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ARTICLE 14 AS AMENDED

RELATING TO GOVERNMENT REORGANIZATION

SECTION 1. Sections 30-15-5 and 30-15-6 of the General Laws in Chapter 30-15 entitled "Emergency Management" are hereby amended to read as follows:

30-15-5. Emergency management preparedness agency created – Personnel –

Facilities. -- (a) There is hereby created within the executive department, the Rhode Island emergency management agency (hereinafter in this chapter called the "agency"), to be headed by ~~the adjutant general of the Rhode Island national guard~~ an executive director, who shall be appointed by and serve at the pleasure of, the governor and who shall be in the unclassified service.

(b) The ~~adjutant general~~ executive director may employ such technical, clerical, stenographic, and other personnel, all of whom shall be in the classified service, and may make such expenditures within the appropriation therefor, or from other funds made available for the purposes of this chapter, as may be necessary to carry out the purposes of this chapter, consistent with other applicable provisions of law.

(c) The agency may provide itself with appropriate office space, furniture, equipment, supplies, stationery, and printing.

(d) The ~~adjutant general~~, executive director, subject to the direction and control of the governor, shall be the executive head of the agency, and shall be responsible to the governor for carrying out the program for disaster preparedness of this state. The ~~adjutant general~~ executive director shall coordinate the activities of all organizations for disasters within the state, and shall maintain liaison with and cooperate with disaster agencies and organizations of other states and of the federal government. The ~~adjutant general~~ executive director shall have such additional authority, duties, and responsibilities authorized by this chapter as may be prescribed by the governor.

30-15-6. Advisory council. – (a) There is hereby created the Rhode Island emergency

management advisory council (hereinafter in this chapter called the "council"). The council will consist of forty (40) members as follows:

(1) Twenty-two (22) ex officio members as follows:

(i) The lieutenant governor;

- 1 (ii) The adjutant general;
- 2 (iii) The director of administration/statewide planning;
- 3 (iv) The director of health;
- 4 (v) The director of transportation;
- 5 (vi) The director of human services;
- 6 (vii) The superintendent of state police;
- 7 (viii) The public utilities administrator;
- 8 (ix) The director of the department of environmental management;
- 9 (x) The director of ~~mental health, retardation, and hospitals~~ [department of behavioral](#)
- 10 [healthcare, developmental disabilities and hospitals](#);
- 11 (xi) The director of elderly affairs;
- 12 (xii) The chairperson of the state water resources board;
- 13 (xiii) The chairperson of the governor's commission on disabilities;
- 14 (xiv) The chairperson of the Rhode Island public transit authority;
- 15 (xv) The executive director of the coastal resources management council or his or her
- 16 designee;
- 17 (xvi) The executive director of the American Red Cross, Rhode Island chapter;
- 18 (xvii) The executive director of the Rhode Island emergency management agency;
- 19 (xviii) The state court administrator;
- 20 (xix) The executive director of the commission on the deaf and hard of hearing;
- 21 (xx) The director of the Providence emergency management agency;
- 22 (xxi) The executive director of E-911 emergency telephone system division;
- 23 (xxii) The federal security director of the transportation security administration for Rhode
- 24 Island; and
- 25 (2) Eighteen (18) members appointed by and serving at the pleasure of the governor, as
- 26 follows:
- 27 (i) Two (2) members of the senate, recommended by the president of the senate, not more
- 28 than one of whom shall be from the same political party;
- 29 (ii) Two (2) members of the house of representatives, recommended by the speaker of the
- 30 house, not more than one of whom shall be from the same political party;
- 31 (iii) One representative of the electric industry;
- 32 (iv) One representative of the gas industry;
- 33 (v) One representative of the telephone industry;
- 34 (vi) The executive director of the Rhode Island petroleum association or other similarly

1 situated person;

2 (vii) Two (2) representatives of the general public, one who shall have expertise in

3 disaster preparedness;

4 (viii) One representative of the Rhode Island league of cities and towns;

5 (ix) One representative of the media;

6 (x) One representative of the water supply industry;

7 (xi) One representative of the health care industry;

8 (xii) One representative of the Rhode Island firefighters association;

9 (xiii) One representative of the Rhode Island association of fire chiefs;

10 (xiv) One representative of a private ambulance company; and

11 (xv) One representative of a level I trauma hospital who shall have direct expertise in

12 disaster preparedness.

13 (b) It shall be the duty of the council to advise the governor and the ~~adjutant general~~

14 [executive director](#) on all matters pertaining to disaster preparedness. The lieutenant governor shall

15 serve as chairperson of the council and the ~~adjutant general~~ [executive director](#) shall serve as vice-

16 chairperson. In providing advice to the governor and the ~~adjutant general~~, [executive director](#), the

17 council shall, among other matters reasonably related to their authority, do the following:

- 18 (1) Establish a regular meeting schedule and form subcommittees as may be appropriate;
- 19 (2) Review emergency management plans and other matters as may be acted upon or
- 20 otherwise provided for in this chapter;
- 21 (3) Establish priorities and goals on emergency management matters on an annual basis;
- 22 (4) Study emergency management plans in conjunction with the adjutant general, and
- 23 otherwise conduct such other studies as may be deemed appropriate;
- 24 (5) Review the coordination of the state's emergency management programs with
- 25 appropriate authorized agencies and conduct studies on the programs as may be necessary;
- 26 (6) Review the plans and operations of the various cities and towns in disaster
- 27 preparedness in conjunction with the director and his or her office as required or necessary; and
- 28 (7) [Deleted by P.L. 2000, ch. 170, § 2];
- 29 (8) Provide an annual report on its activities in conjunction with the ~~adjutant general~~
- 30 [executive director](#).

31 SECTION 2. Section 39-1-27.12 of the General Laws in Chapter 39-1 entitled "Public

32 Utilities Commission" is hereby amended to read as follows:

33 **39-1-27.12. Low Income Home Energy Assistance Program Enhancement Plan. --**

34 (a) The Low Income Home Energy Assistance Program Enhancement Plan (hereinafter "LIHEAP

1 Enhancement Plan") is hereby created to supplement the federal Low Income ~~Household~~ Home
2 Energy Assistance Program ("LIHEAP") funding being received by customers of Rhode Island
3 electric and gas distribution companies.

4 (b) Within a period of time sufficient to accomplish the purposes of this section, but not
5 longer than ninety (90) days after the effective date of this chapter, the ~~Office of Energy~~
6 ~~Resources~~ department of human services shall develop a recommended monthly "LIHEAP
7 Enhancement Charge" rate for the following year and make a filing with the commission pursuant
8 to this chapter recommending rates. Thereafter annually but no later than October 15 of each
9 year, the ~~office~~ department shall make filings with the commission to recommend the LIHEAP
10 Enhancement Charge rates for each class of electric and natural gas distribution company
11 customer for the following year.

12 (c) A LIHEAP Enhancement Charge approved by the Commission shall have the
13 following limitations:

14 (1) For electric distribution company customers, the charge shall not be more than ten
15 dollars (\$10.00) per year.

16 (2) For natural gas distribution company customers, the charge shall not be more than ten
17 dollars (\$10.00) per year.

18 (3) The total projected annual revenue for the LIHEAP Enhancement Plan through
19 charges to all electric and natural gas distribution company customers shall not exceed seven
20 million five hundred thousand dollars (\$7,500,000) and shall not be below six million five
21 hundred thousand dollars (\$6,500,000).

22 (d) The commission shall open a docket to consider for approval LIHEAP Enhancement
23 Charge rates proposed by the ~~office~~ department. In reviewing the recommended rates the
24 commission shall give due consideration to the recommendations of the ~~office~~ department and the
25 standards set forth in subsection (c) of this section. The commission shall issue a decision within
26 sixty (60) days after said recommendations and report are filed with the commission establishing
27 the Enhancement Plan Charge rates.

28 (e) The electric or gas distribution company shall use the funds collected through this
29 Enhancement Plan Charge to provide a credit to customers accounts that are receiving federal
30 LIHEAP assistance payments. The ~~office of energy resources~~ department of human services shall
31 designate to the gas or electric distribution company the qualifying customer accounts and the
32 amounts to be credited to those customer accounts, provided that the total amount to be credited
33 to those accounts shall be fully funded by and not exceed the total amount collected through the
34 Enhancement Plan Charge. The electric or gas distribution company's added administrative

1 expenses to process the credit assignments provided to it by the ~~office of energy resources~~
2 [department of human services](#) will be recoverable either from the LIHEAP Enhancement Charge
3 or through a separate charge approved by the Public Utilities Commission.

4 (f) As used in this section, "electric and natural gas distribution company" means a
5 company as defined in subsection 39-1-2(12), but not including the Block Island Power Company
6 or the Pascoag Utility District.

7 SECTION 3. Section 42-17.1-2 of the General Laws in Chapter 42-17.1 entitled
8 "Department of Environmental Management" is hereby amended to read as follows:

9 **42-17.1-2. Powers and duties.** -- The director of environmental management shall have
10 the following powers and duties:

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

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

1 of agriculture and conservation or to any of its divisions or bureaus;

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

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

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

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

23 (7) To cooperate with, advise, and guide conservation commissions of cities and towns
24 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter
25 203 of the Public Laws, 1960;

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

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

1 (10) To cooperate with the solid waste management corporation and to provide to the
2 corporation such facilities, administrative support, staff services and such other services within
3 the department as the corporation shall reasonably require for its operation;

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

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

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

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

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

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

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

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

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

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

34 (20) To enter, examine or survey at any reasonable time such places as the director deems

1 necessary to carry out his or her responsibilities under any provision of law subject to the
2 following provisions:

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

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

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

10 (I) For closely regulated industries;

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

12 (III) In emergency situations;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (ii) Whenever the director determines that there exists a violation of any law, rule, or
32 regulation within his or her jurisdiction which requires immediate action to protect the
33 environment, he or she may, without prior notice of violation or hearing, issue an immediate
34 compliance order stating the existence of the violation and the action he or she deems necessary.

1 The compliance order shall become effective immediately upon service or within such time as is
2 specified by the director in such order. No request for a hearing on an immediate compliance
3 order may be made.

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

8 (iii) The director may, at his or her discretion and for the purposes of timely and effective
9 resolution and return to compliance, cite a person for alleged noncompliance through the issuance
10 of an expedited citation in accordance with subsection 42-17.6-3(c).

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

19 (v) The compliance order shall state a time within which the violation shall be remedied,
20 and the original time specified in the notice of violation shall be extended to the time set in the
21 order.

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

32 (vii) Any party aggrieved by a final judgment of the superior court may, within thirty (30)
33 days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to
34 review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the

1 petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of
2 certiorari;

3 (22) To impose administrative penalties in accordance with the provisions of chapter 17.6
4 of this title and to direct that such penalties be paid into the account established by subdivision
5 (26); and

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

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

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

14 (iii) *Service*: (A) Service upon a corporation under this section shall be deemed to include
15 service upon both the corporation and upon the person having active and general supervision of
16 the properties of such corporation.

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

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

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

30 (25) To apply for and accept grants and bequests of funds with the approval of the
31 director of administration from other states, interstate agencies and independent authorities, and
32 private firms, individuals and foundations, for the purpose of carrying out his or her lawful
33 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt
34 account created in the Natural Resources Program for funds made available for that program's

1 purposes or in a restricted receipt account created in the Environmental Protection Program for
2 funds made available for that program's purposes. All expenditures from the accounts shall be
3 subject to appropriation by the general assembly, and shall be expended in accordance with the
4 provisions of the grant or bequest. In the event that a donation or bequest is unspecified or in the
5 event that the trust account balance shows a surplus after the project as provided for in the grant
6 or bequest has been completed, the director may utilize said appropriated unspecified or
7 appropriated surplus funds for enhanced management of the department's forest and outdoor
8 public recreation areas, or other projects or programs that promote the accessibility of recreational
9 opportunities for Rhode Island residents and visitors.

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

13 (26) To establish fee schedules by regulation with the approval of the governor for the
14 processing of applications and the performing of related activities in connection with the
15 department's responsibilities pursuant to subdivision (12) of this section, chapter 19.1 of title 23
16 as it relates to inspections performed by the department to determine compliance with chapter
17 19.1 and rules and regulations promulgated in accordance therewith, chapter 18.9 of title 23 as it
18 relates to inspections performed by the department to determine compliance with chapter 18.9
19 and the rules and regulations promulgated in accordance therewith, chapters 19.5 and 23 of title
20 23; chapter 12 of title 46 insofar as it relates to water quality certifications and related reviews
21 performed pursuant to provisions of the federal Clean Water Act, the regulation and
22 administration of underground storage tanks and all other programs administered under chapter
23 12 of title 46 and § 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46 insofar
24 as they relate to any reviews and related activities performed under the provisions of the
25 Groundwater Protection Act, chapter 23-24.9 as it relates to the regulation and administration of
26 mercury-added products, and chapter 17.7 of this title insofar as it relates to administrative
27 appeals of all enforcement, permitting and licensing matters to the administrative adjudication
28 division for environmental matters. Two (2) fee ranges shall be required: for "Appeal of
29 enforcement actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for
30 "Appeal of application decisions", a range of five hundred dollars (\$500) to ten thousand dollars
31 (\$10,000). The monies from the administrative adjudication fees will be deposited as general
32 revenues and the amounts appropriated shall be used for the costs associated with operating the
33 administrative adjudication division.

34 There is hereby established an account within the general fund to be called the water and

1 air protection program. The account shall consist of sums appropriated for water and air pollution
2 control and waste monitoring programs and the state controller is hereby authorized and directed
3 to draw his or her orders upon the general treasurer for the payment of such sums or such portions
4 thereof as may be required from time to time upon receipt by him or her of properly authenticated
5 vouchers. All amounts collected under the authority of this subdivision for the sewage disposal
6 system program and fresh waters wetlands program will be deposited as general revenues and the
7 amounts appropriated shall be used for the purposes of administering and operating the programs.
8 The director shall submit to the house fiscal advisor and the senate fiscal advisor by January 15 of
9 each year a detailed report on the amount of funds obtained from fines and fees and the uses made
10 of such funds.

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

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

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

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

1 land trust in Rhode Island. A private land trust may not be incorporated for the exclusive purpose
2 of acquiring or accepting property or rights in property from a single individual, family,
3 corporation, business, partnership, or other entity. Membership in any private land trust must be
4 open to any individual subscribing to the purposes of the land trust and agreeing to abide by its
5 rules and regulations including payment of reasonable dues.

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

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

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

34 (30) Consistent with federal standards, issue and enforce such rules, regulations and

1 orders as may be necessary to establish requirements for maintaining evidence of financial
2 responsibility for taking corrective action and compensating third parties for bodily injury and
3 property damage caused by sudden and non-sudden accidental releases arising from operating
4 underground storage tanks.

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

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

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

34 (34) To promote the effective stewardship of lakes and ponds including collaboration

1 with associations of lakefront property owners on planning and management actions that will
2 prevent and mitigate water quality degradation, the loss of native habitat due to infestation of
3 non-native species and nuisance conditions that result from excessive growth of algal or non-
4 native plant species. By January 31, 2012, the director shall prepare and submit a report to the
5 governor and general assembly that based upon available information provides: (a) an assessment
6 of lake conditions including a description of the presence and extent of aquatic invasive species in
7 lakes and ponds; (b) recommendations for improving the control and management of aquatic
8 invasives species in lakes and ponds; and (c) an assessment of the feasibility of instituting a boat
9 sticker program for the purpose of generating funds to support implementation actions to control
10 aquatic invasive species in the freshwaters of the state.

11 (35) In implementing the programs established pursuant to this chapter, to identify
12 critical areas for improving service to customers doing business with the department, and to
13 develop and implement strategies to improve performance and effectiveness in those areas. Key
14 aspects of a customer service program shall include, but not necessarily be limited to, the
15 following components:

16 (a) Maintenance of an organizational unit within the department with the express purpose
17 of providing technical assistance to customers and helping customers comply with environmental
18 regulations and requirements;

19 (b) Maintenance of an employee training program to promote customer service across the
20 department;

21 (c) Implementation of a continuous business process evaluation and improvement effort,
22 including process reviews to encourage development of quality proposals, ensure timely and
23 predictable reviews, and result in effective decisions and consistent follow up and implementation
24 throughout the department, and publish an annual report on such efforts;

25 (d) Creation of a centralized location for the acceptance of permit applications and other
26 submissions to the department;

27 (e) Maintenance of a process to promote, organize, and facilitate meetings prior to the
28 submission of applications or other proposals in order to inform the applicant on options and
29 opportunities to minimize environmental impact, improve the potential for sustainable
30 environmental compliance, and support an effective and efficient review and decision-making
31 process on permit applications related to the proposed project;

32 (f) Development of single permits under multiple authorities otherwise provided in state
33 law to support comprehensive and coordinated reviews of proposed projects. The director may
34 address and resolve conflicting or redundant process requirements in order to achieve an effective

1 [and efficient review process that meets environmental objectives; and](#)

2 [\(g\) Exploration of the use of performance-based regulations coupled with adequate](#)
3 [inspection and oversight, as an alternative to requiring applications or submissions for approval](#)
4 [prior to initiation of projects. The department shall work with the office of regulatory reform to](#)
5 [evaluate the potential for adopting alternative compliance approaches and provide a report to the](#)
6 [governor and the general assembly by May 1, 2015.](#)

7 SECTION 4. Section 16-57-10 of the General Laws in Chapter 16-57 entitled "Higher
8 Education Assistance Authority [See Title 16 Chapter 97 - The Rhode Island Board of Education
9 Act]" is hereby amended to read as follows:

10 **16-57-10. Reserve funds.** -- (a) To assure the continued operation and solvency of the
11 authority for the carrying out of its corporate purposes, the authority may create and establish any
12 reserve funds as may be necessary or desirable for its corporate purposes, and may pay into the
13 funds any money appropriated and made available by the state, the commissioner, or any other
14 source for the purpose of the funds, and any money collected by the authority as fees for the
15 guaranty of eligible loans.

16 (b) To assure continued solvency of the authority, the authority's operating fund shall be
17 used solely for the ordinary operating expenses of the authority. Furthermore, it is the intent of
18 the general assembly that these funds eventually be used to increase financial assistance to Rhode
19 Island students in the form of scholarships and grants.

20 [\(c\) Given the decline of available sources to support the agency, the Governor's FY 2016](#)
21 [budget recommendations shall include a proposal for the transfer of higher education assistance](#)
22 [authority's programs to appropriate agencies within state government. All departments and](#)
23 [agencies of the state shall furnish such advice and information, documentary or otherwise to the](#)
24 [director of the department of administration and its agents as is deemed necessary or desirable to](#)
25 [facilitate the recommendation.](#)

26 SECTION 5. Section 42-35.1-5 of the General Laws in Chapter 42-35.1 entitled "Small
27 Business Regulatory Fairness in Administrative Procedures" is hereby amended to read as
28 follows:

29 **42-35.1-5. Small business enforcement ombudsman.** -- (a) The director of the
30 ~~economic development corporation~~ [office of regulatory reform](#) shall designate an existing staff
31 member as a "small business regulatory enforcement ombudsman", who shall report directly to
32 the director.

33 (b) The ombudsman shall:

34 (1) Work with each agency with regulatory authority over small businesses to ensure that

1 small business concerns that receive or are subject to an audit, on-site inspection, compliance
2 assistance effort, or other enforcement related communication or contact by agency personnel are
3 provided with a means to comment on the enforcement activity conducted by such personnel;

4 (2) Establish means to receive comments from small business concerns regarding actions
5 by agency employees conducting compliance or enforcement activities;

6 (3) Within six (6) months of appointment, work with each regulating entity to develop
7 and publish reporting policies;

8 (4) Based on substantiated comments received from small business concerns the
9 ombudsman shall annually report to the general assembly and affected agencies evaluating the
10 enforcement activities of agency personnel including a rating of the responsiveness of the
11 regulatory agencies policies;

12 (5) Coordinate and report annually on the activities, findings and recommendations to the
13 general assembly and the directors of affected agencies; and

14 (6) Provide the affected agency with an opportunity to comment on reports prepared
15 pursuant to this chapter, and include a section of the final report in which the affected agency may
16 make such comments as are not addressed by the ombudsman.

17 SECTION 6. Sections 42-64.13-3, 42-64.13-5, and 42-64.13-6 of the General Laws in
18 Chapter 42-64.13 entitled "Rhode Island Regulatory Reform Act" are hereby amended to read as
19 follows:

20 **42-64.13-3. Purposes of chapter. [Effective February 1, 2015].** -- The purposes of this
21 chapter are to create within the ~~Rhode Island executive office of commerce,~~ office of
22 management and budget, the office of regulatory reform that will facilitate the regular review of
23 Rhode Island's regulatory processes and permitting procedures, report thereon in an effort to
24 improve them and assist and facilitate economic development opportunities within the regulatory
25 and permitting processes and procedures that exist within Rhode Island state and municipal
26 government.

27 **42-64.13-5. Creation of the office of regulatory reform. [Effective February 1,**
28 **2015].** -- The ~~Rhode Island executive office of commerce~~ office of management and budget shall
29 create an office of regulatory reform that shall be adequately staffed and supervised in order to
30 fulfill its functions as set forth in this chapter.

31 **42-64.13-6. Director of office of regulatory reform. [Effective February 1, 2015].** --
32 The office of regulatory reform shall be managed by a director of office of regulatory reform who
33 shall report to the ~~secretary of commerce within the Rhode Island executive office of commerce~~
34 director of the office of management and budget.

SECTION 7. This Article shall take effect on July 1, 2014.