -- When used in this chapter:

22 (1) "Farmland" means:

23 (i) Any tract or tracts of land, including woodland and wasteland constituting a farm  
24 unit, [or a "farm" of a "farmer" as these terms are defined in subsection 2-1-1.1\(d\)](#);

25 (ii) Land which is actively devoted to agricultural or horticultural use including, but not  
26 limited to: forages and sod crops; grains and feed crops; fruits and vegetables; poultry, dairy, and  
27 other livestock and their products; nursery, floral, and greenhouse products; other food or fiber  
28 products useful to people;

29 (iii) When meeting the requirements and qualifications for payments pursuant to a soil  
30 conservation program under an agreement with the federal government, the director of  
31 environmental management is authorized to promulgate and adopt rules and regulations defining  
32 particular categories and minimum acreages of land eligible for designation as farmland under  
33 this chapter.

34 (2) "Forest land" means any tract or contiguous tracts of land, ten (10) acres or larger

1 bearing a dense growth of trees, including any underbrush, and having either the quality of self  
2 perpetuation, or being dependent upon its development by the planting and replanting of trees in  
3 stands of closely growing timber, actively managed under a forest management plan approved by  
4 the director of environmental management.

5 (3) "Open space land" means any tract or contiguous tracts of undeveloped land, where  
6 the undeveloped land serves to enhance agricultural values, or land in its natural state that  
7 conserves forests, enhances wildlife habitat or protects ecosystem health, and that is:

8 (i) Ten (10) total acres or larger, exclusive of house site, where "house site" means the  
9 zoned lot size or one acre, whichever is smaller, and land surrounding dwellings or devoted to  
10 developed facilities, such as tennis courts, pool, etc., related to the use of the residence; or

11 (ii) Tracts of land of any size that are designated as open space land in the  
12 comprehensive community plan; or

13 (iii) Tracts of land of any size that have conservation restrictions or easements in full  
14 force and applied for as open space, which shall be taxed on an equitable basis.

15 SECTION 3. This act shall take effect upon passage.

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LC01342  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO AGRICULTURE AND FORESTRY

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- 1           This act would expand the powers of the department of environmental management
- 2 relating to agriculture and farming by creating a new division of agriculture.
- 3           This act would take effect upon passage.

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LC01342  
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