

**2017 -- S 0203 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2017**

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

Introduced By: Senators P Fogarty, Satchell, Archambault, and McCaffrey

Date Introduced: February 02, 2017

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 42-17.1-2 and 42-17.1-4 of the General Laws in Chapter 42-17.1  
2 entitled "Department of Environmental Management" are hereby amended to read as follows:

3           **42-17.1-2. Powers and duties.**

4           The director of environmental management shall have the following powers and duties:

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

9           (2) To exercise all functions, powers, and duties heretofore vested in the department of  
10 agriculture and conservation, and in each of the divisions of the department, such as the  
11 promotion of agriculture and animal husbandry in their several branches, including the inspection  
12 and suppression of contagious diseases among animals; the regulation of the marketing of farm  
13 products; the inspection of orchards and nurseries; the protection of trees and shrubs from  
14 injurious insects and diseases; protection from forest fires; the inspection of apiaries and the  
15 suppression of contagious diseases among bees; the prevention of the sale of adulterated or  
16 misbranded agricultural seeds; promotion and encouragement of the work of farm bureaus, in  
17 cooperation with the University of Rhode Island, farmers' institutes, and the various organizations  
18 established for the purpose of developing an interest in agriculture; together with such other

1 agencies and activities as the governor and the general assembly may, from time to time, place  
2 under the control of the department; and as heretofore vested by such of the following chapters  
3 and sections of the general laws as are presently applicable to the department of environmental  
4 management and that were previously applicable to the department of natural resources and the  
5 department of agriculture and conservation or to any of its divisions: chapters 1 through 22,  
6 inclusive, as amended, in title 2 entitled "Agriculture and Forestry"; chapters 1 through 17,  
7 inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry"; chapters 1 through  
8 19, inclusive, as amended, in title 20 entitled "Fish and Wildlife"; chapters 1 through 32,  
9 inclusive, as amended, in title 21 entitled "Food and Drugs"; chapter 7 of title 23, as amended,  
10 entitled "Mosquito Abatement"; and by any other general or public law relating to the department  
11 of agriculture and conservation or to any of its divisions or bureaus;

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

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

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

30 (6) To cooperate with the Rhode Island commerce corporation in its planning and  
31 promotional functions, particularly in regard to those resources relating to agriculture, fisheries,  
32 and recreation;

33 (7) To cooperate with, advise, and guide conservation commissions of cities and towns  
34 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter

1 203 of the Public Laws, 1960;

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

5 (9) To cooperate with the water resources board and to provide to the board facilities,  
6 administrative support, staff services, and such other services as the board shall reasonably  
7 require for its operation and, in cooperation with the board and the statewide planning program,  
8 to formulate and maintain a long-range guide plan and implementing program for development of  
9 major water-sources transmission systems needed to furnish water to regional- and local-  
10 distribution systems;

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

14 (11) To provide for the maintenance of waterways and boating facilities, consistent with  
15 chapter 6.1 of title 46, by: (i) Establishing minimum standards for upland beneficial use and  
16 disposal of dredged material; (ii) Promulgating and enforcing rules for water quality, ground  
17 water protection, and fish and wildlife protection pursuant to § 42-17.1-24; (iii) Planning for the  
18 upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of the  
19 council pursuant to § 46-23-6(2); and (iv) Cooperating with the coastal resources management  
20 council in the development and implementation of comprehensive programs for dredging as  
21 provided for in §§ 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) Monitoring dredge material  
22 management and disposal sites in accordance with the protocols established pursuant to § 46-6.1-  
23 5(3) and the comprehensive program provided for in § 46-23-6(1)(ii)(H); no powers or duties  
24 granted herein shall be construed to abrogate the powers or duties granted to the coastal resources  
25 management council under chapter 23 of title 46, as amended;

26 (12) To establish minimum standards, subject to the approval of the environmental  
27 standards board, relating to the location, design, construction, and maintenance of all sewage-  
28 disposal systems;

29 (13) To enforce, by such means as provided by law, the standards for the quality of air,  
30 and water, and the design, construction, and operation of all sewage-disposal systems; any order  
31 or notice issued by the director relating to the location, design, construction, or maintenance of a  
32 sewage-disposal system shall be eligible for recordation under chapter 13 of title 34. The director  
33 shall forward the order or notice to the city or town wherein the subject property is located and  
34 the order or notice shall be recorded in the general index by the appropriate municipal official in

1 the land evidence records in the city or town wherein the subject property is located. Any  
2 subsequent transferee of that property shall be responsible for complying with the requirements of  
3 the order or notice. Upon satisfactory completion of the requirements of the order or notice, the  
4 director shall provide written notice of the same, which notice shall be similarly eligible for  
5 recordation. The original written notice shall be forwarded to the city or town wherein the subject  
6 property is located and the notice of satisfactory completion shall be recorded in the general index  
7 by the appropriate municipal official in the land evidence records in the city or town wherein the  
8 subject property is located. A copy of the written notice shall be forwarded to the owner of the  
9 subject property within five (5) days of a request for it, and, in any event, shall be forwarded to  
10 the owner of the subject property within thirty (30) days after correction;

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

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

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

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

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

1 (19) To issue and enforce such rules, regulations, and orders as may be necessary to carry  
2 out the duties assigned to the director and the department by any provision of law; and to conduct  
3 such investigations and hearings and to issue, suspend, and revoke such licenses as may be  
4 necessary to enforce those rules, regulations, and orders. Any license suspended under such rules,  
5 regulations, and/or orders shall be terminated and revoked if the conditions that led to the  
6 suspension are not corrected to the satisfaction of the director within two (2) years; provided that  
7 written notice is given by certified mail, return receipt requested, no less than sixty (60) days  
8 prior to the date of termination.

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

14 (20) To enter, examine, or survey, at any reasonable time, such places as the director  
15 deems necessary to carry out his or her responsibilities under any provision of law subject to the  
16 following provisions:

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

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

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

24 (I) For closely regulated industries;

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

26 (III) In emergency situations;

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

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

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

32 (C) Whenever it shall be constitutionally or otherwise required by law, or whenever the  
33 director in his or her discretion deems it advisable, an administrative search warrant, or its  
34 functional equivalent, may be obtained by the director from a neutral magistrate for the purpose

1 of conducting an administrative inspection. The warrant shall be issued in accordance with the  
2 applicable constitutional standards for the issuance of administrative search warrants. The  
3 administrative standard of probable cause, not the criminal standard of probable cause, shall  
4 apply to applications for administrative search warrants;

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

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

10 (III) An administrative warrant may authorize the review and copying of documents that  
11 are relevant to the purpose of the inspection. If documents must be seized for the purpose of  
12 copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare  
13 an inventory of the documents taken. The time, place, and manner regarding the making of the  
14 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of  
15 the inventory shall be delivered to the person from whose possession or facility the documents  
16 were taken. The seized documents shall be copied as soon as feasible under circumstances  
17 preserving their authenticity, then returned to the person from whose possession or facility the  
18 documents were taken;

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

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

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

30 (21) To give notice of an alleged violation of law to the person responsible therefor  
31 whenever the director determines that there are reasonable grounds to believe that there is a  
32 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted  
33 pursuant to authority granted to him or her, unless other notice and hearing procedure is  
34 specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney

1 general to prosecute offenders as required by law;

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

11 (ii) (A) Whenever the director determines that there exists a violation of any law, rule, or  
12 regulation within his or her jurisdiction that requires immediate action to protect the environment,  
13 he or she may, without prior notice of violation or hearing, issue an immediate-compliance order  
14 stating the existence of the violation and the action he or she deems necessary. The compliance  
15 order shall become effective immediately upon service or within such time as is specified by the  
16 director in such order. No request for a hearing on an immediate-compliance order may be made;

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

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

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

32 (v) The compliance order shall state a time within which the violation shall be remedied,  
33 and the original time specified in the notice of violation shall be extended to the time set in the  
34 order;

1 (vi) Whenever a compliance order has become effective, whether automatically where no  
2 hearing has been requested, where an immediate compliance order has been issued, or upon  
3 decision following a hearing, the director may institute injunction proceedings in the superior  
4 court of the state for enforcement of the compliance order and for appropriate temporary relief,  
5 and in that proceeding, the correctness of a compliance order shall be presumed and the person  
6 attacking the order shall bear the burden of proving error in the compliance order, except that the  
7 director shall bear the burden of proving in the proceeding the correctness of an immediate  
8 compliance order. The remedy provided for in this section shall be cumulative and not exclusive  
9 and shall be in addition to remedies relating to the removal or abatement of nuisances or any  
10 other remedies provided by law;

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

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

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

21 (i) Director: The term "director" shall mean the director of environmental management of  
22 the state of Rhode Island or his or her duly authorized agent;

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

27 (iii) Service: (A) Service upon a corporation under this section shall be deemed to include  
28 service upon both the corporation and upon the person having active and general supervision of  
29 the properties of such corporation;

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

33 (24) (i) To conduct surveys of the present private and public camping and other  
34 recreational areas available and to determine the need for and location of such other camping and



1 recreational areas as may be deemed necessary and in the public interest of the state of Rhode  
2 Island and to report back its findings on an annual basis to the general assembly on or before  
3 March 1 of every year;

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

8 (25) (i) To apply for and accept grants and bequests of funds, with the approval of the  
9 director of administration, from other states, interstate agencies, and independent authorities, and  
10 private firms, individuals, and foundations, for the purpose of carrying out his or her lawful  
11 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt  
12 account created in the natural resources program for funds made available for that program's  
13 purposes or in a restricted receipt account created in the environmental protection program for  
14 funds made available for that program's purposes. All expenditures from the accounts shall be  
15 subject to appropriation by the general assembly, and shall be expended in accordance with the  
16 provisions of the grant or bequest. In the event that a donation or bequest is unspecified, or in the  
17 event that the trust account balance shows a surplus after the project as provided for in the grant  
18 or bequest has been completed, the director may utilize said appropriated unspecified or  
19 appropriated surplus funds for enhanced management of the department's forest and outdoor  
20 public recreation areas, or other projects or programs that promote the accessibility of recreational  
21 opportunities for Rhode Island residents and visitors;

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

25 (26) To establish fee schedules by regulation, with the approval of the governor, for the  
26 processing of applications and the performing of related activities in connection with the  
27 department's responsibilities pursuant to subdivision (12); chapter 19.1 of title 23, as it relates to  
28 inspections performed by the department to determine compliance with chapter 19.1 and rules  
29 and regulations promulgated in accordance therewith; chapter 18.9 of title 23, as it relates to  
30 inspections performed by the department to determine compliance with chapter 18.9 and the rules  
31 and regulations promulgated in accordance therewith; chapters 19.5 and 23 of title 23; chapter 12  
32 of title 46, insofar as it relates to water-quality certifications and related reviews performed  
33 pursuant to provisions of the federal Clean Water Act; the regulation and administration of  
34 underground storage tanks and all other programs administered under chapter 12 of title 46 and §

1 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46, insofar as they relate to  
2 any reviews and related activities performed under the provisions of the Groundwater Protection  
3 Act; chapter 24.9 of title 23 as it relates to the regulation and administration of mercury-added  
4 products; and chapter 17.7 of this title, insofar as it relates to administrative appeals of all  
5 enforcement, permitting and licensing matters to the administrative adjudication division for  
6 environmental matters. Two (2) fee ranges shall be required: for "Appeal of enforcement  
7 actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for "Appeal of  
8 application decisions", a range of five hundred dollars (\$500) to ten thousand dollars (\$10,000).  
9 The monies from the administrative adjudication fees will be deposited as general revenues and  
10 the amounts appropriated shall be used for the costs associated with operating the administrative  
11 adjudication division.

12         There is hereby established an account within the general fund to be called the water and  
13 air protection program. The account shall consist of sums appropriated for water and air pollution  
14 control and waste-monitoring programs and the state controller is hereby authorized and directed  
15 to draw his or her orders upon the general treasurer for the payment of such sums, or such  
16 portions thereof, as may be required, from time to time, upon receipt by him or her of properly  
17 authenticated vouchers. All amounts collected under the authority of this subdivision for the  
18 sewage-disposal-system program and fresh-waters wetlands program will be deposited as general  
19 revenues and the amounts appropriated shall be used for the purposes of administering and  
20 operating the programs. The director shall submit to the house fiscal advisor and the senate fiscal  
21 advisor by January 15 of each year a detailed report on the amount of funds obtained from fines  
22 and fees and the uses made of such funds.

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

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

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

1           (ii) The term "public land trust" means any public instrumentality created by a Rhode  
2 Island municipality for the purposes stated herein and financed by means of public funds  
3 collected and appropriated by the municipality. The term "private land trust" means any group of  
4 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode  
5 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such  
6 as the nature conservancy. The main purpose of either a public or a private land trust shall be the  
7 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other  
8 natural features, areas, or open space for the purpose of managing or maintaining, or causing to  
9 be managed or maintained by others, the land, water, and other natural amenities in any  
10 undeveloped and relatively natural state in perpetuity. A private land trust must be granted  
11 exemption from federal income tax under Internal Revenue Code 501c(3) [26 U.S.C. § 501(c)(3)]  
12 within two (2) years of its incorporation in Rhode Island or it may not continue to function as a  
13 land trust in Rhode Island. A private land trust may not be incorporated for the exclusive purpose  
14 of acquiring or accepting property or rights in property from a single individual, family,  
15 corporation, business, partnership, or other entity. Membership in any private land trust must be  
16 open to any individual subscribing to the purposes of the land trust and agreeing to abide by its  
17 rules and regulations including payment of reasonable dues;

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

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

29           (29) The director will contact in writing, not less often than once every two (2) years,  
30 each public or private land trust to ascertain: that all lands held by the land trust are recorded with  
31 the director; the current status and condition of each land holding; that any funds or other assets  
32 of the land trust held as endowment for specific lands have been properly audited at least once  
33 within the two-year (2) period; the name of the successor organization named in the public or  
34 private land trust's bylaws or articles of association; and any other information the director deems

1 essential to the proper and continuous protection and management of land and interests or rights  
2 in land held by the land trust. In the event that the director determines that a public or private land  
3 trust holding land or interest in land appears to have become inactive, he or she shall initiate  
4 proceedings to effect the termination of the land trust and the transfer of its lands, assets, land  
5 rights, and land interests to the successor organization named in the defaulting trust's bylaws or  
6 articles of association or to another organization created for the same or similar purposes. Should  
7 such a transfer not be possible, then the land trust, assets, and interest and rights in land will be  
8 held in trust by the state of Rhode Island and managed by the director for the purposes stated at  
9 the time of original acquisition by the trust. Any trust assets or interests other than land or rights  
10 in land accruing to the state under such circumstances will be held and managed as a separate  
11 fund for the benefit of the designated trust lands;

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

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

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

4 (33) To support, facilitate, and assist the Rhode Island Natural History Survey, as  
5 appropriate and/or as necessary, in order to accomplish the important public purposes of the  
6 survey in gathering and maintaining data on Rhode Island natural history; making public  
7 presentations and reports on natural history topics; ranking species and natural communities;  
8 monitoring rare species and communities; consulting on open-space acquisitions and management  
9 plans; reviewing proposed federal and state actions and regulations with regard to their potential  
10 impact on natural communities; and seeking outside funding for wildlife management, land  
11 management, and research;

12 (34) To promote the effective stewardship of lakes, ~~and~~ ponds, rivers and streams  
13 including, but not limited to, including collaboration with watershed organizations and  
14 associations of lakefront property owners on planning and management actions that will prevent  
15 and mitigate water quality degradation, reduce the loss of native habitat due to infestation of non-  
16 native species, ~~and~~ abate nuisance conditions that result from excessive growth of algal or non-  
17 native plant species as well as promote healthy freshwater riverine ecosystems. ~~By January 31,~~  
18 ~~2012, the director shall prepare and submit a report to the governor and general assembly that,~~  
19 ~~based upon available information, provides: (a) An assessment of lake conditions including a~~  
20 ~~description of the presence and extent of aquatic invasive species in lakes and ponds; (b)~~  
21 ~~Recommendations for improving the control and management of aquatic invasives species in~~  
22 ~~lakes and ponds; and (c) An assessment of the feasibility of instituting a boat sticker program for~~  
23 ~~the purpose of generating funds to support implementation actions to control aquatic invasive~~  
24 ~~species in the freshwaters of the state; and~~ To carry out these duties, a position in the department  
25 shall be newly established to coordinate activities pertaining to the stewardship of freshwater  
26 resources including lakes, ponds, rivers and streams.

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

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

1 (b) Maintenance of an employee-training program to promote customer service across the  
2 department;

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

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

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

14 (f) Development of single permits under multiple authorities otherwise provided in state  
15 law to support comprehensive and coordinated reviews of proposed projects. The director may  
16 address and resolve conflicting or redundant process requirements in order to achieve an effective  
17 and efficient review process that meets environmental objectives; and

18 (g) Exploration of the use of performance-based regulations coupled with adequate  
19 inspection and oversight, as an alternative to requiring applications or submissions for approval  
20 prior to initiation of projects. The department shall work with the office of regulatory reform to  
21 evaluate the potential for adopting alternative compliance approaches and provide a report to the  
22 governor and the general assembly by May 1, 2015.

23 **42-17.1-4. Divisions within department.**

24 Within the department of environmental management there are established the following  
25 divisions:

26 (1) A division of parks and recreation that shall carry out those functions of the  
27 department relating to the operation and maintenance of parks and recreation areas and the  
28 establishment and maintenance of such additional recreation areas as may from time to time be  
29 acquired and such other functions and duties as may from time to time be assigned by the  
30 director;

31 (2) A division of fish and wildlife that shall carry out those functions of the department  
32 relating to the administration of hunting, fishing, and shell fisheries; the preservation of wetlands,  
33 marsh lands, [freshwater lakes, streams, ponds](#), and wildlife; and such other functions and duties  
34 as may from time to time be assigned by the director;

1           (3) A division of agriculture that shall carry out those functions of the department relating  
2 to agriculture, and such other functions and duties as may from time to time be assigned by the  
3 director, including, but not limited to, plant industry, farm viability, marketing and promotion,  
4 farmland ecology and protection, plant and animal health and quarantine, pesticides, mosquito  
5 abatement, pest survey and response, food policy and security, and, in collaboration with the  
6 department of health, public health as it relates to farm production and direct marketing of farm  
7 products, and those agreed upon through memorandum of agreement with the department of  
8 health or other state agencies. The department of health shall continue to act as the lead agency  
9 for all public health issues in the state pursuant to chapter 1 of title 23. Nothing herein contained  
10 shall limit the department of health's statutory authority, nor shall any provision herein be  
11 construed as a limitation upon the statutory authority of the department of health granted to the  
12 department under title 23 of the general laws, nor shall any provision herein be construed to limit  
13 the authority of the department of environmental management to enter into memoranda of  
14 agreement with any governmental agency. The chief of the division of agriculture shall report  
15 directly to the director.

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

26           (5) A division of planning and development that shall carry out those functions of the  
27 department relating to planning, programming, acquisition of land, engineering studies, and such  
28 other studies, as the director may direct, and that shall work with the board of governors for  
29 higher education and the board of regents for elementary and secondary education, with  
30 educational institutions at all levels, and with the public in the dissemination of information and  
31 education relating to natural resources, and shall perform the publication and public relations  
32 functions of the department, the functions of inspection of dams and reservoirs, approving plans  
33 for construction or improvement of dams, reservoirs, and other structures in non-tidal waters, and  
34 the operation of stream-gauging stations in cooperation with the United States Geological Survey;

1 (6) A division of enforcement that shall enforce all of the laws and regulations of the  
2 department and the coastal resources management council, that shall cooperate with the other  
3 enforcement agencies of the state and its municipalities, and that shall administer all of the  
4 policing, enforcing, licensing, registration, and inspection functions of the department and such  
5 other functions and duties as may, from time to time, be assigned by the director;

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

11 (8) (i) A division of boating safety that shall carry out those functions of the department  
12 relating to the development and administration of a coordinated, safe boating program in  
13 accordance with the Model Safe Boating Act of 1971 as approved by the National Association of  
14 State Boating Law Administrators.

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

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

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

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

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

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

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

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

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

34 (iv) The establishment and enforcement of such rules and regulations as are deemed



1 necessary to achieve the purposes of the Model Safe Boating Act as approved by the state boating  
2 law administrators.

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

5 SECTION 2. This act shall take effect upon passage.

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LC000920/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

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1           This act would provide for the creation of a new position in the fish and wildlife division  
2 of the department of environmental management, and would place oversight of freshwater lakes,  
3 streams, and ponds, in the fish and wildlife division.

4           This act would take effect upon passage.

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LC000920/SUB A  
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