A FARMER'S GUIDE TO THE PROVISIONS OF

THE RHODE ISLAND GENERAL LAWS

PERTAINING TO

AGRICULTURE

RHODE ISLAND FARM BUREAU

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1. Overview: Agriculture is a heavily regulated industry.

This compilation, issued by the RI Farm Bureau, is designed to be a guide for farmers to the maze of Rhode Island General Laws specific to agriculture. It does not make the maze simpler. It just enables finding where specific issues are located within the maze. Its purpose is to help farmers be more efficient in finding the provisions of law that apply to their operations.

The preparation of this guide was undertaken by the RI Agricultural Partnership, Kenneth F. Payne, administrator, as part of its effort to implement a Five Year Strategic Plan (May 2011) to strengthen the vitality of Rhode Island agriculture and was supported by funding from the van Beuren Charitable Foundation. The 2018 update, incorporating changes in the General Laws through December 2017, was accomplished by Sabrina Peltier as an intern with the RI Farm Bureau.

Rhode Island agriculture has become a heavily regulated industry. There are laws pertaining to most facets of agricultural operations. Yet agriculture in Rhode Island takes place under conditions over which farmers do not have immediate control: Is the spring late and cold? Is the summer exceptionally hot? When and how much rain falls? Are there new blights and pests? Farmers must be resilient in addressing these realities. Laws in many respects establish rigidities, their purpose is to provide predictability. In dynamic situations rigidity can cause hardship and even disaster. Thus, farmers are notably wary of new legal schemes that limit their flexibility.

The last sixty years, the era of the administrative state, has seen a vast growth in the extent of law and bureaucracy. In part this been because of society's becoming complexly integrated on an ever-expanding scale: Less and less has been predominantly local. It is also a function of science and technology, which enables changes in agricultural production methods, increases in agricultural productivity, and gives rise to new concerns about public health and safety, environmental protection, and risk mitigation. Being able to explain a concern enables legislating with regard to it.

Rhode Island is a small densely populated state. Only one town, the island community of New Shoreham, is not within a metropolitan area. There are no vast expanses of rural farmlands. Rhode Island agriculture is finer grained, notably diverse, embedded in suburbia, and responsive to suburban market conditions. The drivers of American agriculture during the twentieth century, "every farm a factory" and "get big or get out", have not taken hold in Rhode Island has they have in other regions of the country and the globe. Rhode Island agriculture has been faced with competition that has the advantages of lower costs and greater economies of scale. The per unit cost of complying with the provisions of law is often a function of the scale of operations.

Yet agriculture is a part of life in Rhode Island. It contributes to the beauty of the landscape; it provides environmental services; it strengthens community; it generates income and wealth and has been an economic vibrant sector; and it supplies fresh, healthy food.

The purpose of this guide is help Rhode Island agriculture flourish. The guide is designed to help farmers find applicable laws quickly and easily. The Rhode Island General Laws are organized alphabetically by title: "Agriculture and Forestry" is title 2, "Weights and Measures" is title 47. The Table of Contents of this guide lists General Law titles and within those titles the chapters of that have specific provisions pertaining to agriculture. A General Law that has broad, general application, for the example the creation of business corporations, is not included in this guide because it is not specific to agriculture.

The Index of this guide lists agricultural topics in alphabetical order and gives the General Law chapter, and if warranted the section number, where that topic is addressed. The reality is that some agricultural topics are treated in multiple places in the General Laws. Dairying, for example, has numerous topics in both title 4, "Animals and Animal Husbandry" and in title 21, "Food and Drugs". How convenient it would be the full treatment of a specific of a topic was contained in one place in the General Laws. But the subject matter of laws often is complex and multi-faceted, and law evolves over time, thus the Rhode Island General Laws are a networked description of duties and responsibilities, a maze if you will. This compilation can not change that reality, but it may serve as a guide to those who want to find out how agriculture is specifically treated within the Rhode Island General Laws.

The guide endeavors to provide all the sections of the General Laws pertaining specifically agriculture. The sections of law are included in the compilation by title and chapter in numerical order. The first section listed is title 2, chapter, section 1 (2-1-1) and the last is title 47, chapter 15, section 10 (47-15-10). The compilation includes provisions from seventy-three (73) chapters of the Rhode Island General Laws.

2. List of General Law Chapters Cited

Title 2 –Agriculture and Forestry--Chapters

2-1	Agricultural Functions of Department of Environmental Management
2-2	Agricultural Experiment Station
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2-4	Soil Conservation
2-5	Federal Conservation Program
2-6	RI Seed Act
2-7	Commercial Fertilizer
2-15	Protection of Plants and Trees Generally
2-16	General Plant Pest Act
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2-18	Nursery Stock
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2-19	Arborists
2-21	Agricultural Liming Materials
2-22	Soil Amendments
2-23	Right to Farm
2-23.1	Notification to Farmers
2-23.2	Preservation of Agricultural Use
2-24	Northeast Dairy Compact
2-25	The RI Local Agriculture and Seafood ACT

21-4.1 Milk Commission

21-5 Analysis of Milk Fat Content in Milk or Milk Products

21-11 Meats

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21-25 Corn and Corn Meal

21-27 Sanitation of Food Establishments

21-36 Inter-Agency Food & Nutrition Policy Advisory Council

Title 23—Health and Safety—Chapters

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31-3 Registration of Vehicles

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42-17.1 Department of Environmental Management

42-64 RI Economic Development Corporation

42-82 Farmland Preservation

Title 44—Taxation—Chapters

44-5 Levy and Assessment of Local Taxes

44-18 Sales and Use Tax—Liability and Computation

44-27 Taxation of Farm, Forest, and Open Space Land

Title 45—Towns and Cities—Chapters

45-22.2 RI Comprehensive Planning and Land Use Act

45-23 Subdivision of Land

45-24 Zoning Ordinances

Title 46—Waters and Navigation--Chapters

46-15.1 Water Supply Facilities

46-15.3 Public Drinking Water Supply System Protection

46-15.7 Management of the Withdrawal and Use of the Waters of the State

46-15.8 Water Use and Efficiency Act

Title 47—Weights and Measures

47-4 Standard Measures

47-6 Hay Scales and Platform Balances

47-14 Hay and Straw

47-15 Containers

3. Index by Topic

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Farm Vehicle Registration and Use.
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Registration of farm vehicles: 31-3-31.
Registration fees: 31-6-1 (16).
Vehicle Use:
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Registration requirements: 2-7-4.
Liming Materials: chapter 2-21.
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Soil Amendments (compost); chapter 2-22.
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Registration requirements: 2-22-5.
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4. RI General Laws Pertaining to Agriculture

TITLE 2—AGRICULTURE AND FORESTERY

CHAPTER 2-1
Agricultural Functions of Department of Environmental Management

General Provisions

§ 2-1-5 Agricultural institutes – Local associations. – The director of environmental management shall hold one agricultural institute in each county annually, either independently or in connection with any society, association, or other organization devoted to the same general objects, and may hold as many more as he or she deems expedient, and, as far as may be practicable, encourage state and local associations and societies in the interests of agriculture.

History of Section.
(G.L. 1896, ch. 99, § 4; G.L. 1909, ch. 120, § 4; G.L. 1923, ch. 241, § 4; G.L. 1938, ch. 201, § 2; G.L. 1956, § 2-1-5.)

§ 2-1-6 Annual report – Publications. – The director of environmental management shall report annually to the general assembly at its January session. Two thousand (2,000) copies of the report shall be printed under the direction of the department of administration. The director shall distribute one copy of the report to each member of the general assembly, one to the city or town clerk of each town in the state for the use of the city or town, one to each public library, and a proper number to the University of Rhode Island, agricultural societies, farmers' clubs and granges in the state, and shall make any exchanges with other like organizations as may be deemed expedient. The director may cause to be printed and distributed from time to time, in pamphlet form, an analysis of commercial fertilizers, and any other information that the interests of agriculture may require.

§ 2-1-8. Promotion of Rhode Island grown farm products and Rhode Island seafood. - The director of environmental management shall establish and administer a program to promote the marketing of Rhode Island seafood and farm products grown and produced in Rhode Island for the purpose of encouraging the development of the commercial fishing and agricultural sectors in the state. The director of environmental management shall:

(1) Collect and diffuse timely information relative to the seasonal supply, demand and prevailing prices of seafood and farm products, both at wholesale and retail, the movement of seafood and farm products through commercial channels, and the quantities and conditions of seafood and farm products in dry and cold storage.

(2) Assist and advise in the organization and maintenance of producers' and consumers' cooperative selling and buying associations.

(3) Investigate the cost of distributing seafood and farm products, both at wholesale and retail, and to publish these findings that may be of practical interest to the public.

(4) Furnish advice and assistance to the public with reference to buying of seafood and farm products and other matters relative to seafood and farm products.

(5) Take those lawful measures that may be deemed advisable to prevent waste or uneconomical use of seafood and farm products.

(6) Cooperate with various state and federal agencies having to do with seafood and farm products.

(7) Conduct efforts to promote interaction and business relationships between farmers, fishermen and restaurants, grocery stores, institutional cafeterias and other potential institutional purchasers of Rhode Island seafood and Rhode Island grown farm products, including, but not limited to:

(i) Organizing state-wide or regional events promoting Rhode Island grown or harvested seafood and farm products, where farmers, fishermen, and potential institutional customers are invited to participate. The director shall use his or her best efforts to solicit cooperation and participation from the farm, corporate, retail, wholesale and grocery communities in such advertising, internet-related and event planning efforts.

(8) The director shall report annually to the general assembly having cognizance of matters relating to the environment on issues with respect to efforts undertaken pursuant to the requirements of this section. The director may adopt, in accordance with § 2-1-9, such regulations as deemed necessary to carry out the purposes of this section.

History of Section.
(G.L. 1938, ch. 241, § 34; P.L. 1928, ch. 1181, § 1; G.L. 1938, ch. 209, § 2; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 2-1-8; P.L. 2012, ch. 37, § 2; P.L. 2012, ch. 38, § 2.)

§ 2-1-9 Enforcement of marketing laws. – It is the duty of the director of environmental management to assist in the enforcement of the provisions of §§ 2-1-8 – 2-1-12, chapter 6 of this title and chapters 17 and 18 of title 21 and the provisions of any rule or regulations promulgated by the director of the department of environmental management to carry out those provisions. The general assembly shall annually appropriate any sum it may deem necessary to pay the salary and expenses of the director of environmental management.

History of Section.
(G.L. 1923, ch. 241, § 36, as enacted by P.L. 1926, ch. 789, § 1; P.L. 1927, ch. 1014, § 4; P.L. 1935, ch. 2250, § 149; G.L. 1938, ch. 209, § 3; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 2-1-9.)

§ 2-1-10 Inspection powers. – (a) For the purpose of conducting inspections, the director of environmental management and the director of health, or any of his or her agents or deputies, have authority to enter, at any reasonable time, any building, storehouse, warehouse, cold-storage plant, packing house, stockyard, railroad yard, railroad car, or any other building or place where farm products are produced, kept, stored, or offered for sale, or to enter upon any farm land for the purpose of inspecting farm products.

(b) The director of the department of environmental management, through the division of agriculture, shall continue to enforce the commercial growers of fruits and vegetables voluntary food safety program developed by the Food and Drug Administration and the United States Department of Agriculture known as

Good Agricultural Practices (GAP), and shall enforce the Food Safety Modernization Act as it pertains to commercial growers of fruits and vegetables.

History of Section.
(G.L. 1923, ch. 241, § 37, as enacted by P.L. 1928, ch. 1181, § 2; G.L. 1938, ch. 209, § 4; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 2-1-10; P.L. 2017, ch. 213, § 1; P.L. 2017, ch. 243, § 1.)

§ 2-1-11 Administration of oaths – Subpoena of witnesses and papers. – The director of environmental management and the director of health have the power to administer oaths, summon and examine witnesses and order the production and examination of books, accounts, papers, records and documents in any proceeding within the jurisdiction of these directors. All subpoenas, and orders for the production of books, accounts, papers, records and documents shall be signed and issued by the directors and served as subpoenas in civil cases in the superior court as now served, and witnesses so subpoenaed shall be entitled to the same fees for attendance and travel as provided for witnesses in civil cases in the superior court. If the person subpoenaed to attend before the directors fails to obey the command of the subpoena without reasonable cause, or if a person in attendance before the directors, without reasonable cause, refuses to be sworn, or to be examined, or to answer a legal and pertinent question, or if any person refuses to produce the books, accounts, papers, records and documents material to the issue, set forth in an order duly served on the person, the directors, as the case may be, may apply to any justice of the superior court for any county, upon proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than five (5) days, directing the person to show cause before the justice who made the order or any other justice, why the person should not be adjudged in contempt. Upon the return of the order, the justice before whom the matter is brought for a hearing shall examine under oath the person, and the person shall be given an opportunity to be heard, and if the justice determines that the person has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce books, accounts, papers, records and documents, material to the issue, which the person was ordered to bring or produce, the justice may forthwith commit the offender to jail, to remain until the person submits to do the act which the person was required to do, or is discharged according to law.

History of Section.
(G.L.1923, ch. 241, § 38, as enacted by P.L. 1928, ch. 1181, § 2; G.L. 1938, ch. 209, § 5; G.L. 1956, § 2-1-11.)

§ 2-1-12 Enforcement of provisions – Prosecutions. – It is the duty of the director of environmental management and the director of health to enforce the provisions of §§ 2-1-8 – 2-1-12 and to prosecute every person, firm or corporation violating the provisions. If in the judgment of the directors any person, firm or corporation has deliberately violated the provisions of §§ 2-1-8 – 2-1-12 or of chapter 6 of this title or chapter 17 or 18 of title 21, the directors shall inform the attorney general who shall prosecute in the manner provided by law. Whenever any prosecution takes place, the director of environmental management and the director of health, or any of his or her agents or deputies, are not required to give surety for the payment of costs.

CHAPTER 2-1
Agricultural Functions of Department of Environmental Management
PART 2-1-13
Fresh Water Wetlands

§ 2-1-18. Declaration of intent.

Whereas it is recognized that freshwater wetlands, buffers, floodplains, and other areas that may be subject to storm flows and flooding as defined in this chapter provide storage and absorption areas for flood waters which reduce flood hazards; and

Whereas all flood plains for all rivers, streams, and other water courses are certain to be overflowed with water periodically in spite of all reasonable efforts to prevent those occurrences; and

Whereas flood waters overflowing into freshwater wetlands, buffers, floodplains, and other areas that may be subject to storm flows and flooding are not only released more slowly downstream, thus reducing the damage they may cause, but flood waters may be absorbed into the ground water supply further reducing the flood hazard and recharging the vital ground water resource; and

Whereas precipitation patterns are known to be changing and Rhode Island has experienced a higher frequency of intense storm events resulting in flooding; and

Whereas freshwater wetlands and buffers are among the most valuable of all wildlife habitats and are high-value recreational areas as well, and wildlife and recreation are widely recognized as essential to the health, welfare, and general well-being of the general populace; and

Whereas it has been established through scientific study that activities conducted in lands adjacent to freshwater wetlands can exert influence on their condition, functions, and values and subsequently these lands should be protected; and

Whereas it has been established through scientific study that maintaining lands adjacent to freshwater wetlands as naturally vegetated buffers protects the functions and values of wetlands and that such buffers in and of themselves perform vital ecological functions; and

Whereas it has been established through scientific study that freshwater wetlands and buffers maintained in a natural condition can provide benefits to water quality through the filtering and uptake of water pollutants, retention of sediment, stabilizing shorelines, and other natural processes; and

Whereas freshwater wetlands, buffers, and floodplains, are increasingly threatened by random and frequently undesirable projects for drainage, excavation, filling, encroachment, or other forms of disturbance or destruction, and that a review of scientific literature indicates that aspects of existing state standards to protect these areas need to be strengthened; and

Whereas the protection of freshwater wetlands, buffers, floodplains, and other areas that may be subject to storm flows and flooding from random, unnecessary, and/or undesirable drainage, excavation, filling, encroachment, or any other form of disturbance or destruction is recognized as being in the best public interest and essential to the health, welfare, and general well-being of the general populace and essential to the protection of property and life during times of flood or other disaster affecting water levels or water supply;

Whereas the lack of uniform standards results in duplication of reviews administered by state and local governments and burdens businesses and property owners who require a predictable regulatory environment to be successful; and

Whereas it is recognized that statewide regulatory standards to protect freshwater wetlands, buffers, and floodplains are in the public interest, important to supporting economic vitality, and necessary to ensure protection is achieved in a consistent manner; and

Therefore, the provisions of the following sections are intended to preserve freshwater wetlands, buffers, and floodplains and regulate the use thereof through the establishment of jurisdictional areas and the regulation of activities consistent with this chapter.

History of Section.
(G.L. 1956, § 2-1-18; P.L. 1971, ch. 213, § 1; P.L. 2015, ch. 218, § 1.)

§ 2-1-19. Public policy on freshwater wetlands.

It is the public policy of the state to preserve the purity and integrity of the freshwater wetlands, buffers, and floodplains of this state. The health, welfare, and general well-being of the populace and the protection of life and property require that the state restrict the uses of freshwater wetlands, buffers, and floodplains and, in the exercise of the police power, regulate activities in jurisdictional areas and as otherwise provided for hereunder consistent with this chapter.

History of Section.
(G.L. 1956, § 2-1-19; P.L. 1971, ch. 213, § 1; P.L. 2015, ch. 218, § 1.)

§ 2-1-20. Definitions.

As used in this chapter;

(1) "Area subject to flooding" shall include, but not be limited to, low-lying areas that collect, hold, or meter out storm and flood waters from any of the following: rivers, streams, intermittent streams, or areas subject to storm flowage.

(2) "Area subject to storm flowage" includes drainage swales and channels that lead into, out of, pass through, or connect other freshwater wetlands or coastal wetlands, and that carry flows resulting from storm events, but may remain relatively dry at other times.

(3) "Bog" means a place where standing or slowly running water is near or at the surface during normal growing season and/or where a vegetational community has over fifty percent (50%) of the ground or water surface covered with sphagnum moss (Sphagnum) and/or where the vegetational community is made up of one or more of, but not limited to nor necessarily including all of, the following: blueberries, and cranberry (Vaccinium), leatherleaf (Chamaedaphne calyculata), pitcher plant (Sarracenia purpurea), sundews (Droseraceae), orchids (Orchidaceae), white cedar (Chamaecyparis thyoides), red maple (Acer rubrum), black spruce (Picae mariana), bog aster (Aster nemoralis), larch (Laris laricina), bogrosemary (Andromeda glaucophylla), azaleas (Rhododendron), laurels (Kalmia), sedges (Caryx), and bog cotton (Eriophorum).

(4) "Buffer" means an area of undeveloped vegetated land adjacent to a freshwater wetland that is to be retained in its natural undisturbed condition or is to be created to resemble a naturally occurring vegetated area.

(5) "Department" means the department of environmental management (DEM).

(6) "Director" means the director of the department of environmental management or his or her duly authorized agent or agents.

(7) "Floodplain" means that land area adjacent to a river or stream or other body of flowing water which is, on the average, likely to be covered with flood waters resulting from a one-hundred (100) year frequency storm. A "one-hundred (100) year frequency storm" is one that is to be expected to be equaled or exceeded once in one hundred (100) years; or may be said to have a one percent (1%) probability of being equaled or exceeded in any given year.

(8) "Freshwater wetlands" includes, but is not limited to, those areas that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal circumstances do support a prevalence of vegetation adapted for life in saturated soil conditions. Freshwater wetlands includes, but is not limited to: marshes, swamps, bogs, emergent, and submergent plant communities, and for the purposes of this chapter, rivers, streams, ponds, and vernal pools.

(9) "Jurisdictional area" means the following lands and waters, as defined herein except as provided for in § 2-1-22(k), that shall be subject to regulation under this chapter:

(i) Freshwater wetlands;

(ii) Buffers;

(iii) Floodplains;

(iv) Areas subject to storm flowage;

(v) Areas subject to flooding; and

(vi) Contiguous areas that extend outward:

(A) Two hundred feet (200') from the edge of a river or stream;

(B) Two hundred feet (200') from the edge of a drinking water supply reservoir; and

(C) One hundred feet (100') from the edge of all other freshwater wetlands.

(10) "Marsh" means a place wholly or partly within the state where a vegetational community exists in standing or running water during the growing season and/or is made up of one or more of, but not limited to nor necessarily including all of, the following plants or groups of plants: hydrophytic reeds (Phragmites), grasses (Cramineae), mannagrasses (Glyceria), cutgrasses (Leersia), pickerelwoods (Pontederiaceae), sedges (Cyperaceae), rushes (Juncaceae), cattails (Typha), water plantains (Alismataceae), bur-reeds (Sparganiazceae), pondweeds (Zosteraceae), frog's bits (Hydrocharitaceae), arums (Araceae), duckweeds (Lemmaceae), water lilies (Nymphaeceae), water-milfoils (Haloragaceae), water-starworts (Callitrichaeceae), bladder-worts (Utricularia), pipeworts (Eriocaulon), sweet gale (Myrica gale), and buttonbush (Cephalanthus occidentalis).

(11) "Near or at the surface" mean within eighteen (18) inches of the surface.

(12) "Pond" means a place natural or man-made, wholly or partly within the state, where open-standing or slowly moving water is present for at least six (6) months a year.

(13) "River" means a body of water designated as a perennial stream by the United States Department of Interior geologic survey on 7.5-minute series topographic maps and that is not a pond as defined in this section.

(14) "Setback" means the minimum distance from the edge of a freshwater wetland at which an approved activity or alteration may take place.

(15) "Stream" means any flowing body of water or watercourse that flows long enough each year to develop and maintain a channel and that may carry groundwater discharge or surface runoff.

(16) "Swamp" means a place, wholly or partly within the state, where ground water is near or at the surface of the ground for a significant part of the growing season or runoff water from surface drainage collects frequently and/or where a vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all of, the following: red maple (Acer rubum), elm (Ulmus americana), black spruce (Picea mariana), white cedar (Chamaecyparis thyoides), ashes (Fraximus), poison sumac (Rhus vernix), larch (Larix laricina), spice bush (Lindera benzoin), alders (Alnus), skunk cabbage (Symplocarpus foetidus), hellebore (Veratrum viride), hemlock (Thuja canadensis), sphagnums (Sphagnum), azaleas (Rhododendron), black alder (Ilex verticillata), coast pepperbush (Clethra alnifolia), marsh marigold (Caltha palustris), blueberries (Vaccinium), buttonbush (Cephalanthus occidentalis), willow (Salicaceae), water willow (Decodon verticillatus), tupelo (Nyssa sylbatica), laurels (Kalmia), swamp white oak (Quercus biscolor), or species indicative of marsh.

(17) "Vernal pool" means a depressional wetland basin that typically goes dry in most years and may contain inlets or outlets, typically of intermittent flow. Vernal pools range in both size and depth depending upon landscape position and parent materials. Vernal pools usually support one or more of the following obligate indicator species: wood frog (Lithobates sylvaticus), spotted salamander (Ambystoma maculatum), marbled salamander (Ambystoma opacum), and fairy shrimp (Eubranchipus spp.) and typically preclude sustainable populations of predatory fish.

History of Section.
(G.L. 1956, § 2-1-20; P.L. 1971, ch. 213, § 1; P.L. 1974, ch. 197, § 2; P.L. 1979, ch. 20, § 1; P.L. 2015, ch. 218, § 1.)

§ 2-1-20.1. Rules and regulations.

(a) The director is authorized to adopt, modify, or repeal rules and regulations that are in accord with the purposes of §§ 2-1-18 – 2-1-27 and are subject to the administrative procedures act, chapter 35 of title 42, except for those freshwater wetlands located in the vicinity of the coast as set out in chapter 23 of title 46 which shall be regulated by the coastal resources management council consistent with the provisions of chapter 23 of title 46 and §§ 2-1-18 – 2-1-20.1 and 2-1-27.

(b) The director is authorized to establish jurisdictional areas through regulation. The rules and regulations promulgated pursuant to § 2-1-20.1 shall apply within the jurisdictional areas defined in § 2-1-20 and subject to the provisions of § 2-1-22(k) and to activities as provided for in § 2-1-21.

(c) Within eighteen (18) months from enactment of this section, the department and the coastal resources management council shall promulgate standards for freshwater wetland buffers and setbacks into state rules and regulations pursuant to their respective authorities. The department and the coastal resources management council shall collaborate to develop the state standards for freshwater buffers and setbacks that will be incorporated into the programs of both agencies. State regulations designating buffers shall include a procedure that allows a municipality to petition the agency director with jurisdiction to increase the size of the buffer within the designated jurisdictional area protecting one or more freshwater wetland resources.

(d) In developing standards specified in § 2-1-20.1(c), the department and the coastal resources management council shall take into consideration agricultural and plant-based green infrastructure practices

and activities, while ensuring protection of the state's natural resources. In setting criteria, the department shall take into account, at a minimum, existing land use, watershed and wetland resource characteristics, and the type of activity including acceptable best management practices. The director shall establish by appointment an advisory work group to facilitate input on the development of criteria for freshwater wetland setbacks and buffers applicable to agricultural activities and plant-based green infrastructure. The advisory group shall include, at minimum, the following: one representative from the Rhode Island Farm Bureau, one representative of the Rhode Island nursery and landscape association, one representative of the department of environmental management agency agricultural advisory committee, an operator of a small-scale agricultural enterprise, and one professional with expertise in soil and water conservation practices.

History of Section.
(P.L. 1974, ch. 197, § 1; P.L. 1999, ch. 501, § 2; P.L. 2015, ch. 218, § 1; P.L. 2016, ch. 306, § 1; P.L. 2016, ch. 321, § 1.)

§ 2-1-20.2. Designation of wetlands, buffers, and floodplains.

The director is authorized to determine which areas are to be known as freshwater wetlands, buffers, and floodplains, areas subject to flooding, and areas subject to storm flowage.

History of Section.
(G.L. 1956, § 2-1-20.2; P.L. 1974, ch. 197, § 1; P.L. 1983, ch. 174, § 1; P.L. 2015, ch. 218, § 1.)

§ 2-1-21. Approval of director.

(a)(1) No person, firm, industry, company, corporation, city, town, municipal or state agency, fire district, club, nonprofit agency, or other individual or group may:

(i) Excavate; drain; fill; place trash, garbage, sewage, highway runoff, drainage ditch effluents, earth, rock, borrow, gravel, sand, clay, peat, or other materials or effluents upon; divert water flows into or out of; dike; dam; divert; change; add to or take from or otherwise alter the character of any freshwater wetland, buffer, or floodplain as defined in § 2-1-20 without first obtaining the approval of the director of the department of environmental management; or

(ii) Undertake any activity within a jurisdictional area, as defined in § 2-1-20, that may alter the character of the freshwater wetland, buffer, or floodplain without first obtaining the approval of the director of the department of environmental management.

(2) Approval will be denied if, in the opinion of the director, granting of approval would not be in the best public interest.

(3) Appeal from a denial may be made to the superior court following the exhaustion of administrative appeals provided through the administrative adjudication division established by chapter 17.7 of title 42.

(4) In the event of any alteration by a city or town of surface water impoundments used for drinking water supply, limited to maintenance within existing boundary perimeters of the impoundment, no approval shall be required; provided that the city or town advises the director at least twenty (20) days prior to commencing the maintenance work. The city or town shall advise the director in writing, describing the location and nature of the work, anticipated times of commencement and completion, and methods to be used to reduce adverse impacts on the freshwater wetland, buffer, or floodplain. The director shall advise

the city or town of any concerns with the impact of the proposed maintenance on the freshwater wetland, buffer, floodplain or water quality.

(b) Whenever a landowner is denied approval to alter a freshwater wetland by the director under subsection (a), the landowner may elect to have the state acquire the land involved by petitioning to the superior court. If the court determines that the proposed alteration would not essentially change the natural character of the land; would not be unsuited to the land in the natural state; and would not injure the rights of others, the court shall, upon determining the fair market value of the freshwater wetland, based upon its value as a freshwater wetland, direct the state, if approval was denied by the director, to pay to the landowner the fair market value of the freshwater wetland. If the state declines the acquisition, the landowner may proceed to alter the freshwater wetland as initially requested. Any amount paid by the state shall be paid from any funds in the treasury not otherwise appropriated.

History of Section.
(G.L. 1956, § 2-1-21; P.L. 1971, ch. 213, § 1; P.L. 1974, ch. 197, § 2; P.L. 1981, ch. 17, § 1; P.L. 1983, ch. 9, § 1; P.L. 2015, ch. 218, § 1

§ 2-1-22 Procedure for approval by director – Notice of change of ownership – Recordation of permit. – (a) Application for approval of a project to the director of environmental management shall be made in a form to be prescribed by the director and provided by the director upon request. Prior to the application, a request may be made for preliminary determination as to whether this chapter applies. A preliminary determination shall be made by the director only after an on-site review of the project and the determination shall be made within thirty (30) days of the request. This chapter shall be determined to apply if a significant alteration appears to be contemplated and an application to alter a wetland will be required. Within fourteen (14) days after receipt of the completed application accompanied by plans and drawings of the proposed project, the plans and drawings to be prepared by the registered professional engineer to a scale of not less than one inch (1") to one hundred feet (100'), the director shall notify all landowners whose properties are within two hundred feet (200') of the proposed project and the director will also notify the city or town council, the conservation commission, the planning board, the zoning board, and any other individuals and agencies in any city or town within whose borders the project lies who may have reason in the opinion of the director to be concerned with the proposal. The director may also establish a mailing list of all interested persons and agencies who may wish to be notified of all applications.

(b) If the director receives any objection to the project within forty-five (45) days of the mailing of the notice of application from his or her office, the objection to be in writing and of a substantive nature, the director shall then schedule a public hearing in an appropriate place as convenient as reasonably possible to the site of the proposed project. The director shall inform by registered mail all objectors of the date, time, place, and subject of the hearing to be held. The director shall further publish notice of the time, place, date, and subject of the hearing in one local newspaper circulated in the area of the project and one statewide newspaper, the notices to appear once per week for at least two (2) consecutive weeks prior to the week during which the hearing is scheduled. The director shall establish a reasonable fee to cover the costs of theinvestigations, notifications, and publications, and hearing and the applicant shall be liable for the fee.

(c) If no public hearing is required, or following a public hearing, the director shall make his or her decision on the application and notify the applicant by registered mail and the applicant's attorney and any other agent or representative of the applicant by mail of this decision within a period of six (6) weeks. If a public hearing was held, any persons who objected, in writing, during the forty-five (45) day period provided for objections shall be notified of the director's decision by first class mail.

(d) In the event of a decision in favor of granting an application, the director shall issue a permit for the applicant to proceed with the project, and shall require the applicant to pay a permit fee of one hundred dollars ($100). The permit may be issued upon any terms and conditions, including time for completion, that the director may require. Permits shall be valid for a period of one year from the date of issue and shall expire at the end of that time unless renewed. A permit may be renewed for up to three (3) additional one year periods upon application by the original permit holder or a subsequent transferee of the property

subject to permit, unless the original permit holder or transferee has failed to abide by the terms and conditions of the original permit or any prior renewal. The director may require new hearings if, in his or her judgment, the original intent of the permit is altered or extended by the renewal application or if the applicant has failed to abide by the terms of the original permit in any way. In addition, in the event a project authorized by a permit was not implemented by the permit holder or transferee because approval of the project by a federal agency, for which application had been timely made, had not been received or a federal agency had stopped the project from proceeding, prior to the expiration of the permit, the permit holder or transferee may apply for a renewal of the permit at any time prior to the tenth (10th) anniversary of the original issuance, and the application shall be deemed to be an insignificant alteration subject to expedited treatment. The request for renewal of a permit shall be made according to any procedures and form that the director may require.

(e) The original permittee or subsequent transferee shall notify the director, in writing, of any change of ownership that occurs while an original or renewal permit is in effect by forwarding a certified copy of the deed of transfer of the property subject to the permit to the director.

(f) A notice of permit and a notice of completion of work subject to permit shall be eligible for recordation under chapter 13 of title 34 and shall be recorded at the expense of the applicant in the land evidence records of the city or town where the property subject to permit is located, and any subsequent transferee of the property shall be responsible for complying with the terms and conditions of the permit.

(g) The director shall notify the person requesting a preliminary determination and the person's attorney, agent, and other representative of his or her decision by letter, copies of which shall be sent by mail to the city or town clerk, the zoning board, the planning board, the building official, and the conservation commission in the city or town within which the project lies.

(h) The director shall report to the general assembly on or before February 1 of each calendar year on his or her compliance with the time provisions contained in this chapter.

(i) Normal farming activities shall be considered insignificant alterations and, as normal farming activities, shall be exempted from the provisions of this chapter in accordance with the following procedures:

(1) Normal farming and ranching activities are those carried out by farmers as defined in this title, including plowing, seeding, cultivating, land clearing for routine agriculture purposes, harvesting of agricultural products, pumping of existing farm ponds for agricultural purposes, upland soil and water conservation practices, and maintenance of existing farm drainage structures, existing farm ponds and existing farm roads are permissible at the discretion of farmers in accordance with best farm management practices which assure that the adverse effects to the flow and circulation patterns and chemical and biological characteristics of fresh water wetlands are minimized and that any adverse effects on the aquatic environment are minimized.

(2) In the case of construction of new farm ponds, construction of new drainage structures and construction of new farm roads, the division of agriculture shall be notified by the filing of a written application for the proposed construction by the property owner. The application shall include a description of the proposed construction and the date upon which construction is scheduled to begin, which date shall be no earlier than thirty (30) calendar days after the date of the filing of the application. The division of agriculture shall review such applications to determine that they are submitted for agricultural purposes and to assure that adverse effects to the flow and circulation patterns and chemical and biological characteristics of fresh water wetlands are minimized and that any adverse effects on the aquatic environment are minimized and will not result in a significant alteration to the wetlands. Pursuant to this review, the division shall notify the applicant, in writing, whether the proposal is an insignificant alteration. This notice shall be issued not later than thirty (30) days after the date that the application was filed with the division. In the event notice is given by the division as required, the application shall be conclusively presumed to be an insignificant alteration. If no notice is given as required, or if an application is approved as an insignificant alteration, the applicant may cause construction to be done in accordance with the application, and neither the applicant nor the applicant's agents or employees who cause or perform the construction in accordance with the application shall be liable for any criminal, civil, administrative or other fine, fee, or penalty, including restoration costs for violations alleged to arise from the construction.

(3) The division of agriculture shall, in coordination with the agricultural council's advisory committee, adopt regulations for subdivision (i)(2), and shall determine whether a proposed activity, other than an activity listed in subdivision (i)(1), constitutes a normal farming activity, or involves the best farm management practices.

(4) Except as otherwise provided for farm road construction, filling of wetlands conforms to the provisions of this chapter.

(j) For the purposes of this section, a "farmer" is an individual, partnership or corporation who operates a farm and has filed a 1040F U.S. Internal Revenue Form with the Internal Revenue Service, has a state farm tax number and has earned ten thousand dollars ($10,000) gross income on farm products in each of the preceding four (4) years.

History of Section.
(G.L. 1956, § 2-1-22; P.L. 1971, ch. 213, § 1; P.L. 1974, ch. 197, § 2; P.L. 1977, ch. 116, § 1; P.L. 1979, ch. 20, § 1; P.L. 1980, ch. 216, § 1; P.L. 1981, ch. 390, § 1; P.L. 1982, ch. 124, § 1; P.L. 1988, ch. 415, § 1; P.L. 1996, ch. 428, § 1; P.L. 2004, ch. 595, art. 33, § 1.)

CHAPTER 2-2
Agricultural Experiment Station

§ 2-2-1 Assent to federal grant. – The general assembly assents to and accepts the provisions of an act passed by the sixty-eighth congress entitled "An act to authorize the more complete endowment of agricultural experiment stations, and for other purposes".

History of Section.
(P.L. 1925, ch. 619, § 1; G.L. 1938, ch. 203, § 1; G.L. 1956, § 2-2-1.)

§ 2-2-2 Annual report to governor. – It shall be the duty of the experiment station at the university of Rhode Island on or before the first day of February, annually, to make a full and detailed report of its operations to the governor, including a statement of its receipts and expenditures for the fiscal year ending on the thirtieth day of November in the year next preceding.

History of Section.
(P.L. 1925, ch. 619, § 2; G.L. 1938, ch. 203, § 2; impl. am. P.L. 1951, ch. 2686, § 1; G.L. 1956, § 2-2-2.)

CHAPTER 2-3
Cooperative Extension District Associations and the Rhode Island Agricultural Council

§ 2-3-1 Definitions. – As used in this chapter:

(1) "Agriculture council" means an organization composed of groups engaged in supporting and promoting the interests of agriculture within this state and providing educational and informative material to its citizens.

(2) "Cooperative extension" means a partnership made up of residents, the Land Grant College (the University of Rhode Island), the state of Rhode Island, the U.S. Department of Agriculture, and city and town governments. The purpose of this partnership is to plan, finance, and operate extension programs

transmitting practical information including but not limited to agriculture, home economics, natural and community resources, and 4-H youth development, produced by research centers and universities to the public.

(3) "District association" means a county or district organization established to undertake the purposes of cooperative extension and to cooperate with the Land Grant College (the University of Rhode Island), the U.S. Department of Agriculture and the state, in employing extension agents and in carrying on cooperative extension work.

(4) "Extension agents" means a person or persons qualified by training and experience to instruct in the science and art of agriculture, home economics, natural and community resources, and 4-H youth development who devote their time to demonstrations and other forms of educational instruction.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-2 Cooperative extension district associations. – There shall be three (3) cooperative extension district associations: (1) The southern Rhode Island cooperative extension service comprising Washington and Kent counties; (2) The eastern Rhode Island cooperative extension service comprising Newport and Bristol counties; and (3) The northern Rhode Island cooperative extension service comprising Providence county.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-3 Organizational requirements for participation. – The cooperative extension district associations are incorporated under the laws of Rhode Island, are governed by boards of directors selected to represent as evenly as possible all parts of their respective districts, and shall maintain and abide by the memorandum of agreement with the director of cooperative extension at the University of Rhode Island.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-4 Receipts and disbursement of funds for cooperative extension work. – The district associations organized under this chapter are authorized to receive funds from the United States department of agriculture, the state, the cities and towns of the state and from individuals, organizations, corporations, and other funding sources that may desire to contribute to the educational work contemplated by this chapter. The district associations are authorized to disburse the funds received in employing extension agents, defraying their expenses, and providing support personnel, office facilities, and materials for demonstrations and other forms of education and instruction according to plans and methods approved by the United States department of agriculture for carrying out the provisions of the federal Smith-Lever Act, 7 U.S.C. § 341 et seq., and any subsequent act providing for extension work and by the University of Rhode Island.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-5 Annual report of activities. – It is the duty of each district association to present annually to the secretary of state a full report of its activities for the preceding year including a statement of its receipts from all sources and disbursements.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-6 Raising of local funds – Amount of state contributions – Local matching funds. – (a) Each district association shall raise funds for the purposes provided in this chapter. Each city or town within its respective district is authorized to appropriate and turn over to the treasurer of the association serving that district any sums that the city or town may approve.

(b) For the purpose of paying the state's share of the annual expenses of the cooperative educational work provided for in §§ 2-3-1 – 2-3-6, the general assembly shall annually appropriate any sum that it deems necessary. Any district association not raising within the district covered by the district association, exclusive of funds received from any agency of the United States, an amount equal to the sum appropriated by the state for use by that district association shall draw from the state appropriation during the fiscal year only a sum equal to the amount raised by that district association, exclusive of funds received from any agency of the United States, and expended during the fiscal year as shown by a certificate filed in the office of the state controller, sworn to by the president and treasurer of the district association. The state controller is authorized and directed to draw orders upon the general treasurer for the payment of any sums authorized upon the presentation of the certificates and vouchers signed by the president and treasurer of the district association respectively.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-7 Cooperation in 4-H youth development activities. – The director of cooperative extension at the Land Grant College (the University of Rhode Island) is authorized to provide support in cooperation with the district associations for annual 4-H activities and events, including fairs, demonstrating the work of 4-H members, and for contests, competitions, premiums and awards, and when deemed essential, for representation by carefully chosen Rhode Island 4-H members at 4-H conferences or exhibitions throughout the United States.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-8 Appropriations for 4-H youth development activities. – The sum of four thousand five hundred dollars ($4,500) is annually appropriated, out of any money in the treasury not otherwise appropriated, to be expended by the respective officers of the three (3) district associations:

(1) Fifteen hundred dollars ($1,500) to the eastern Rhode Island cooperative extension service for expenses in connection with its annual 4-H fair and/or other 4-H activities;

(2) Fifteen hundred dollars ($1,500) to the northern Rhode Island cooperative extension service for expenses in connection with its annual 4-H fair and/or other 4-H activities; and

(3) Fifteen hundred dollars ($1,500) to the southern Rhode Island cooperative extension service for expenses in connection with its annual 4-H fair and/or other 4-H activities;

The state controller is hereby authorized and directed to draw orders upon the general treasurer for the payment of this money, or so much as may be required from time to time, upon the receipt by the state controller of properly authenticated vouchers.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-9 Annual appropriation to the Rhode Island agricultural council. – The sum of five thousand dollars ($5,000) is annually appropriated out of any money in the treasury not otherwise appropriated to the Rhode Island agricultural council to support its efforts to improve the agricultural economy of Rhode Island. The state controller is authorized and directed to draw orders upon the general treasurer for the payment of this money, or so much as may be required from time to time, upon receipt by the state controller of properly authenticated vouchers.

History of Section.
(P.L. 1988, ch. 553, § 2.)

§ 2-3-10. Appropriations for general education purposes.

The general assembly shall annually appropriate any sum that it may deem necessary for the purpose of supporting the program of the department of environmental management in its enlargement of cooperation with agricultural organizations as exemplified by the Rhode Island agricultural council in the endeavor to promote, encourage, generally better rural living in Rhode Island; to encourage and promote agriculture in this state and improve the state's agricultural interests; to hold meetings throughout the state with discussions conducted by authorities from both within and without the state; to make awards for outstanding agricultural contributions, and to assist Rhode Island agriculturalists in every way to overcome the problems that confront them in the agricultural field. This sum is to be expended under the direction of the director of the department of environmental management with a committee of five (5) members of the Rhode Island agricultural council appointed annually by the president of the council within thirty (30) days after the annual meeting of the council. The committee is to act in an advisory capacity and to assist in the formulation of plans and programs.

History of Section.
(P.L. 1988, ch. 553, § 2; P.L. 2016, ch. 512, art. 2, § 35.)

§ 2-3-11 Annual report by the Rhode Island agricultural council. – The Rhode Island agricultural council shall make an annual report to the director of the department of environmental management.

History of Section.
(P.L. 1988, ch. 553, § 2.)

CHAPTER 2-4
Soil Conservation

§ 2-4-1 Legislative determinations and declaration of policy. – In recognition of the ever increasing environmental problems resulting from demands on the land and renewable resources of the state and of the need to preserve, protect and develop these resources of the state at a rate and level of quality to meet the needs of the people of the state, and the need for environmental balance, it is hereby declared to be the policy of the state to provide for the conservation of the land and renewable natural resources using those measures that best meet these objectives, including, but not limited to, the control and prevention of erosion, control of floods, the conservation and development of water resources and the improvement of water quality; assistance in the conservation of coastal land and water resources, the prevention of impairment of dams and reservoirs by sediment, the protection of wildlife, and preservation of natural beauty, and to protect and promote the health, safety and general welfare of the people of this state. It is further the policy of the general assembly to authorize conservation districts established under this chapter to serve as a local unit of the state conservation committee responsible for the conservation of the renewable natural resources of this state, and competent to administer, in close cooperation with landowners and occupiers, with local governmental units, and with agencies of the government of this state and of the United States, projects, programs and activities suitable for carrying out the policy of this chapter.

History of Section.
(G.L. 1956, § 2-4-1; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-2 Definitions. – "Associate Director" means a designated representative of any community who serves to advise and consult with the board of directors of a district.

(2) "Committee" or "state conservation committee" means the agency created in § 2-4-3. All references in this chapter to "state conservation committee", "state committee", or "committee" shall be deemed to be references to "state conservation committee".

(3) "Conservation" includes conservation, improvement, maintenance, preservation, protection and use, and the control and prevention of floodwater and sediment damages, and the safe disposal of water.

(4) "Director" means one of the members of the governing body of a district, appointed or elected in accordance with the provisions of this chapter.

(5) "District" or "conservation district" means a subdivision of the state conservation committee, and a quasi public corporation organized in accordance with the provisions of this chapter, for the purposes, with the powers, and subject to the restrictions set forth. All districts created under this chapter shall be known as conservation districts and shall have all the powers and duties set out in this chapter. All references in this chapter to "districts" shall be deemed to be references to "conservation districts".

(6) "Land occupier" or "occupier of land" includes any person, firm or corporation holding title to, or in possession of, any lands lying within a district organized under the provisions of this chapter, whether as owner, renter, lessee, tenant, town, municipality or otherwise.

(7) "Renewable natural resources", "natural resources", or "resources" includes land, soil, water, vegetation, trees, fish, wildlife, streams, rivers, natural beauty, scenery, and open space.

History of Section.
(G.L. 1956, § 2-4-2; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1; P.L. 1994, ch. 163, § 1.)

§ 2-4-3 State conservation committee. – (a) There is established, within the department of environmental management to serve as an agency of the state and to perform the functions conferred upon it by this chapter, the state conservation committee. The following shall serve as members of the committee: the director of the department of environmental management, or his or her designee, and four (4) members of the public appointed by the governor with the advice and consent of the senate. At least one member shall be appointed from each of the state's conservation districts and, in making appointments under this section, the governor shall give due consideration to recommendations made by the state's conservation district directors.

(b) Members of the committee as of the effective date of this act [April 20, 2006] shall continue to serve for the balance of their current terms. Thereafter, members shall be appointed to terms of three (3) years. Members shall hold office until a successor has been selected. Vacancies shall be filled for any unexpired terms. The selection of successors to fill an unexpired term or for a full term shall be in the same manner in which the respective state committee member had been selected.

(c) [Deleted by P.L. 2006, ch. 22, § 1 and P.L. 2006, ch. 27, § 1].

(d) Gubernatorial appointments made under this section after the effective date of this act [April 20, 2006] shall be subject to the advice and consent of the senate. All persons appointed to the committee after the effective date of this act [April 20, 2006] shall be residents of the state.

(e) The committee shall invite the director of the cooperative extension service and agricultural experiment station, chief of the office of state planning, director of transportation, the president of the Rhode Island association of conservation districts, the state conservationist of the USDA soil conservation service, the state executive director of the USDA agricultural stabilization and conservation service, the chairperson of the water resources board, and the executive director of the coastal resources management council, and any other agency representatives necessary to carry out the intent of this chapter to serve as advisors to the state committee.

(f) The committee shall keep a record of its official actions, and may perform any acts, hold any public hearings, and promulgate any rules and regulations that may be necessary for the execution of its functions under this chapter.

(g) The director of the department of environmental management shall direct staff to support the committee within the constraints of available resources.

History of Section.
(P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1; P.L. 1994, ch. 163, § 1; P.L. 1999, ch. 105, § 13; P.L. 2001, ch. 180, § 2; P.L. 2001, ch. 376, § 1; P.L. 2006, ch. 22, § 1; P.L. 2006, ch. 27, § 1.)

§ 2-4-3.1 Rhode Island farm, forest and open space land value subcommittee. – (a) There is hereby authorized, created and established the "Rhode Island Farm, Forest, and Open Space Land Value Subcommittee" (the subcommittee) to recommend the methodology and values for the assessment of land for property taxation on the basis of current use for farm, forest, and open space lands, as established by chapter 27 of title 44 and § 44-5-12. The values recommended by the subcommittee, upon review and approval by the state conservation committee, shall be made available to local tax assessors and such value shall be the recommended maximum current use value per acre at which such land classifications can be assessed.

(b) The subcommittee shall consist of the following twelve (12) members: the chair of the state conservation committee, or designee; three (3) local tax assessors appointed by the governor, with the advice and consent of the senate; the director of the department of administration, or designee, who shall be a subordinate within the department of administration; the chief of the department of environmental management's division of agriculture, or designee, who shall be a subordinate within the division who shall serve as a nonvoting ex officio member; the chief of the department of environmental management's division of forest environment, or designee, who shall be a subordinate within the division who shall serve as a nonvoting ex officio member; the dean of the University of Rhode Island's College of Natural Resources, or designee, who shall be a subordinate within the college who shall serve as a nonvoting ex officio member; the executive director of the Rhode Island League of Cities and Towns, or his or her designee, who shall serve as a nonvoting member of the subcommittee; the chairperson of the Rhode Island Agricultural Council, or his or her designee, who shall serve as a nonvoting member of the subcommittee; and two (2) public members appointed by the governor with the advice and consent of the senate, one of whom shall be a landowner currently enrolled under the forest land provision of chapter 27 of title 44, one of whom shall be a member of a land trust. Each appointed member of the subcommittee shall serve for a term of three (3) years, and shall serve until his or her successor has been appointed and qualified. Any vacancy which may occur in the subcommittee of the members appointed by the governor shall be filled by the governor for the remainder of the unexpired term in the same manner as the predecessor as prescribed in this section. The members of the subcommittee shall be eligible to succeed themselves. No one shall be eligible for appointment unless he or she is a resident of this state. Those members of the subcommittee as of the effective date of this act [April 20, 2006] who were appointed by the speaker of the house and the president of the senate shall cease to be members of the subcommittee on the effective date of this act

[April 20, 2006], and the governor shall thereupon appoint four (4) members as prescribed in this section, each of whom shall serve for the balance of the unexpired term of his or her predecessor.

(c) The state conservation committee shall provide the subcommittee's list of current use values for farm, forest, and open space land to each tax assessor, through the department of administration, on or before February 15 of each year in which the subcommittee is required to determine such figures.

(d) The subcommittee shall abide by the rules governing the state conservation committee, as provided in § 2-4-5. Five (5) voting members of the subcommittee shall constitute a quorum. A majority vote of those present shall be required for action.

(e) The subcommittee shall meet at the call of the chair. All meetings shall be held consistent with chapter 46 of title 42.

(f) The subcommittee shall conduct a training course for newly appointed and qualified members and new designees of ex officio members within six (6) months of their qualification or designation. The course shall be developed by the chair of the subcommittee, approved by the subcommittee and conducted by the chair of the subcommittee. The subcommittee may approve the use of any subcommittee or staff members or other individuals to assist with training. The training course shall include instruction in the following areas: chapters 44-27, 44-5, 2-4, 42-46, 36-14 and 38-2; and the subcommittee's rules. The director of the department of administration shall, within ninety (90) days of the effective date of this act [April 20, 2006], prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

History of Section.
(P.L. 1999, ch. 252, § 1; P.L. 2001, ch. 180, § 2; P.L. 2006, ch. 22, § 1; P.L. 2006, ch. 27, § 1.)

§ 2-4-4 Agents and employees – Assistance by other agencies – Delegation of powers. – The committee may employ an administrative officer and any technical experts and any other agents, and employees, permanent and temporary, that it may require, and shall determine their qualifications, duties, and compensation. It has the authority to delegate to its chairperson, to one or more of its members, or to one or more agents or employees, any powers and duties that it may deem proper. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of the agency or institution of learning, and make any special reports, surveys, or studies that the committee may request. The committee may call upon the attorney general for any legal services it may require.

History of Section.
(G.L. 1956, § 2-4-4; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-5 Chairperson of the committee – Quorum – Expenses – Surety bonds – Records – Audit. – The chairperson of the state committee shall be elected annually by the committee. The committee may elect from among its members such other officers as they deem necessary. A majority of the committee constitutes a quorum, and all actions of the committee shall be by a majority vote of the members present and voting at a meeting at which a quorum is present. The chairperson and members of the committee receive no compensation for their services on the committee, but are entitled to expenses or per diem, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for a periodic audit of the accounts of receipts and disbursements. Members of the committee and the subcommittee shall be removable by the governor pursuant to § 36-1-7 of the general laws and for cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.

History of Section.
(G.L. 1956, § 2-4-5; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1; P.L. 2006, ch. 22, § 1; P.L. 2006, ch. 27, § 1.)

§ 2-4-6 Powers and duties of committee. – In addition to the duties and powers conferred upon the committee, it has the following duties and powers:

(1) To offer any assistance as may be appropriate to the directors of conservation districts, organized as provided in this chapter, in the carrying out of any of their powers and programs; to assist and guide districts in the preparation and carrying out of programs for resources conservation authorized under this chapter; to review district programs; to coordinate the programs of the conservation districts and resolve any conflicts in those programs.

(2) To keep the directors of each of the conservation districts organized under this chapter informed of the activities and experience of all other districts organized under this chapter, and to facilitate an interchange of advice and experience between the districts and cooperation between them.

(3) To approve forms of agreements, proposed to be entered into by districts, with other districts or with any state, federal, interstate, or other public or private agency, organization, or individual, and advise the districts concerning the forms of agreements.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of the districts.

(5) To enlist the cooperation and collaboration of state, federal, regional, interstate and local public and private agencies with the conservation districts; and to facilitate arrangements under which the conservation districts may serve city or town governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources.

(6) To disseminate information throughout the state concerning the activities and programs of the conservation districts organized under this chapter, to make available information concerning the needs and the work of the conservation districts and the committee to the governor, the legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies, and the general public.

(7) Pursuant to procedures developed mutually by the committee and other federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, to receive from those agencies for review and comment suitable descriptions of their plans, programs and activities for the purposes of coordination with district conservation programs; to arrange for and participate in conferences necessary to avoid conflict among those plans and programs, to call attention to omissions, and to avoid duplications of effort.

(8) Whenever the committee determines that there exists a substantial conflict between the resources conservation program of a district and the proposed plans or activities directly affecting resource conservation prepared by any other local governmental unit or agency of the federal government, or this state, and that the conflict cannot be resolved through the consultation procedures provided for in this section, the committee shall submit a report of the conflict through the department of environmental management to the governor.

(9) To compile information and make studies, summaries, and analyses of natural resource conditions in cooperation with local conservation districts and conservation programs on a statewide basis.

(10) Except as otherwise assigned by state law, to carry out and coordinate the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and to represent the state in matters affecting those resources. This includes the formulation and development of state guidelines, as deemed necessary, for the conservation of soil, water and related natural resources of the state. When developing these guidelines the committee, working with the conservation districts, may secure the assistance of state and federal agencies and Rhode Island schools of higher learning to make such investigations and studies as are necessary.

(11) To offer technical assistance to the department of environmental management and/or other state agencies in the development of recommendations for the general assembly of any natural resource legislation deemed necessary for the conservation, preservation, protection and development of the renewable natural resources of this state. This legislation may include, but is not necessarily limited to, provision for erosion and sediment control, flood plain regulation and the conservation of watershed resources.

(12) To assist conservation districts in obtaining legal services from the attorney general.

(13) To require annual reports from conservation districts, the form and content of which shall be developed by the committee.

(14) To establish by regulations, with the assistance and advice of the appropriate state fiscal officers, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts, and when the situation requires on a vote of at least four (4) members, to impound all district funds and assets subject to ratification at a hearing on the action in accordance with the administrative procedures act, chapter 35 of title 42.

(15) To approve and issue within ninety (90) days after the end of each fiscal year a detailed annual report to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state of its activities for the preceding year. The report shall provide a review and synopsis of the state conservation district activities; an operating statement summarizing meetings or hearings held, including meeting minutes, subjects addressed, decisions rendered, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a summary of the work of the farm, forest and open space subcommittee including the list of current values for farm, forest and open space; a consolidated financial statement of all funds received and expended including the source of the funds, a listing of any staff supported by these funds, and a summary of any clerical, administrative or technical support received; a summary of performance during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of any legal matters related to the authority of the council; a summary of any training courses held pursuant to subsection 2-4-6(18); a briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations for improvements. The report shall be posted electronically as prescribed in § 42-20-8.2. The director of the department of administration shall be responsible for the enforcement of this provision.

(16) To establish by regulation the procedure for removing a district director from office either for excessive absence or for other cause. The procedure shall include a hearing before the committee at which time the affected director may seek to rebut the charges.

(17) To have supervision and control of any funds appropriated by the general assembly to finance the activities of the committee and the conservation districts; to administer the provisions of any act enacted by the legislature appropriating funds for expenditure in connection with the activities of conservation districts; to distribute to conservation districts funds, equipment, supplies and services received by the committee for that purpose from any source, subject to the conditions that shall be made applicable thereto in any state or federal statute or local ordinance making available those funds, property or services; to issue regulations establishing suitable controls to govern the use by conservation districts of those funds,

property and services; approve all budgets, administrative procedures and operations of those districts to ensure that districts conform with applicable laws and regulations.

(18) To conduct a training course for newly appointed and qualified members and new designees of ex officio members within six (6) months of their qualification or designation. The course shall be developed by the chair of the committee, approved by the committee, and conducted by the chair of the committee. The committee may approve the use of any committee or staff members or other individuals to assist with training. The course shall include instruction in the following areas: the provisions of chapters 2-4, 42-46, 36-14 and 38-2; and the committee's rules and regulations. The director of administration shall, within ninety (90) days of the effective date of this act [April 20, 2006], prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

History of Section.
(G.L. 1956, § 2-4-6; P.L. 1972, ch. 173, § 2; P.L. 1979, ch. 353, § 1; P.L. 1985, ch. 179, § 1; P.L. 2006, ch. 22, § 1; P.L. 2006, ch. 27, § 1.)

§ 2-4-8 District board – Organization – Quorum – Expenses and audit. – (a) The governing body of the districts is be the board of directors consisting of five (5) directors, elected or appointed. The directors shall elect one of their members to be chairperson and may, from time to time, change that designation. The term of office of each director is three (3) years. A director holds office until a successor has been elected or appointed and has qualified. Vacancies shall be filled for any unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring directors were, respectively, selected. A majority of the board constitutes a quorum and all actions of the board shall be by a majority vote of the members present and voting at a meeting at which a quorum is present.

(b) The directors may employ a secretary and other employees, technical experts, personnel, permanent and temporary, as they may require and shall determine their qualifications, duties, and compensation. The directors shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property; shall provide for the keeping of a record of all proceedings and orders issued or adopted; and shall provide for a periodic audit of the accounts of receipts and disbursements in accordance with procedures prescribed by regulations of the state committee.

(c) The directors may call upon the state committee for any legal services that may be available from the attorney general. The directors shall furnish to the state committee, upon request, copies of any rules, regulations, orders, contracts, ordinances, forms and other documents that they shall adopt or employ, and any other information that may be required in the performance of their duties.

(d) Directors shall receive twenty-five dollars ($25.00) per meeting for their services, and are entitled to other expenses at a rate set by the state committee, including per diem and traveling expenses, necessarily incurred in the discharge of their duties. All payments for compensation and expenses are contingent upon availability of funds and at no time shall meeting or travel expenses supersede necessary conservation expenditures.

History of Section.
(P.L. 1985, ch. 179, § 3.)

§ 2-4-9 Designation of district directors – Appointments – Elections. – (a) Three (3) directors will be appointed by the state conservation committee and shall be persons who are by training and experience qualified to perform the services which will be required of them in the performance of their duties. In appointing directors, the state committee shall take into consideration the recommendations of the representative of the state committee from the area in which the district is located, as well as representation of the various interests of the district such as agricultural, woodland, wildlife, recreation, community and conservation groups.

(b) The committee shall receive nomination petitions for directors, whose terms have expired, by or before January 15 of the year following their expiration and shall take action to approve or reject the nominees within thirty (30) days of receipt. The committee has the authority to extend the time within which nominating petitions may be filed.

(c) No nomination petition shall be accepted by the committee unless it is subscribed to by twenty-five (25) or more occupiers of lands lying within the boundaries of the district. Land occupiers may sign more than one nominating petition to nominate more than one candidate for director.

(d) The conservation districts shall give notice and hold elections for the two (2) directors for each district on or before January 15 of the year following the expiration of these elected directors' terms. All occupiers of lands lying within the district shall be eligible to vote in the election. The two (2) candidates who shall receive the largest number, respectively, of the votes cast in the election shall be the elected directors for the district.

(e) All elections of directors shall be supervised and conducted by the district directors of the districts involved. The elections shall be held during a period prescribed or approved by the state conservation committee and in that manner and under any rules and regulations that the state committee prescribes. The cost of conducting elections shall be borne by the district involved. The board of directors shall certify to the state committee the names of the elected directors. The state committee shall issue certificates of election to each certified director, and shall publish the results of the election in some newspaper of general circulation in the area.

(f) The board of directors may appoint associate directors, as deemed necessary, to advise and consult with the board and to broaden representation from the communities within the district.

History of Section.
(P.L. 1985, ch. 179, § 3; P.L. 1988, ch. 67, § 1; P.L. 1994, ch. 163, § 1.)

§ 2-4-10 Repealed. –

§ 2-4-11 Consultation with municipal representatives. – The directors may invite the legislative body of any municipality within the district to designate a representative to serve as an associate director to advise and consult with them on all questions of programs and policy which may affect the property, water supply or other interest of the municipality. The board of directors may appoint, as they deem necessary, advisory committees to assure the availability of appropriate channels of communications to the board of directors, to persons affected by district operations, and to local, federal, state, regional and interstate special-purpose districts and agencies responsible for community planning, conservation commissions, zoning or resource development activities. The district shall keep the advisory committees informed of its work, and the advisory committees shall submit recommendations from time to time to the board of directors.

History of Section.
(G.L. 1956, § 2-4-11; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1; P.L. 1994, ch. 163, § 1.)

§ 2-4-12 Powers of districts and directors. – A conservation district organized under the provisions of this chapter shall constitute a subdivision of the state conservation committee, a quasi-public corporation exercising public powers, and the district, and directors of the conservation district, shall have the following powers, in addition to other(s) granted in sections of this chapter:

(1) To conduct surveys, investigations and research relating to the conservation of renewable natural resources and preventive and control measures and the works of improvement needed, and to publish the results of those surveys, investigations, or research and to disseminate information concerning those preventive and control measures. In order to avoid duplication of research activities, no district shall initiate

any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To develop necessary guidelines deemed necessary for the conservation of renewable natural resources of the district. In cooperation with the state committee, develop and formulate statewide guidelines deemed necessary for the conservation of the renewable natural resources of the state; encourage local government to implement those guidelines in the planning and development of renewable natural resources under their jurisdiction; and offer any available technical and other assistance necessary to local government for this purpose.

(3) To conduct educational and demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of these lands, and of any other lands within the district upon obtaining the consent of the occupier of the lands or the necessary rights or interests in the lands, in order to demonstrate by example the means, methods, measures and works of improvement by which the conservation of renewable natural resources may be carried out;

(4) To carry out preventive and control measures and works of improvement for the conservation of renewable natural resources within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction of these lands, and on any other lands within the district upon obtaining the consent of the occupier of the lands or the necessary rights or interests in the lands;

(5) To cooperate, or enter into agreements with, and within the limits of appropriations made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district, in carrying on of preventive and control measures and works of improvement for the conservation of renewable natural resources within the district, subject to any conditions that the directors may deem necessary to advance the purposes of this chapter;

(6) To obtain options upon and to acquire, by purchase, exchange, lease, gift, bequest, grant, or devise, any property, real or personal or rights or interests to maintain, administer, and improve any properties acquired, to receive income from those properties and to expend income from those properties in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its property or interests in furtherance of the purposes and the provisions of this chapter;

(7) To make available, on any terms it shall prescribe, to land occupiers, cities or towns, municipalities or the state within the district, machinery, equipment, materials and any other services that will assist those land occupiers, cities or towns, municipalities, or the state to carry on operations upon their lands for the conservation of renewable natural resources;

(8) To construct, improve, repair, operate and maintain any structures or other works of improvement that may be necessary or convenient for the performance of any of the operations or activities authorized in this chapter;

(9) To prepare and keep current a long-range program for the conservation of all of the renewable natural resources of the district. The program is directed toward the conservation of resources for their best uses and in a manner that will best meet the needs of the district and the state, taking into consideration, where appropriate, such uses as farming, grazing, timber supply, forest, parks, outdoor recreation, water supplies for urban and rural areas; water for agricultural and industrial uses, watershed protection, control of soil erosion, retardation of water runoff, flood prevention and control, protection of open space and scenery, preservation of natural beauty, protection of fish and wildlife, the prevention or reduction of sedimentation and other pollution in rivers, streams, reservoirs, and the protection of groundwaters, and the location of urban facilities and structures that will fit the needs of the state and be consistent with the best uses of the renewable natural resources of the state. The program includes an inventory of all renewable natural

resources in the district, a compilation of current resource needs, projections of future resource requirements, priorities for various resource activities, projected timetables, descriptions of available alternatives, and provisions for coordination with other resource programs; to prepare an annual work plan, which shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range program that are of the highest priorities. Each district shall submit to the state committee a copy of its long-range program and annual work plans for review and comment;

(10) To acquire, by purchase, lease, or otherwise any property, real or personal, and to administer any project or program concerning the conservation of renewable natural resources located within its boundaries undertaken by federal, state, or other public agency; to manage as agent of the federal, state or other public agency any project or program concerned with the conservation of renewable natural resources located within its boundaries; to act as agent of the federal, state, or other public agency in connection with the acquisition, construction, operation, or administration of any program or project concerning the conservation of renewable natural resources within its boundaries;

(11) To accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other source, and to use or expend those moneys, services, materials or other contributions in carrying out the purposes of this chapter; and

(12) To have perpetual succession unless terminated or hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, regulations and rules not inconsistent with this chapter; to carry into effect its purposes and powers.

History of Section.
(G.L. 1956, § 2-4-12; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-13 Contributions and agreements as conditions to benefits. – As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operations conferring those benefits, and may require land occupiers to enter into and perform any agreements as to the use of their lands as may be consistent with the purposes of this chapter; however, required contributions must be approved as to amount and content by the state conservation committee.

History of Section.
(G.L. 1956, § 2-4-13; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-14 Public property laws inapplicable. – No provisions with respect to the acquisition, operation, or disposition of property by other public bodies are applicable to a district organized under the provisions of this chapter unless the legislature shall specifically so state.

History of Section.
(G.L. 1956, § 2-4-14; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-15 Cooperation between districts. – (a) Any two (2) or more districts may engage in joint activities by agreement between or among them in planning, financing, constructing, operating, maintaining and administering any program or project concerning the conservation of renewable natural resources. The districts concerned may make available for purposes of the agreement any funds, property, personnel, equipment or services available to them under this chapter.

(b) Any district may, with the concurrence of the state committee, enter into agreements with a district, districts or responsible agency in adjoining states to carry out those purposes if the law in those states permits the district and agencies in those states to enter into agreements. The committee has the authority to propose, guide and facilitate the establishment and carrying out of any agreements.

History of Section.
(G.L. 1956, § 2-4-15; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-16 Cooperation of other public agencies. – Agencies of this state and agencies of towns, municipalities or other governmental subdivisions of this state having jurisdiction over public or private land, or charged with the administration of publicly owned lands lying within the boundaries of any district, may cooperate to the fullest extent with those districts in the implementation of programs undertaken by the directors under the provisions of this chapter.

History of Section.
(G.L. 1956, § 2-4-16; P.L. 1972, ch. 173, § 2; P.L. 1985, ch. 179, § 1.)

§ 2-4-17 Repealed. –

§ 2-4-18 Coastal resources management council and water resources board unaffected. – The provisions of this chapter notwithstanding, no provision of this chapter shall be construed to take precedence over or acquire any of the powers delegated to the coastal resources management council under the provisions of §§ 27-33-10, 27-33-11 and any amendment to these sections and this section shall also apply to the state water resources board.

History of Section.
(P.L. 1972, ch. 173, § 3.)

CHAPTER 2-5
Federal Conservation Program

§ 2-5-1 Definitions. – When used in this chapter, the term:
(1) "Department" means the department of environmental management of the state of Rhode Island.
(2) "Director" means the director of environmental management of the state of Rhode Island.
(3) "Secretary of agriculture" means the secretary of agriculture of the United States.
(4) "Soil conservation and domestic allotment act" means the federal soil conservation and domestic allotment act, 16 U.S.C. § 590a et seq.

History of Section.
(P.L. 1955, ch. 3585, § 1; G.L. 1956, § 2-5-1.)

§ 2-5-2 Agency to administer state plan. – In order to carry out the purposes of the soil conservation and domestic allotment act enacted by the congress of the United States, the Rhode Island department of environmental management, referred to as the department, is designated as the agency of the state of Rhode Island to administer any state plan authorized by this chapter which shall be approved by the secretary of agriculture of the United States, referred to as the secretary of agriculture, for the state of Rhode Island pursuant to the provisions of the soil conservation and domestic allotment act.

History of Section.
(P.L. 1955, ch. 3585, § 2; G.L. 1956, § 2-5-2.)

§ 2-5-3 Formulation of plans – Purposes and contents. – The department is authorized, empowered, and directed to formulate and submit to the secretary of agriculture in conformity with the provisions of the soil conservation and domestic allotment act, a state plan. It shall be the purpose of each plan and each plan shall be designed to promote any utilization of land and any farming practices that the department finds will tend, in conjunction with the operation of any other plans that may be approved for other states by the secretary of agriculture, to preserve and improve soil fertility; to promote the economic use and conservation of land; to diminish exploitation and wasteful and unscientific use of natural soil resources; to protect rivers and waterways against the results of soil erosion and aid in flood control; and to perform any other functions as may be defined in subsection (a) of § 7 of the soil conservation and domestic allotment act, 16 U.S.C. § 590g. Each plan shall provide for adjustments and utilization of land, and in farming practices through agreements with producers or through other voluntary methods, and for benefit payments in connection with these agreements or voluntary methods, and for any reports the secretary of agriculture finds necessary for the effective administration of the plan, and for ascertaining whether the plan is being carried out according to its terms.

History of Section.
(P.L. 1955, ch. 3585, § 3; G.L. 1956, § 2-5-3.)

§ 2-5-4 Acceptance and use of federal funds. – Upon the acceptance of each plan by the secretary of agriculture and his or her approval of each plan, the department is authorized and empowered to accept and receive all grants of money made pursuant to the soil conservation and domestic allotment act, for the purpose of enabling the state to carry out the provisions of that plan. All those moneys, together with any moneys which may be appropriated by the state, shall be paid into a special fund in the state treasury to be known as the agricultural soil conservation program fund. That fund is established, and is available to the department for expenditures necessary in carrying out the plan, including administration expenses, expenditures in connection with educational programs and research programs in aid of the plan, and for benefit payments.

History of Section.
(P.L. 1955, ch. 3585, § 4; G.L. 1956, § 2-5-4.)

§ 2-5-5 Administrative powers of department. – In carrying out the provisions of this chapter and of each plan, the department has the power to designate administrative areas; to provide for the selection or election of local and community committees of persons participating or co-operating in the plan; to employ any agents or agencies and to establish any agencies that it may find to be necessary; to co-operate with local and state agencies and with agencies of other states and of the federal government; to conduct or arrange with the University of Rhode Island for the conduct of any research and educational activities in connection with the formulation and operation of the plan as may appear advisable; to enter into agreements with producers and to provide by other voluntary methods for adjustment in the utilization of land and in farming practices, and for payments in connection with these agreements or voluntary methods, in amounts which the department determines to be fair and reasonable. In carrying out the plan, the department and the director are authorized to delegate any of the powers conferred in this section to the agency as may be designated by the director and approved by the secretary of agriculture.

History of Section.
(P.L. 1955, ch. 3585, § 5; G.L. 1956, § 2-5-5.)

§ 2-5-6 Annual report. – The department in its annual report each year, shall cover the administration of any state plan and the operation of any state plan under this chapter, including the receipt and expenditures of funds.

History of Section.
(P.L. 1955, ch. 3585, § 6; G.L. 1956, § 2-5-6.)

§ 2-5-7 Liability and obligations of state. – Nothing in this chapter shall be construed or operate to impose any financial liability upon the state as specified, and the department has no authority to incur any obligation or liability against the state under this chapter for the expenditure of funds other than the expenditure of funds payable from the agricultural soil conservation program fund, pursuant to the appropriations made for the agricultural soil conservation program fund.

History of Section.
(P.L. 1955, ch. 3585, § 7; G.L. 1956, § 2-5-7.)

CHAPTER 2-6
Rhode Island Seed Act

§ 2-6-1 Short title. – This chapter shall be known and cited as "The Rhode Island Seed Act".

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-2 Definitions. – When used in this chapter:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(2) "Agricultural seed" means the seeds of grass, forage, cereal, and fiber crops and other kinds of seeds commonly recognized within this state as agricultural seeds, lawn seeds and mixtures of those seeds, and may include noxious weed seeds when the director determines that the seed is being used as agricultural seed.

(3) "Certifying agency" means:

(i) an agency authorized under the laws of a state, territory or possession to officially certify seed; or

(ii) an agency of a foreign country determined by the U.S. secretary of agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under (i).

(4) "Director" means the director of the department of environmental management of the state of Rhode Island and/or his or her authorized deputies or agents.

(5) The terms "Fine-textured grasses" and "Coarse kinds" are defined in rules and regulations under this chapter.

(6) "Hybrid" means the first-generation seed of a cross produced by controlling the pollination and by combining: (1) two (2) or more inbred lines; (2) one inbred or a single cross with an open pollination variety; or (3) two (2) varieties or species, except open-pollinated varieties of corn (Zea mays). The second generation of subsequent generations from those crosses are not regarded as hybrids. Hybrid designations are treated as variety names.

(7) "Kind" means one or more related species or sub-species which, singly or collectively, is known by one common name, for example, corn, oats, alfalfa, and timothy.

(8) "Labeling" means all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying or pertaining to any seed whether in bulk or in containers, and includes representations on invoices.

(9) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling.

(10) "Person" means any individual, partnership, corporation, company, society, or association.

(11) "Private hearing" may consist of a discussion of facts between the person charged and the director.

(12) "Prohibited noxious weed seeds" means the seeds of perennial weeds that not only reproduce by seed but also spread by underground roots, stems and other reproductive parts, and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(13) "Pure Seed", "Germination", and other seed labeling and testing terms in common usage shall be defined as in the Rules for Testing Seeds published by the Association of Official Seed Analysts, effective July 1, 1955 and as subsequently amended.

(14) "Record" means all information relating to the shipment or shipments involved and includes a file sample of each lot of seed.

(15) "Restricted noxious weed seeds" means the seeds of weeds that are objectionable in fields, lawns, and gardens of this state, but can be controlled by good cultural practices.

(16) "Seize" means a legal process carried out by court order against a definite amount of seed.

(17) "Stop sale" means an administrative order, provided by law, restraining the sale, use, disposition, and movement of a definite amount of seed.

(18) "Treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom.

(19) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(20) "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which it can be differentiated from other plants of the same kind.

(21) "Vegetable seeds" means the seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable seeds in this state.

(22) "Weed seeds" means the seeds of all plants generally recognized as weeds within this state and includes noxious weed seeds.

History of Section.
(P.L. 1978, ch. 371, § 2; P.L. 1998, ch. 441, § 5.)

§ 2-6-3 Label requirements. – Each container of agricultural and vegetable seeds sold, offered for sale, exposed for sale, or transported within this state for sowing purposes shall have placed on or affixed to it in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

(1) For all seeds named and treated as defined in this chapter (for which a separate label may be used):

(i) A word or statement indicating that the seed has been treated;

(ii) The commonly accepted, coined, chemical, or abbreviated chemical (generic) name of the applied substance or description of the process used;

(iii) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food, feed, or oil purposes." The caution for mercurials and similarly toxic substances is a poison statement or symbol;

(iv) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

(2) For agricultural seeds, except for grass seed mixtures as provided in subdivision (3):

(i) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. If the variety of those kinds generally labeled as to variety as designated in the regulations is not stated, the label shall show the name of the kind and the words, "Variety not stated." Hybrids shall be labeled as hybrids;

(ii) Lot number or other lot identification;

(iii) Origin (state or foreign country), if known, of alfalfa, red clover, and field corn (except hybrid corn). If the origin is unknown, the fact shall be stated;

(iv) Percentage by weight of all weed seeds;

(v) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(vi) Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label;

(vii) Percentage by weight of inert matter;

(viii) For each named agricultural seed:

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seeds, if present;

(C) The calendar month and year the test was completed to determine those percentages;

Following (A) and (B) the "total germination and hard seed" may be stated as this, if desired;

(ix) Name and address of the person who labeled the seed, or who sells, offers or exposes the seed for sale within this state.

(3) For seed mixtures for lawn and/or turf purposes in containers of fifty (50) pounds or less:

(i) The word "Mixed" or "Mixture";

(ii) The headings "Fine-textured grasses" and "Coarse kinds" and under these headings in tabular form in type no larger than the heading:

(A) Commonly accepted name, in order of its predominance of the kind, or kind and variety of each agricultural seed present in excess of five percent (5%) of the whole and determined to be a "Fine-textured grass" or a "Coarse kind" in accordance with the rules and regulations under this chapter;

(B) Percentage by weight of pure seed of each agricultural seed named;

(C) For each agricultural seed named under (A) above:

(I) Percentage of germination, exclusive of hard seed;

(II) Percentage of hard seed, if present;

(III) Calendar month and year the test was completed to determine those percentages;

(iii) The heading "Other ingredients" and under this heading in type no larger than the heading:

(A) Percentage by weight of all weed seeds;

(B) Percentage by weight of all agricultural seeds other than those stated under subdivision (a) of this section;

(C) Percentage by weight of inert matter;

(iv) Lot number or other lot identification;

(v) Name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(vi) Name and address of the person who labeled the seed or who sells, offers or exposes the seed for sale within this state;

(vii) Net weight;

(viii) In addition to the provisions of this section, labeling of lawn or turf grass mixtures shall comply with the requirements of § 201 of the federal seed act, 7 U.S.C. § 1571.

(4) For vegetable seeds in containers of one pound or less:

(i) Name of kind and variety of seed;

(ii) The calendar month and year the seed was tested or the year for which the seed was packaged;

(iii) Name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state;

(iv) For seeds which germinate less than the standard last established by the director under this chapter:

(A) Percentage of germination, exclusive of hard seed;

(B) The words "Below standard" in not less than eight (8)-point type;

(C) Percentage of hard seed, if present;

(5) For vegetable seeds in containers of more than one pound;

(i) The name of each kind and variety present in excess of five percent (5%) and the percentage by weight of each in order of its predominance;

(ii) Lot number or other lot identification;

(iii) For each named vegetable seed:

(A) Percentage germination exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine those percentages;

Following (A) and (B) the "total germination and hard seed" may be stated as this if desired;

(iv) Name and address of the person who labeled the seed, or who sells, offers or exposes the seed for sale within this state;

(v) The labeling requirements for vegetable seeds in containers of more than one pound are deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-4 Prohibitions. – (a) It is unlawful for any person to sell, offer for sale, expose for sale, or transport for sale any agricultural or vegetable seed within this state:

(1) Unless the test to determine the percentage of germination required by § 2-6-3 has been completed within a nine (9) month period exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation, except that seeds packaged in hermetically-sealed containers under the conditions defined in rules and regulations promulgated under the provisions of this chapter may be sold, exposed for sale or offered for sale or transportation for a period of thirty-six (36) months after the last day of the month that the seeds were tested for germination prior to packaging. If seeds in hermetically-sealed containers are sold, exposed for sale, or offered for sale or transportation more than thirty-six (36) months after the last day of the month in which they were tested prior to packaging, they must have been retested for germination within the nine (9)-month period, exclusive of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation;

(2) Not labeled in accordance with the provisions of this chapter or having a false or misleading labeling;

(3) Pertaining to which there has been false or misleading advertisement;

(4) Consisting of or containing prohibited noxious weed seeds, subject to recognized tolerances;

(5) Consisting of or containing restricted noxious weed seeds per pound in excess of the number prescribed by rules and regulations promulgated under this chapter, or in excess of the number declared on the label attached to the container of the seed or associated with the seed;

(6) Containing more than two and one-half percent (21/2%) by weight of all weed seeds;

(7) If any labeling, advertising, or other representations subject to this chapter represents the seed to be certified or registered seed unless:

(i) It has been determined by a seed certifying agency that the seed was produced, processed, and packaged, and conforms to standards of purity as to kind or variety, in compliance with rules and regulations of the agency pertaining to the seed; and

(ii) The seed bears an official label issued for the seed by a seed certifying agency stating that the seed is certified or registered.

(b) It is unlawful for any person within this state:

(1) To detach, alter, deface, or destroy any label provided for in this chapter or the rules and regulations made and promulgated under this chapter, or to alter or substitute seed in a manner that may defeat the purpose of this chapter;

(2) To disseminate any false or misleading advertisements concerning agricultural or vegetable seeds in any manner or by any means;

(3) To hinder or obstruct in any way, any authorized person in the performance of his or her duties under this chapter;

(4) To fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale" order or tags attached to the lot of seed, except with the express permission of the director and for the purpose specified by the director.

(5) To use the word "trace" as a substitute for any statement which is required.

(6) To use the word "type" in any labeling in connection with the name of any agricultural seed variety.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-5 Records. – Each person whose name appears on the label as handling agricultural or vegetable seeds subject to this chapter shall keep for a period of two (2) years complete records of each lot of agricultural or vegetable seed handled and keep for one year a file sample of each lot of seed after final disposition of the lot. All records and samples pertaining to the shipment or shipments involved are accessible for inspection by the director or his or her agent during customary business hours.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-6 Exemptions – Good faith sellers. – (a) The provisions of §§ 2-6-3 and 2-6-4 do not apply:

(1) To seed or grain not intended for sowing purposes;

(2) To seed in storage in, or being transported or consigned to a cleaning or processing establishment for cleaning or processing; provided, that the invoice or labeling accompanying any shipment of the seed bears the statement "seed for processing" and any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed is subject to this chapter; or

(3) To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier provided the carrier is not engaged in producing, processing, or marketing agricultural or vegetable seeds subject to the provisions of this chapter.

(b) No person is subject to the penalties of this chapter for having sold or offered or exposed for sale agricultural or vegetable seeds which were incorrectly labeled or represented as to kind, variety, type or origin (if required) which seeds cannot be identified by examination, unless the person has failed to obtain an invoice, genuine grower's declaration or other labeling information and to take any other precautions that may be reasonable to insure the identity to be that stated.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-7 Duties and authority of the director of the department of environmental management – Appeal of stop sale order. – (a) The duty of enforcing this chapter and carrying out its provisions and requirements is vested in the director of the department of environmental management. It is the duty of that officer, who may act through his or her authorized agents:

(1) To sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold, or offered or exposed for sale within the state for sowing purposes, at any time and place and to any extent as he or she may deem necessary to determine whether those agricultural or vegetable seeds are in compliance with the provisions of this chapter; to notify promptly the person who transported, sold, offered, or exposed the seed for sale, or any violation;

(2) To prescribe and, after a public hearing following public notice, to adopt rules and regulations governing the method of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed, and the tolerances to be followed in the administration of this chapter which shall be in general accord with officially prescribed practice in interstate commerce, and any other rules and regulations that may be necessary to secure efficient enforcement of this chapter;

(3) To prescribe and, after a public hearing following public notice, establish, add to or subtract from by regulations a prohibited and restricted noxious weed list; and

(4) To prescribe and, after a public hearing following public notice, to adopt rules and regulations establishing reasonable standards of germination for vegetable seeds.

(b) For the purpose of carrying out the provisions of this chapter the director, individually or through his or her authorized agents, is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected with the premises subject to this chapter and rules and regulations under this chapter, and any truck or other conveyor by land, water, or air at any time when the conveyor is accessible, for the same purpose;

(2) To issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the director finds is in violation of any of the provisions of this chapter or rules and regulations promulgated under this chapter, that order shall prohibit further sale, processing and movement of the seed, except on approval of the director, until the director has evidence that the law has been complied with, and the director has issued a release from the "stop sale" order of the seed; provided, that in respect to seed which has been denied sale, processing and movement as provided in this paragraph, the owner or custodian of the seed has the right to appeal from the order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of the order and for the discharge of the seeds from the order prohibiting the sale, processing and movement in accordance with the findings of the court. The provisions of this paragraph shall not be construed as limiting the right of the director to proceed as authorized by other sections of this chapter;

(3) To establish and maintain or make provisions for seed testing facilities, to employ qualified persons, and to incur any expenses that may be necessary to comply with these provisions;

(4) To make or provide for making purity and germination tests of seed for farmers and dealers on request; to prescribe rules and regulations governing that testing; and to fix and collect charges for the tests made. Fees shall accounted for in any manner that the state legislature may prescribe;

(5) To cooperate with the United States department of agriculture and other agencies in seed law enforcement.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-8 Seizure – Condemnation. – Any lot of agricultural or vegetable seed not in compliance with the provisions of this chapter are subject to seizure on complaint of the director to a court of competent jurisdiction in the locality in which the seed is located. In the event the court finds the seed to be in violation of this chapter and orders the condemnation of the seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state and in no instance shall the court order the disposition of the seed without first having given the claimant an opportunity to apply to the court for the release of the seed or permission to process or relabel it into compliance with this chapter.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-9 Injunction. – When in the performance of his or her duties the director applies to any court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rules and regulations under this chapter, the injunction is to be issued without bond.

History of Section.
(P.L. 1978, ch. 371, § 2.)

§ 2-6-10 Violations and prosecutions. – (a) Every violation of the provisions of this chapter shall be deemed a misdemeanor punishable by a fine not exceeding one hundred dollars ($100) for the first offense and not exceeding two hundred fifty dollars ($250) for each subsequent similar offense.

(b) When the director finds that any person has violated any of the provisions of this chapter, the director shall file with the attorney general, with a view of prosecution, any evidence that may be deemed necessary. No prosecution under this chapter shall be instituted without the defendant first having been given an opportunity to appear before the director or his or her duly authorized agent, to introduce evidence either in person or by agent or attorney at a private hearing. If, after the hearing, or without the hearing in case the defendant or his or her agent or attorney fails or refuses to appear, the director is of the opinion that the evidence warrants prosecution, the director shall proceed as provided in this section.

(c) It is the duty of the attorney general to institute proceedings at once against any person charged with a violation of this chapter, if, in the judgment of the attorney general, the information submitted warrants that action.

(d) After judgment by the court in any case arising under this chapter, the director shall publish any information pertinent to the issuance of the judgment by the court in any media as the director may designate from time to time.

History of Section.
(P.L. 1978, ch. 371, § 2.)

CHAPTER 2-7
Commercial Fertilizer

§ 2-7-1 Title. – This chapter shall be known as the "Rhode Island Commercial Fertilizer Law".

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-2 Responsibility for administration. – This chapter is administered by the director of the department of environmental management, referred to as the "director".

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-3 Definitions. – When used in this chapter:

(1) "Bulk fertilizer" means a commercial fertilizer distributed in non-package form.

(2) "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizer.

(3) "Commercial fertilizer" means any substance containing one or more recognized plant nutrient(s) which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes and gypsum, and other products exempted by regulation of the director.

(4) "Director" means director of the department of environmental management or his or her authorized agent.

(5) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer, or who offers for sale, sells, barters or otherwise supplies commercial fertilizer in this state.

(6) "Fertilizer material" means a commercial fertilizer which either:

(i) Contains important quantities of no more than one of the primary plant nutrients (nitrogen, phosphoric acid and potash), or

(ii) Has approximately eighty-five percent (85%) of its plant nutrient content present in the forms of a single chemical compound, or

(iii) Is derived from a plant or animal residue or by-product or a natural material deposit which has been processed in a way that its content or primary plant nutrients has not been materially changed except by purification and concentration.

(7) "Guaranteed analysis" means:

(i) Until the director prescribes the alternative form of guaranteed analysis in accordance with the provisions of subdivision (7)(ii) of this section, the term "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

(A) Total Nitrogen (N) percent

Available Phosphoric Acid (P_2O_5) percent

Soluble Potash (K_2O) percent

(B) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the total phosphoric acid and/or degree or fineness may also be guaranteed.

(C) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the director. The guarantees for these other nutrients shall be expressed in the form of the element. The sources of these other nutrients (oxides, salt, chelates, etc.) may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the director, and with the advice of the dean of the college of resource development. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the director.

(D) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred (100) pounds per ton, when required by regulation.

(ii) When the director finds, after a public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, the director may require by regulation that the "guaranteed analysis" shall be in the following form:

Total Nitrogen (N) percent

Available Phosphorus (P) percent

Soluble Potassium (K) percent

Provided, however, that the effective date of the regulation shall be not less than six (6) months following the issuance of this regulation and provided further, that for a period of two (2) years following the effective date of the regulation the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash; provided, however, that after the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium shall constitute the grade.

(8) "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis. Specialty fertilizers may be guaranteed in fractional units of less than one percent (1%) of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash; provided, that fertilizer materials, bone meal, manures, and similar raw materials may be guaranteed in fractional units.

(9) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of commercial fertilizer.

(10) "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a commercial fertilizer.

(11) "Labeling" means all written, printed or graphic matter, upon or accompanying any commercial fertilizer, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of commercial fertilizers.

(12) "Mixed fertilizer" means a commercial fertilizer containing any combination or mixture of fertilizer materials.

(13) "Official sample" means any sample of commercial fertilizer taken by the director or his or her agent and designated as "official" by the director.

(14) "Percent" or "percentage" means the percentage by weight.

(15) "Person" includes individual, partnership, association, firm, and corporation.

(16) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter.

(17) "Specialty fertilizer" means a commercial fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

(18) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-4 Registration. – (a) Each brand and grade of commercial fertilizer shall be registered by the manufacturer or by that person whose name appears upon the label before being distributed in this state. The application for registration shall be submitted to the director on a form furnished by the director, and shall be accompanied by a fee of seventy-two dollars ($72.00) per brand or grade registered.

(1) All revenues received from registration fees shall be deposited as general revenues.

(2) All applications for registration shall be accompanied by a label or true copy of the label.

(3) Upon approval by the director, a copy of the registration shall be furnished to the applicant.

(4) All registrations expire on December 31st of each year.

(5) The application includes the following information:

(i) The brand and grade;

(ii) The guaranteed analysis;

(iii) The name and address of the registrant.

(b) A distributor is not required to register any commercial fertilizer which is already registered under this chapter by another person, providing the label does not differ in any respect.

(c) A distributor is not required to register each grade of commercial fertilizer formulated according to specifications which are furnished by a consumer prior to mixing.

(d) The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

History of Section.
(P.L. 1977, ch. 168, § 2; P.L. 1989, ch. 349, § 1; P.L. 1992, ch. 133, art. 22, § 1; P.L. 1995, ch. 370, art. 40, § 1.)

§ 2-7-5 Labels. – (a) Any commercial fertilizer distributed in this state in containers must have on or affixed to the container a label setting forth in clearly legible and conspicuous form the net weight and the information required by § 2-7-4 (a)(5)(i), (ii) and (iii) of this chapter.

(b) In case of bulk shipments, this information, in written or printed form, shall accompany delivery and be supplied to the purchaser at the time of delivery.

(c) A commercial fertilizer formulated according to specifications furnished by a consumer prior to mixing shall be labeled to show the net weight, guaranteed analysis, and the name and address of the distributor.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-6 Tonnage reports, tonnage fees. – (a) There shall be paid to the department of environmental management for all commercial fertilizers distributed in this state a tonnage fee at the rate of fifteen cents (15¢) per ton: provided, that sales or exchanges between manufacturers are exempted. Tonnage fees of less than one dollar ($1.00) are waived. All registration and tonnage fees received by the director under the provisions of this chapter shall be deposited into the general fund as general revenue.

(b) Every person who distributes a commercial fertilizer in this state shall file with the director, on forms furnished by the director, an annual tonnage report, under oath, for the twelve (12) month period ending June 30th. The report shall set forth the net tons of each grade of commercial fertilizer distributed in this state during the twelve (12) month period.

(c) The tonnage report and tonnage fee are due on or before July 15th following the close of the annual period. The tonnage fee is at the rate stated in subsection (a).

(d) If the tonnage report is not filed and/or the tonnage fee not made on or before August 1st, following the close of the annual period, a collection fee amounting to ten percent (10%) (ten dollars ($10.00) minimum) of the amount shall be assessed against the registrant, and the amount of fees due shall constitute a debt and become the basis of a judgment against the registrant. The director, however, in his or her discretion, may grant a reasonable extension of time. No information furnished the director under this section shall be disclosed in a way as to divulge the operation of any person.

(e) When more than one person is involved in the distribution of a commercial fertilizer, the last person who has the fertilizer registered and who distributes to a non-registrant (dealer or consumer) is responsible for reporting and paying the tonnage fee, unless the report and payment is made by a prior distributor of a fertilizer.

(f) All moneys for the commercial fertilizer program shall be made available to the director for the following purposes:

(1) To support the feed and fertilizer testing laboratory for the testing and analysis of commercial fertilizers distributed within this state for the expressed purpose of detection of deficiency; and

(2) For payment of ancillary services, personnel and equipment incurred in order to carry out the purposes of quality assurance defined by this chapter.

History of Section.
(P.L. 1977, ch. 168, § 2; P.L. 1989, ch. 349, § 1; P.L. 1995, ch. 370, art. 40, § 1.)

§ 2-7-7 Inspection, sampling, analysis. – (a) It is the duty of the director, who may act through his or her authorized agent, to sample, inspect, make analysis of, and test commercial fertilizers distributed within this state at any time and place and to the extent the director deems necessary to determine whether commercial fertilizers are in compliance with the provisions of this chapter. The director, individually or through his or her agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers subject to the provisions of this chapter and the rules and regulations pertaining to this chapter, and to the records relating to their distribution.

(b) The methods of analysis and sampling are those adopted by the fertilizer quality testing laboratory in consultation with the director from sources such as the journal of the association of official analytical chemists.

(c) The director, in determining for administrative purposes whether any commercial fertilizer is deficient in plant food, shall be guided solely by the official sample as defined in § 2-7-3(13) and obtained and analyzed as provided for in subsection (a).

(d) The results of official analysis of commercial fertilizers and portions of official samples shall be distributed upon request by the dean of the college of resource development at the University of Rhode Island as provided in the regulations.

History of Section.
(P.L. 1977, ch. 168, § 2; P.L. 1989, ch. 349, § 1.)

§ 2-7-8 Plant food deficiency. – *(a) Penalty for nitrogen, available phosphoric acid or phosphorus and potash or potassium.* If the analysis shows that a commercial fertilizer is deficient:

(1) In one or more of its guaranteed primary plant foods (NPK) beyond the "investigational allowances" as established by regulation; or

(2) If the overall index value of the fertilizer is below the level established by regulations, a penalty of three (3) times the commercial value of the deficiency or deficiencies shall be assessed

When a commercial fertilizer is subject to a penalty under both subdivisions (1) and (2), the larger penalty shall apply.

(b) Penalty for other deficiencies. Deficiencies beyond the investigational allowances as established by regulation in any other constituent(s) covered under § 2-7-3(7)(i)(B), (C) and (D), which the registrant is required to or may guarantee, shall be evaluated and penalties prescribed for these deficiencies by the director.

(c) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction praying for judgment as to the justification of any penalties assessed under this section.

(d) All penalties assessed under this section shall be paid to the consumer of the lot of commercial fertilizer, one ton minimum, represented by the sample analyzed within three (3) months after the date of notice from the director to the registrant, receipts taken for the penalties assessed and promptly forwarded

to the consumer. If the consumers cannot be found, or the consumer was in possession of less than one ton of commercial fertilizer represented by the sample analyzed, the amount of penalty shall be deposited into the fertilizer quality testing fund.

History of Section.
(P.L. 1977, ch. 168, § 2; P.L. 1989, ch. 349, § 1.)

§ 2-7-9 Commercial value. – For the purpose of determining the commercial value to be applied under the provisions of § 2-7-8, the director shall determine and publish annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this state. If guarantees are as provided in § 2-7-3 (7)(ii), the value shall be per unit of nitrogen, phosphorus, and potassium. The values so determined and published shall be used in determining and assessing penalties.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-10 Misbranding. – No person shall distribute misbranded fertilizer. A commercial fertilizer is deemed to be misbranded:

(1) If its labeling is false or misleading in any particular;

(2) If it is distributed under the name of another fertilizer product;

(3) If it is not labeled as required in § 2-7-5 and in accordance with regulations prescribed under this chapter; or

(4) If it purports to be or is represented as a commercial fertilizer or is represented as containing a plant nutrient or commercial fertilizer, unless the plant nutrient or commercial fertilizer conforms to the definition of identity, if any, prescribed by regulation of the director; in the adopting of those regulations the director shall give due regard to commonly accepted definitions and official fertilizer terms as those issued by the association of American plant food control officials.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-11 Adulteration. – No person shall distribute an adulterated fertilizer product. A commercial fertilizer is deemed to be adulterated:

(1) If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use, which may be necessary to protect plant life, are not shown upon the label;

(2) If its composition falls below or differs from that which it is purported to possess by its labeling;

(3) If it contains unwanted crop seed or weed seed.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-12 Publications. – The director shall publish at least annually and in any form that the director may deem proper the results of analyses based on official samples of commercial fertilizers distributed within the state as compared with the analyses guaranteed under §§ 2-7-4 and 2-7-5.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-13 Rules and regulations. – The director is authorized to prescribe and, after a public hearing following public notice, to enforce any rules and regulations relating to investigational allowances, definitions, records, and the distribution of commercial fertilizers that may be necessary to carry into effect the full intent and meaning of this chapter.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-14Short weight. – If any commercial fertilizer in the possession of the consumer is found by the director to be short in weight, the registrant of that commercial fertilizer shall within thirty (30) days after official notice from the director pay to the consumer a penalty equal to four (4) times the value of the actual shortage.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-15 Cancellation of registrations. – The director is authorized and empowered to cancel the registration of any brand of commercial fertilizer or to refuse to register any brand of commercial fertilizer as provided in this chapter, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this chapter or any rules and regulations promulgated under this chapter. No registration shall be revoked or refused until the registrant has been given the opportunity to appear for a hearing by the director.

History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-16 "Stop sale" orders. – The director may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the director finds the commercial fertilizer is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and the commercial fertilizer is released in writing by the director, or the violation has been otherwise legally disposed of by written authority. The director shall release the commercial fertilizer so withdrawn when the requirements of the provisions of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

History of Section.
(P.L. 1977, ch. 168, § 2.)

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History of Section.
(P.L. 1977, ch. 168, § 2.)

§ 2-7-18 Violations. – (a) If it appears from the examination of any commercial fertilizer that any of the provisions of this chapter or the rules and regulations issued under this chapter have been violated, the director shall cause notice of the violations to be given to the registrant, distributor, or possessor from whom the sample was taken; any person notified shall be given opportunity to be heard under any rules and regulations that may be prescribed by the director. If it appears after the hearing, either in the presence or absence of the person so notified, that any of the provisions of this chapter or rules and regulations issued under this chapter have been violated, the director may certify the facts to the attorney general.

(b) Any person convicted of violating any provision of this chapter or rules and regulations issued under this chapter shall be punished in the discretion of the court.

(c) Nothing in this chapter shall be construed as requiring the director or the director's representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when the director believes that the public interest will be best served by a suitable notice of warning in writing.

(d) It is the duty of the attorney general to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(e) The director is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

History of Section.
(P.L. 1977, ch. 168, § 2.)

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History of Section.
(P.L. 1977, ch. 168, § 2.)

CHAPTER 2-15
Protection of Trees and Plants Generally

§ 2-15-1 Registration of wood cutting operations. – No person, firm or corporation, or any authorized agent of that person, firm or corporation, shall cut or saw standing or growing trees, shrubs or vegetation for commercial forest products, other than for the owner's own domestic use, unless the person, firm or corporation is registered as a woods operator with the department of environmental management. Application for a registration certificate shall be made, in writing, on or after July 1 of each year on forms prepared by the department of environmental management accompanied by a fee as authorized by regulation in § 2-10-3.1 for each certificate, and all registration certificates shall expire on June 30 of the year following their issuance. Funds collected from registration fees as provided in this section shall be deposited within the state forestry fund as provided for in § 2-10-3.

History of Section.
(G.L. 1938, ch. 281, § 27; P.L. 1932, ch. 1928, § 1; G.L. 1938, ch. 223, § 8; G.L., ch. 223, § 11, as redesignated by P.L. 1940, ch. 914, § 1; impl. am. P.L. 1952, ch. 2973, § 4; G.L. 1956, § 2-15-1; P.L. 1958, ch. 172, § 1; P.L. 1992, ch. 133, art. 23, § 5.)

CHAPTER 2-16
General Plant Pest Act
SECTION 2-16-1

§ 2-16-1 Short title. – This chapter shall be known by the short title of "the Rhode Island general plant pest act".

History of Section.
(P.L. 1955, ch. 3547, § 1; G.L. 1956, § 2-16-1.)

§ 2-16-2 Definitions. – (a) For the purpose of this chapter:

(1) "Director" means the director of the department of environmental management for the state of Rhode Island and his or her authorized agents.

(2) "Person" means any individual, association, partnership, society, or combination of individuals, or any institution, park, or other public agency administered by the state or by any city or town.

(3) "Plant parts and plant products" means all vegetative and propagative structures constituting parts of the plant body or produced by plants, whether intact or subdivided, and whether or not still attached to the plant, when existing in a crude or natural state, or which have not been processed in a manner adequate to free them of plant pests or to cause them to be incapable of harboring, vectoring, being, transmitting, or transporting those plant pests.

(4) "Plant pest" means any insect, nematode, protozoan, crustacean, or any other invertebrate animal, and any virus, bacterium, fungus, or other member of the plant kingdom, in any stage of development, known to be or suspected of being capable of causing serious injury or damage to, or of inciting serious diseases in, plants or parts and products of plants, whether in the field, in storage, or in markets and any animal, plant, plant part or product, or inanimate object constituting a source of danger to plants, plant parts and products, by reason of a capacity to constitute a vector, reservoir, alternate host, place of breeding,

hibernation refuge, or vehicle of distribution, for any of the types of organisms mentioned in this subsection.

(5) "Viruses": All viruses shall be considered to be animate.

(b) Terms or words as used in this chapter are construed to import either singular or plural form, and either masculine or feminine gender.

History of Section.
(P.L. 1955, ch. 3547, § 2; G.L. 1956, § 2-16-2.)

§ 2-16-3 Powers of director. – The director is authorized and empowered:

(1) To enforce all provisions of this chapter, and to have charge of all matters pertaining to official control, suppression, extermination, or exclusion of all plant pests, whether members of the plant or animal kingdom, which are, or threaten to become, serious pests of plants of economic importance, or are in any other way inimical to the welfare of the plant industry of the state;

(2) To enter into agreements with authorized plant pest control officials of the United States department of agriculture and of other states for the cooperative carrying out of programs consistent with the intents and purposes of this chapter;

(3) To pronounce, declare, and publish any animal, plant, virus, bacterium, conveyance, structure, or inanimate object, singly, in groups, or as a category, to constitute a plant pest, as defined and to define any plant pest so declared to be a public nuisance and also, to define and limit circumstances or conditions under which these definitions shall hold in any given instance;

(4) To establish, in the manner set forth in § 2-16-10, and to enforce, by appropriate rules and regulations, quarantines prohibiting or restricting the transportation of injurious insects and of any class of plant or plant parts, or any object or combination of objects, capable of carrying any serious plant pest, or of itself constituting a pest, with reference to which the secretary of agriculture of the United States has not determined that a quarantine is necessary and established a quarantine, into or through this state or any portion of this state from any other state or territory, the District of Columbia, or any part of any other state or territory, or of the District of Columbia, in which the director shall have found the plant pest to exist;

(5) To establish, and maintain, in the manner set forth in § 2-16-10, a quarantine against any premises or geographical area in this state where a serious plant pest is found to occur, when a quarantine appears to be necessary and promises to be the most efficacious means for preventing or retarding the spread of the plant pest into other premises or communities to the detriment of the welfare of the agricultural economy of the state;

(6) To make rules and regulations for the seizure, inspection, disinfection, disinfestation, reshipment, destruction, or other disposition of any plant or plant parts or any inanimate article capable of carrying dangerous insect infestation, plant diseases, or any other plant pest, a quarantine with respect to which has been established by the secretary of agriculture of the United States, and which has been transported to, into, or through this state in violation of that quarantine;

(7) To make rules and orders, not contrary to law, regarding the destruction of infected or infested plants, plant parts, and plant products and to seize, treat, disinfect, disinfest, or destroy any plants, plant parts, or plant materials, or other articles moved in violation of any quarantine, rule or regulation established under provision of this chapter or under any other act which has been or may be enacted against specific plant pests and entrusted to his or her jurisdiction, or suspected of being infected or infested by any serious plant pest, and also, to prohibit or regulate the transportation of plants, plant parts, plant materials and inanimate

articles likely to carry dangerous plant pests, and to designate certain areas or districts where all those plants and articles may be destroyed;

(8) To enter, in a manner not contrary to law, any public or private premises, except dwelling quarters, at reasonable hours, in the performance of his or her duty in the enforcement of this chapter; and to demand access to plant and other articles requiring inspection;

(9) To make requirements, not contrary to law, governing the entry from other states and territories, the District of Columbia, and any foreign country, of any plant, plant part, or other article that he or she, for purposes of plant pest control, may designate, and to search, seize, inspect, or hold for inspection those items at the state borders, ports of entry, or point of destination; and

(10) To revoke or suspend any certificate or license issued by his or her department, and to require the immediate surrender of certificates or licenses revoked or suspended.

History of Section.
(P.L. 1955, ch. 3547, § 3; G.L. 1956, § 2-16-3.)

§ 2-16-4 Permitting plant pests to exist – Distribution of infected plants. – It is unlawful for any person in this state knowingly to permit any seriously injurious insects or plant diseases that have been or may be declared by the director to be public nuisances by reason of being plant pests, to exist on his or her premises, unless efforts are being made to eradicate the plant pests as may exist, or to sell, offer for sale, give away, or otherwise distribute any plant infected or infested by or with the plant pests.

History of Section.
(P.L. 1955, ch. 3547, § 4; G.L. 1956, § 2-16-4.)

§ 2-16-5 Concealment of plants from inspection. – No person shall cause any concealment of any plants or plant parts from inspection by the director or his or her authorized agents.

History of Section.
(P.L. 1955, ch. 3547, § 4; G.L. 1956, § 2-16-5.)

§ 2-16-6 Order to destroy or treat infected plants. – If the director or his or her authorized agent finds on examination any nursery, greenhouse, field or farm crop, forest, small fruit plantation, cemetery, storehouse or elevator, conveyance, or any other private or public premises, or any plant or article on or in the premises to be infected or infested with any seriously injurious insects or plant diseases that would be likely, in the opinion of the director, to endanger adjacent property or the welfare of the agricultural economy of the state, the director may declare the premises, plants, or articles to be a public nuisance, and shall notify the owner or person having charge of the premises, plants, or articles to that effect, in writing, and the owner or person in charge upon receipt of the written notification, shall within a period of time that shall be specified on the written notification by the director, cause the removal and sanitary destruction of all plants, plant products, or articles declared if they cannot be successfully treated, otherwise the owner or person in charge shall cause them to be treated or apply any other remedial measures for the disinfestation, disinfection, control or retardment of the pest on the premises, plant, plant products, or articles as the director may direct. Preventive measures shall be required, and shall be enforced in the same manner on any additional premises in the vicinity of the premises where the plant pest was found as seems necessary in accordance with the judgment of the director.

History of Section.
(P.L. 1955, ch. 3547, § 5; G.L. 1956, § 2-16-6.)

§ 2-16-7 Compensation for loss or destruction of infested plants. – No damages shall be awarded to the owner for the loss or destruction of infested or infected plants, plant products, or other articles or reimbursement made for expenses incurred incident to the application of the prescribed preventive or

remedial measures. The infected or infested plants, plant products, or articles are a public menace. Nothing in this section shall be interpreted as preventing financial assistance to owners where that financial assistance is provided for under specific legislation other than this chapter.

History of Section.
(P.L. 1955, ch. 3547, § 5; G.L. 1956, § 2-16-7.)

§ 2-16-8 Treatment or destruction by director. – In case the owner or person in charge of the premises refuses or neglects to carry out the orders of the director within the period of time after receipt of written notification specified on the notification by the director, the director may proceed to treat or destroy the infested or infected plants, plant products, or articles or to apply any other necessary preventive or remedial measures. The expense shall be assessed, collected, and enforced as taxes are assessed, collected, and enforced, against the premises upon which the expense was incurred. The amount of the expense, when collected, shall be paid to the director, and by him or her deposited with the treasurer of the state.

History of Section.
(P.L. 1955, ch. 3547, § 5; G.L. 1956, § 2-16-8.)

§ 2-16-9 Destruction or return of infected shipments of plants. – If any plants, or parts or products of plants being shipped to or from any point in Rhode Island, whether or not included under the term nursery stock and whether or not accompanied by a certificate of inspection or shipping permit are found to be infected with any living dangerous insect or any contagious disease, the entire shipment is declared to be a public nuisance and is liable to destruction without compensation to the consignor, or may be reshipped to the consignor at the consignor's expense.

History of Section.
(P.L. 1955, ch. 3547, § 5; G.L. 1956, § 2-16-9.)

§ 2-16-10 Hearing on quarantine or embargo. – Quarantines or embargoes provided for in subdivisions (4) and (5) of § 2-16-3 shall be established by the director only after a public hearing. Timely announcement of the hearing shall be given to interested persons by mail or by two (2) announcements in newspapers serving the area affected. When in any case, in the opinion of the director, the delay necessary for the holding of the hearing is likely to cause serious harm or would in any way seriously handicap a control program, the director may establish a temporary quarantine, effective immediately and remaining effective for a period not to exceed thirty (30) days, during which thirty (30) day period a hearing shall be announced and held as stated above, and the continuation and maintenance of this quarantine or embargo beyond the thirty (30) day period shall be dependent on the hearing.

History of Section.
(P.L. 1955, ch. 3547, § 6; G.L. 1956, § 2-16-10.)

§ 2-16-11 Penalty for violations. – Any person violating any of the provisions of this chapter or any rule or order established by the director or who interferes with the director or any of the director's authorized agents in the performance of the agent's duties shall, upon conviction, be fined not exceeding two hundred dollars ($200) for each offense.

History of Section.
(P.L. 1955, ch. 3547, § 7; G.L. 1956, § 2-16-11.)

§ 2-16-12 Prosecution of violations. – All prosecutions of violations under the provisions of this chapter shall be instituted by the director, and shall be directed by him or her, and it is not necessary that he or she enter into recognizance or give surety for costs to prosecute these violations.

History of Section.
(P.L. 1955, ch. 3547, § 8; G.L. 1956, § 2-16-12.)

CHAPTER 2-16.1
Interstate Pest Control Compact

§ 2-16.1-1 Short title. – This chapter may be cited as the "Interstate Pest Control Compact."

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-2 Compact enacted. – The Interstate Compact on pest control is hereby enacted into law and entered into with all other jurisdictions in form substantially as follows:

Article I

Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately one hundred thirty-seven billion dollars ($137,000,000,000) from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II

Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory, possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

(e) "Insurance fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive committee" means the committee established pursuant to Article V(e) of this compact.

Article III

The Insurance Fund

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, expressly set forth in this compact, shall be unconditional and may not

be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

Article IV

The Insurance Fund, Internal Operations and Management

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

(b) The members of the governing board shall be entitled to one vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the insurance fund.

(f) The insurance fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The insurance fund may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, and the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this paragraph or service borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The insurance fund annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V

Compact and Insurance Fund Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of this state may provide, and who shall:

(1) Assist in the coordination of activities pursuant to the compact in his state; and

(2) Represent his state on the governing board of the insurance fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the governing board of the insurance fund by not to exceed three (3) representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and four (4) additional members of the governing board chosen by it so that there shall be one member representing each of the four (4) geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, one such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least four (4) members of such committee are present and vote in favor thereof. Necessary expenses of each of the five (5) members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

Article VI

Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

(1) The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its protection in the absence of this compact.

(2) The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

(1) A detailed statement of the circumstances which occasion the request for the invoking of the compact.

(2) Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.

(3) A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.

(4) Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.

(5) A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

(6) Such other information as the governing board may require consistent with the provisions of this compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall, upon notice in writing given within twenty (20) days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

Article VII

Advisory and Technical Committees

The governing board may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same; provided that any participant in a meeting of the governing board or executive committee held pursuant to Article VI(d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto, or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

Article VIII

Relations with Nonparty Jurisdictions

(a) A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to Article VI(d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of such

expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

Article IX

Finance

(a) The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth (1/10) of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning the value of products.

(c) The financial assets of the insurance fund shall be maintained in two (2) accounts to be designated respectively as the "Operating Account" and the "Claims Account". The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing two (2) year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of three (3) years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis in such manner as to keep the claims account within such maximum limit. Any moneys in the claims account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

(d) The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with moneys available to it under Article IV(g) of this compact, provided that the governing board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under Article IV(g) hereof, the insurance fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant, and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

Article X

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any five (5) or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two (2) years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact

and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-3 Cooperation. – Consistent with law and within available appropriations, the departments, agencies and officers of this state may cooperate with the insurance fund established by the pest control compact.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-4 Filing of bylaws. – Pursuant to Article IV(h) of the compact, copies of bylaws and amendments thereto shall be filed with the secretary of state of Rhode Island.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-5 Compact administrator. – The compact administrator for this state shall be the director of the department of environmental management. The duties of the compact administrator are deemed a regular part of the duties of the department.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-6 Request for assistance. – Within the meaning of subdivision (b) of Article VI or subdivision (a) of Article VIII of this compact, a request or application for assistance from the insurance fund may be made by the compact administrator, whenever in his or her judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such a request.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-7 Expenditures. – The state department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to his account, in the state treasury, the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

§ 2-16.1-8 Executive head for Rhode Island. – As used in this compact, with reference to this state, the term "executive head" shall mean the governor.

History of Section.
(P.L. 2006, ch. 344, § 1; P.L. 2006, ch. 508, § 1.)

CHAPTER 2-18
Nurseries and Nursery Stock

§ 2-18-9 Abatement of plant diseases as nuisance – Liability for cost. – The chief entomologist and the director of environmental management, or either of them, may personally or through his or her deputies inspect any orchard, garden, field or roadside in public or private grounds which he or she knows, or has reason to suspect, is infested with any seriously injurious insect pests or plant diseases when, in his or her judgment, the presence of those pests or plant diseases are a nuisance to adjoining owners and shall give any instructions and directions that may be necessary in order that the nuisance may be abated. If the owner or person in charge of the trees or other plants constituting the nuisance fails within a reasonable time to follow the directions of the chief entomologist and the director of environmental management, and abate the nuisance, the chief entomologist and the director of environmental management may cause the necessary work to be done and the cost of that work shall be charged to that owner or person in charge of the trees or other plants, and the actual cost of the work shall be recovered in an action of the case to be brought by the general treasurer and the money received paid into the treasury of the state to be added to the regular annual appropriation of the department of environmental management.

History of Section.
(P.L. 1913, ch. 940, § 8; G.L. 1923, ch. 282, § 14; G.L. 1938, ch. 226, § 13; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 2-18-9.)

§ 2-18-10 Penalty for violations. – Any person, firm or corporation violating § 2-18-9 or offering any hindrance to the carrying out of any part of this section, shall be adjudged guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense.

History of Section.
(P.L. 1913, ch. 940, § 11; G.L. 1923, ch. 282, § 17; G.L. 1938, ch. 226, § 15; G.L. 1956, § 2-18-10.)

§ 2-18-11 Rules and regulations – Revocation of license by director. – The director of environmental management has the power to prescribe any general rules and regulations, not contrary to law, that may in his or her opinion facilitate the carrying out of the provisions of this chapter, and may revoke any certificate or license issued by the director, if in his or her opinion that action is necessary.

History of Section.
(P.L. 1913, ch. 940, § 9; G.L. 1923, ch. 282, § 15; G.L. 1938, ch. 226, § 14; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 2-18-11.)

§ 2-18-12 Appeals from chief entomologist to director. – Any person aggrieved by any order made by the chief entomologist may appeal to the director of environmental management. The person may file with the director of environmental management, within five (5) days after the order is made or issued by the chief entomologist, a claim of appeal from the order, the appeal to be in writing.

History of Section.
(P.L. 1913, ch. 940, § 12; G.L. 1923, ch. 282, § 18; G.L. 1938, ch. 226, § 16; G.L. 1956, § 2-18-12.)

§ 2-18-13 Prosecution of offenses. – All prosecutions under the provisions of §§ 2-18-9 – 2-18-13 shall be instituted by the director of environmental management, and shall be directed by him or her, and all

penalties recovered for the violation of any of the provisions of those sections shall be paid into the treasury of the state. In prosecutions for violation of any provisions of §§ 2-18-9 – 2-18-13 commenced by the director, it is not necessary that he or she enter into recognizance or give surety for costs to prosecute those violations.

History of Section.
(P.L. 1913, ch. 940, §§ 13, 14; G.L. 1923, ch. 282, §§ 19, 20; C.L. 1938, ch. 226, §§ 17, 18; G.L. 1956, § 2-18-13.)

CHAPTER 2-18.1
Rhode Island Nursery Law

§ 2-18.1-1 Short title. – This chapter shall be known by the short title of "The Rhode Island nursery law".

History of Section.
(G.L. 1956, § 2-18.1-1, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-2 Definitions. – For the purpose of this chapter, unless the context otherwise requires:

(1) "Agent" means any person under the partial or full control of a nursery worker, dealer or other agent, who sells or solicits orders for nursery stock, not from a supply at hand, at a place other than a nursery worker's or a dealer's place of business.

(2) "Certified stock" means plants and plant parts defined as nursery stock which bears, or with regard to which the director has determined to his or her satisfaction that there has been issued by recognized plant regulatory officials, a valid, unexpired certificate attesting that the stock has been inspected and found to be apparently free of injurious insects and plant diseases.

(3) "Collected plants" means plants and plant parts defined as nursery stock, which are dug or otherwise removed from fields, woodlots, or forest lands for sale or distribution which have not been grown under cultivation in a nursery for one year.

(4) "Dealer" means any person, not a grower or an original producer of nursery stock in this state, and who is independent of the control of any nursery worker or other dealer, who sells, offers to sell, solicits orders for or otherwise traffics in nursery stock from a supply at hand or which is obtained from a nursery or another dealer.

(5) "Department" means the department of environmental management of the state of Rhode Island.

(6) "Director" means the director of environmental management of the state of Rhode Island, and his or her authorized agents.

(7) "Hardy" means the ability to withstand heat or cold to the extent of surviving the normal out of door summer and winter temperatures of this state.

(8) "Insect" means invertebrate animals belonging to the arthropod class, Insecta (Hexapoda), and also members of other arthropod classes, mollusca, nematodes, and other invertebrate animals, in any state of development. An insect species shall be considered to be injurious to plants:

(i) When it is known to be capable of causing serious damage to, or decreased value of, the host plant or adjacent plants by reason of feeding, oviposition, production of toxic secretions, or other activities and by the demonstrated capacity to function efficiently as a carrier or reservoir of an agent capable of inciting an injurious plant disease; or

(ii) When the insect has been declared by the director to be a plant pest, or when a quarantine has been established with regard to it by the director, the secretary of agriculture of the United States, or by recognized plant regulatory officials of the state or country into which the host plants are to be shipped.

(9) "Nursery" means any grounds or premises on or in which nursery stock is propagated, grown, or cultivated, or from which nursery stock is collected for sale purposes. The term nursery shall not be construed to mean a dealer's premises or heeling-in grounds on or in which nursery stock is held for

purposes other than propagation or growth and neither shall it apply to grounds or premises offering for sale stock which is not a regular commercial activity.

(10) "Nursery stock" means all hardy, deciduous and evergreen trees, shrubs, vines and other plants having a persistent woody stem, whether wild or cultivated, and plant parts, for and capable of propagation.

(11) "Nursery worker" means the person who owns, leases, manages, or is in charge of a nursery. All persons engaged in operating a nursery are farmers and are engaged in an agricultural enterprise for all statutory purposes.

(12) "Person" means a corporation, company, society, association, partnership, governmental agency, and any individual or combination of individuals.

(13) "Place of business" means each separate store, stand, sales ground, lot, truck, railway car, or other vehicle or any other place at or from which nursery stock is being sold or offered for sale where one or more sales persons are in attendance.

(14) "Plant disease" means an injurious physiological activity of plants caused by the continued action of a chief causal factor and exhibited through abnormal cellular activity expressed in characteristic conditions, called symptoms, which symptoms are of three (3) types, nocrosis, hyperplasia, and hypoplasia. Plant disease shall be considered to be injurious in nature:

(i) When the symptoms and signs observed on and/or the inciting agent(s), recoverd from or demonstrated to be in the plant identify the disease as one that is considered by competent plant pathologists to be capable of causing serious damage to or decreased value of the host plant or of adjacent plants;

(ii) When the symptoms observed, whether incited by animate or inanimate causal factors, and whether or not identified with known plant disease(s) are of a nature and intensity as to reduce the likelihood of surviving normal transplantation or of maintaining growth, vigor, and appearance equal to that of normal nursery grown plants of the same species, age, and size when properly tansplanted and cared for; and

(iii) When the incitant or harborer of the disease has been declared by the director to be a plant pest, or when a quarantine has been established with regard to it by the director, the secretary of agriculture of the United States, or by plant regulatory officials of the country or state into which the host plants are to be shipped.

History of Section.
(G.L. 1956, § 2-18.1-2, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-3 Authority to inspect – Access to nursery, heeling-in grounds or other place of business. – For the purpose of making inspections and carrying out the provisions of this chapter and any rule and regulation made in pursuance of this chapter, the director or his or her authorized agents have free access at any reasonable hour to any nursery, heeling-in grounds, place of business, or other public or private premises, except dwelling quarters, where it may be necessary for them to go, or which it may be necessary for them to inspect in the performance of their duties. It is unlawful to deny access to the director or his or her authorized agents, or to thwart or hinder these inspections by misrepresenting or concealing facts or conditions.

History of Section.
(G.L. 1956, § 2-18.1-3, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-4 Inspection of nursery stock before sale or distribution. – It is unlawful for any person to sell, to offer for sale, to distribute or cause to be distributed from a nursery or other premises, any nursery stock, until the nursery stock has been officially inspected by the director and certified as apparently free from injurious insects and plant diseases, or unless there has been issued with regard to that nursery stock, by an authorized plant regulatory official of another state, or the federal government, a valid certificate attesting to freedom from injurious insects and plant diseases.

History of Section.
(G.L. 1956, § 2-18.1-4, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-5 Shipments from foreign countries. – Any person receiving any nursery stock from a foreign country shall immediately notify the director of the arrival of the shipment, the contents, and the name and address of the consignor, and shall hold the shipment for at least ninety-six (96) hours to enable the director to make an official inspection of the nursery stock.

History of Section.
(G.L. 1956, § 2-18.1-5, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-6 Nursery inspection and certification. – (a) It is the duty of the director to inspect at least once each year during the growing season, all nurseries in the state of Rhode Island to ascertain whether they are infested with injurious insect pests or infected with injurious plant diseases. If upon the inspection of any nursery it appears that the nursery and the nursery stock are apparently free from injurious insects and plant diseases, it is the duty of the director to issue to the owner of the nursery, or the person in charge of the nursery, a certificate setting forth the fact of the inspection and freedom from injurious insects and plant diseases. Conversely, if inspection of any nursery and the stock reveals the presence of injurious insects and/or plant diseases, the owner or person in charge of the nursery shall take any measures to suppress or eradicate these injurious insects and/or plant diseases that the director prescribes, and a certificate shall not be issued until the director, by subsequent inspections, determines that the nursery and stock are apparently free from injurious insects and plant diseases.

(b) Notwithstanding subsection (a), the director may refuse to inspect and certify a nursery if the nursery, for lack of care or neglect, is in such condition that it cannot be adequately inspected.

History of Section.
(G.L. 1956, § 2-18.1-6, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-7 Certificates. – Nursery inspection certificates issued by the director shall bear the date of issue and be valid until the fifteenth of September following their issuances. The director limits the expiration date whenever it is necessary to insure freedom from pests of the nursery stock so inspected and certified, and, in the case of stock that is shipped out of state, it is permissible to designate a different expiration date when the date has been agreed upon in writing between the director and the plant regulatory officials of the state of destination.

History of Section.
(G.L. 1956, § 2-18.1-7, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-8 What nursery stock may be offered for sale. – Only certified nursery stock, stored or displayed under conditions which will maintain its vigor shall be offered for sale. Offering for sale of dead nursery stock or of stock so seriously weakened by drying, excessive heat or cold or any other condition that makes it unable to grow satisfactorily when given reasonable care is deemed a violation of the provisions of this chapter.

History of Section.
(G.L. 1956, § 2-18.1-8, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-9 Nursery worker's licenses – Nonlicensed growers. – (a) No person shall engage as a nursery worker in this state without first obtaining a nursery worker's license from the department. The license expires on March 31 of each year, and application for renewal of license shall be made annually prior to that date. Applications for license or renewal of license shall be in writing, on a form prescribed by the department, and be accompanied by a fee of fifty dollars ($50.00). Each applicant for a nursery worker's license shall certify that he or she will buy and distribute only nursery stock which has been officially inspected and certified and that he or she will, on request of the department, furnish a list of all sources

from which he or she secures nursery stock and of all of his or her places of business where he or she sells that stock. No license is transferable.

(b) Any park, arboretum, forestry department, or any other state or municipal agency growing nursery stock solely for use on its own property or in connection with public reforestation projects are exempt from obtaining a license and are not considered to be operating commercial nurseries, but are required to register annually with the director, and are made subject to any of the inspection and the certification requirements of this chapter that may apply.

History of Section.
(G.L. 1956, § 2-18.1-9, as assigned, P.L. 1962, ch. 132, § 1; P.L. 1992, ch. 133, art. 22, § 4.)

§ 2-18.1-10 Dealer's license. – Every dealer, before offering nursery stock for sale or distribution or soliciting orders for nursery stock in Rhode Island, shall obtain a dealer's license for each place of business from the department. The license expires on March 31 of each year, and application for renewal of a license shall be made annually prior to that date. A dealer's license is nontransferable. Applications for license or renewal of a license shall be in writing on a form prescribed by the department, and be accompanied by a fee of fifty dollars ($50.00). Each applicant for a license certifies that he or she will buy and distribute only nursery stock which has been officially inspected and certified, and that he or she will maintain with the department a list of all sources from which he or she secures nursery stock and all places of business which he or she maintains.

History of Section.
(G.L. 1956, § 2-18.1-10, as assigned, P.L. 1962, ch. 132, § 1; P.L. 1992, ch. 133, art. 22, § 4.)

§ 2-18.1-11 Reasons for withholding or revoking a license or certificate. – The director may withhold, suspend or revoke any license or certificate of inspection provided that upon ten (10) days' notice, in writing, forwarded by registered or certified mail to the applicant or holder of the license or certificate, stating the contemplated action and in general the grounds for the action, and after reasonable opportunity to be heard, the director shall find that the person has:

(1) Made any material misstatement in his or her application for license;

(2) Failed to comply with the requirements of the director with reference to freeing his or her nursery stock of injurious insect pests and plant diseases;

(3) Failed to provide adequate facilities for storing or displaying nursery stock being offered for sale under conditions needed to maintain its vigor; or

(4) Knowingly permitted the use of his or her license or certificate by another person.

History of Section.
(G.L. 1956, § 2-18.1-11, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-12 Reinstatement of license or certificate. – The director may grant or reinstate any license or certificate of inspection which has been withheld, suspended or revoked if the conditions which incited the withholding, suspension or revocation have been corrected and the director is satisfied, as a result of investigation, that the conditions are not likely to recur.

History of Section.
(G.L. 1956, § 2-18.1-12, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-13 Registration of agents. – Every agent selling or soliciting orders for nursery stock in Rhode Island must be registered with the department by his or her principal.

History of Section.
(G.L. 1956, § 2-18.1-13, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-14 Reciprocal agreements. – (a) Nursery workers, dealers, or other persons residing or doing business in another state, desiring to sell or solicit orders for nursery stock in this state, are, upon complying with all other provisions of this chapter and all rules and regulations promulgated under this chapter, and upon payment of the fee of fifty dollars ($50.00), entitled to a dealer's license permitting those persons and/or their registered agents to sell or solicit orders for certified nursery stock within this state.

(b) Notwithstanding subsection (a), the director may enter into reciprocal agreements with the responsible plant regulatory officials of other states for the recognition of official inspection certificates, under which certified nursery stock owned by nursery workers, dealers or other persons from those states may be sold and delivered in this state without the payment of a Rhode Island license fee, if like privileges are accorded to Rhode Island nursery workers and dealers in those other states, and the department finds that those other states, before issuing official inspection certificates require inspection equal to that required in Rhode Island, except that any nonresident nursery worker, dealer, or other person having a place of business in this state shall obtain a dealer's license and pay all license fees as required in this chapter.

History of Section.
(G.L. 1956, § 2-18.1-14, as assigned, P.L. 1962, ch. 132, § 1; P.L. 1998, ch. 131, § 1.)

§ 2-18.1-15 Nonresidents. – Nonresident nursery workers, dealers and other persons, wishing to ship nursery stock into Rhode Island, whether or not licensed as dealers in Rhode Island, shall first file with the director a copy of a valid, unexpired certificate showing that the stock sold by that person has been officially inspected and found to be apparently free of injurious insects and plant diseases or to supply any other evidence that the director may set forth as being equivalent to the filing of certificate, and shall, if required by the director, comply with any regulations that the director may designate, regarding the use of uniform shipping tags, or any other regulations that the director may prescribe to facilitate the enforcement of this chapter. The director may require the nonresident nursery workers, dealers or other persons to notify him or her of the date of shipping, and the destination of nursery stock intended for any consignee within this state.

History of Section.
(G.L. 1956, § 2-18.1-15, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-16 Collected plants. – (a) No collected plants shall be transported within this state or placed in any nursery or in close proximity to any certified nursery stock unless they have first been inspected and found to be apparently free of injurious insects and plant disease. Inspection of collected plant stock shall be made after digging or removal from the native habitat, and shall be made in a place designated by the director.

(b) The director may require that all collected stock be labelled as collected stock until the plants have been grown under cultivation in a nursery for one calendar year.

History of Section.
(G.L. 1956, § 2-18.1-16, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-17 Horticultural services. – The licensing and registration requirements of this chapter do not apply to any licensed arborist, landscape architect, private gardener, or servant on private estates, whose function is that of providing services, when obtaining or transporting certified nursery stock for which the nursery worker's or dealer's price has been paid in full by his or her employer or master.

History of Section.
(G.L. 1956, § 2-18.1-17, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-18 Labelling imported stock. – (a) All nursery stock shipped into this state from any country, state, commonwealth, province, territory, or the District of Columbia, shall bear on each box, package, bale, container, bundle, or other unit, a certificate of inspection, its facsimile, or an official tag, stating that the nursery stock contained within or bundled has been inspected by an authorized plant regulatory officer of the state of origin or of the United States department of agriculture, and that the stock was found to be free from all injurious insects and plant diseases. Any container or bundle bearing a certificate of fumigation or other treatment which meets the requirements specified in regulations made under the authority of § 2-18.1-21 may be accepted as though bearing a proper certificate of inspection.

(b) In case nursery stock is brought into this state without the required certificate of inspection or treatment, the consignee is required to return it to the consignor at the expense of the latter.

History of Section.
(G.L. 1956, § 2-18.1-18, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-19 Common carrier. – No transportation company or common carrier shall accept for transportation within this state, or deliver any box, bundle, package, bale, container, or other unit containing or consisting of nursery stock to any consignee within the state, unless the container or package has attached to it a copy of the official tag or certificate of inspection as required by this chapter and the regulations of the director. No common carrier or transportation company is liable for damages to the consignee or consignor for refusing to receive, transport or deliver any box, bundle, package, bale, container, or other unit containing or consisting of nursery stock to any consignee within the state, when not accompanied by the required tag or certificate. In case any nursery stock is shipped within this state without the certificate plainly affixed, the fact must be promptly reported to the department by the carrier, stating the consignor and the consignee and the nature of the shipment, and the carrier may be required to hold the shipment subject to the order of the director.

History of Section.
(G.L. 1956, § 2-18.1-19, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-20 Inspection of imported stock – Disposition of infested stock. – The director has the power to inspect at the point of destination all nursery stock coming into the state, whether under certificate or not, and should the stock be found infested with any injurious insects or plant diseases, he or she shall cause it to be destroyed, returned to the consignor, or subjected to any disinfecting or disinfesting procedure that he or she specifies, and the state is not liable to the consignor for expenses of shipping or treatment or for any damage which he or she may suffer through that action.

History of Section.
(G.L. 1956, § 2-18.1-20, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-21 Treatment. – The director may designate by rule or regulation any fumigation or other disinfestation or disinfection procedures, the carrying out of which, when certified to, or sworn to, in a manner and under any conditions that he or she specifies, will be acceptable to him or her in place of the customary certificate of inspection.

History of Section.
(G.L. 1956, § 2-18.1-21, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-22 Misrepresentation. – It is unlawful for any person to misrepresent, by name or otherwise, that he or she is a nursery worker or conducts a nursery business when this is not the case. This shall not apply to any person, firm, or corporation on record as doing business and building good will under this type of name prior to February 1, 1963.

History of Section.
(G.L. 1956, § 2-18.1-22, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-23 Enforcement. – It is the duty of the director of environmental management to enforce the provisions of this chapter, and all other laws for the inspection of orchards, nurseries, and other trees and shrubs and the protection of these objects from injurious insects and plant diseases.

History of Section.
(G.L. 1956, § 2-18.1-23, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-24 Additional authority of the director. – The director is authorized and empowered:

(1) To make rules and regulations for carrying out the provisions of this chapter;

(2) To employ any assistants necessary to enable him or her to discharge his or her duty in carrying out the provisions of this chapter; and

(3) To grant special shipping certificates to residents of this state on individual shipments of nursery stock or other plants and plant products in compliance with the plant inspection and plant quarantine regulations of the state of destination.

History of Section.
(G.L. 1956, § 2-18.1-24, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-24.1 License fees – Apportionment. – (a) One-fifth (1/5) of all license fees received by the director under the provisions of this chapter shall be paid over to the general treasurer and deposited within the general fund, and four-fifths (4/5) of the funds collected shall be deposited into a separate fund within the general fund to be called the "nursery, feed and fertilizer quality testing fund," administered by the general treasurer in accordance with the same laws and fiscal procedures as the general fund of the state. This fund consists of all nursery worker's license fees, dealers' license fees, and fertilizer registration fees paid pursuant to §§ 2-18.1-9, 2-18.1-10, 2-7-4 and 2-7-6.

(b) That proportion of moneys placed in the nursery, feed and fertilizer testing fund collected from §§ 2-18.1-9 and 2-18.1-10 are available immediately, and are specifically appropriated to the director for the following purpose, for payment of ancillary services, personnel and equipment incurred in order to carry out the purposes of this chapter.

History of Section.
(P.L. 1992, ch. 133, art. 22, § 5.)

§ 2-18.1-25 Review of orders. – Any person affected by any order made or served pursuant to this chapter may have a review of the order by the director and from his or her decision may appeal to the courts for the purpose of having the order modified or suspended. Application for review may be made to the director, in writing, within ten (10) days after the receipt of the order and the review shall be allowed and considered by the director at any time and place that the director may prescribe.

History of Section.
(G.L. 1956, § 2-18.1-25, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-26 Penalties for violations. – Any person who violates any of the provisions of this chapter with reference to:

(1) The sale, distribution, receipt or delivery of nursery stock which has not been inspected and certified;

(2) The sale or offering for sale of nursery stock without first obtaining a license as provided for in this chapter;

(3) The use of a license or a certificate of inspection after it has been revoked or suspended or has expired;

(4) The use of a license or certificate of inspection belonging to another person;
(5) The offering of any hindrance or resistance to the carrying out of the provisions of this chapter; or
(6) The violation of any other provision of this chapter, or any rule or regulation of the director made in pursuance of this chapter;
shall, upon conviction, be adjudged guilty of a misdemeanor and fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100) for each and every offense.

History of Section.
(G.L. 1956, § 2-18.1-26, as assigned, P.L. 1962, ch. 132, § 1.)

§ 2-18.1-27 Prosecution of offenses. – All prosecutions of violations under the provisions of this chapter shall be instituted by the director and be directed by him or her, and all penalties recovered for the violation of any provisions of this chapter shall be paid into the treasury of the state. In prosecutions for violation of any provisions of this chapter commenced by the director, it is not necessary that he or she enter into recognizance or give surety for costs to prosecute these violations.

History of Section.
(G.L. 1956, § 2-18.1-27, as assigned, P.L. 1962, ch. 132, § 1.)

CHAPTER 2-19
Arborists

§ 2-19-1. Practices subject to chapter. -The term arborist as used in this chapter means any person, firm or corporation who makes a business or practice of pruning, trimming, spraying or repairing fruit, shade and ornamental trees, and includes any lines of work that are commonly included under the terms tree surgery, tree dentistry, tree spraying, tree pruning, and the work of foresters and entomologists as applied to the care of fruit, shade, forest and ornamental trees and shrubs. The provisions of this chapter shall not apply to the Rhode Island resource recovery corporation established in chapter 23-19.

History of Section.
(P.L. 1928, ch. 1203, § 1; G.L. 1938, ch. 227, § 1; G.L. 1956, § 2-19-1; P.L. 2013, ch. 451, § 1; P.L. 2013, ch. 482, § 1.)

§ 2-19-2 Issuance of license – Fee. – Any person, firm or corporation desiring to engage in or practice the art or trade of arborist, as defined in § 2-19-1, shall obtain a license to engage or practice from the director of environmental management. The director is authorized to grant licenses to practice that art or trade and require that the applicant for the license pass an examination showing fitness to engage in that art or trade, and the director shall charge a fee as determined by regulation as authorized in § 2-10-3.1. This fee shall not exceed twenty-five dollars ($25.00).

History of Section.
(P.L. 1928, ch. 1203, § 2; G.L. 1938, ch. 227, § 2; G.L. 1956, § 2-19-2; P.L. 1960, ch. 74, § 1; P.L. 1992, ch. 133, art. 23, § 6.)

§ 2-19-3. Rules and regulations – Examination for license. -The director of the department of environmental management is authorized to make rules and regulations governing the practice of arborists and shall demand any person, firm, or corporation desiring to engage in the art or trade of treating and caring for trees as defined in § 2-19-1, that he, she, or it pass an examination to show his, her, or its ability or capability to practice the art or trade of arborist. The director is further authorized to make rules and regulations to carry out the provisions of this chapter, including rules and regulations governing mulching operations and arboriculture operations as those terms are defined in § 2-19-4.1.

History of Section.
(P.L. 1928, ch. 1203, § 3; G.L. 1938, ch. 227, § 3; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 2-19-3; P.L. 2013, ch. 451, § 1; P.L. 2013, ch. 482, § 1; P.L. 2016, ch. 511, art. 1, § 2.)

§ 2-19-4 Disposition of license fees. – One-fifth (1/5) of all funds collected for licensing in this chapter shall, by the director of environmental management, be paid over to the general treasurer and deposited within the general fund, and four-fifths (4/5) of the funds collected shall be deposited in the state forestry fund as provided for in § 2-10-3.

History of Section.
(P.L. 1928, ch. 1203, § 4; G.L. 1938, ch. 227, § 4; G.L. 1956, § 2-19-4; P.L. 1992, ch. 133, art. 23, § 6.)

§ 2-19-5 Penalty for violations. – Any person, firm or corporation who falsely represents that he or she holds an arborist license provided for in this chapter or who violates any other provision of this chapter, shall be punished by a fine not exceeding one thousand dollars ($1,000).

History of Section.
(P.L. 1928, ch. 1203, § 5; G.L. 1938, ch. 227, § 5; G.L. 1956, § 2-19-5; P.L. 1992, ch. 133, art. 23, § 6.)

CHAPTER 2-21
Agricultural Liming Materials

§ 2-21-1 Title. – This chapter shall be known as the "Rhode Island agricultural liming materials law".

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-2 Responsibility for administration. – This chapter shall be administered by the director of the department of environmental management, referred to as the director.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-3 Definitions. – When used in this chapter:
(1) "Agricultural liming materials" means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity.
(2) "Brand" means the term, designation, trademark, product name or other specific designation under which individual agricultural liming material is offered for sale.
(3) "Bulk" means in nonpackaged form.
(4) "Burnt lime" means a material made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.
(5) "Calcium carbonate equivalent" means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
(6) "Fineness" means the percentage by weight of the material which will pass U. S. standard sieves of specific sizes. The director shall promulgate regulations relating to fineness and shall be guided by the American society for testing and materials (ASTM) specification for sieve sizes.
(7) "Hydrated lime" means a material, made from burnt lime, which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.

(8) "Industrial byproduct" means any industrial waste or byproduct containing calcium or calcium and magnesium in forms that will neutralize soil acidity.

(9) "Label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.

(10) "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

(11) "Marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate.

(12) "Percent" or "Percentage" means by weight.

(13) "Person" means individual, partnership, association, firm or corporation.

(14) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(15) "Weight" means the weight of undried material as offered for sale.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-4 Labeling. – (a) Agricultural liming materials sold, offered or exposed for sale in the state shall have affixed to each package in a conspicuous manner on their outside, a plainly printed, stamped or otherwise marked label, tag or statement, or in the case of bulk sales, a delivery slip, setting forth at least the following information:

(1) The name and principal office address of the manufacturer or distributor;

(2) The brand or trade name of the material;

(3) The identification of the product as to the type of the agricultural liming material;

(4) The net weight of the agricultural liming material;

(5) The minimum percentage of calcium oxide and magnesium oxide. Additional guarantees for calcium carbonate and magnesium carbonate are allowed;

(6) Calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists. Minimum calcium carbonate equivalents as prescribed by regulation; and

(7) The minimum percent by weight passing through U. S. standard sieves as prescribed by regulations.

(b) No information or statement shall appear on any package, label, delivery slip or advertising matter which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(c) In the case of any material which has been adulterated subsequent to packaging, labeling or loading of the material and before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of the adulteration in the material.

(d) At every site from which agricultural liming materials delivered in bulk and at every place where consumer orders for bulk deliveries are placed, there shall be conspicuously posted a copy of the statement required by this section for each brand of material.

(e) When the director finds, after a public hearing following due notice, that the requirement for expressing the calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming material by reason of conflicting labeling requirements among the state he or she may require by regulation that the minimum percentage of calcium oxide and magnesium oxide and/or calcium carbonate and magnesium carbonate shall be expressed in the following form:

Total calcium (Ca)]]]]]]]] percent

Total magnesium (Mg)]]]]]]]] percent

Provided that the effective date of the regulation is be not less than six (6) months following the issuance of the regulation, and that for a period of two (2) years following the effective date of the regulation the equivalent of calcium and magnesium may also be shown in the form of calcium oxide and magnesium oxide and/or calcium carbonate and magnesium carbonate.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-5 Prohibited acts. – (a) No agricultural liming material shall be sold or offered for sale in this state unless it complies with provisions of this chapter or regulations.

(b) No agricultural liming material shall be sold or offered for sale in this state which contains toxic materials in quantities injurious to plants or animals.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-6 Registration. – (a) Each separately identified product shall be registered before being distributed in this state. The application for registration shall be submitted to the director on forms furnished by the director and shall be accompanied by a fee of twenty dollars ($20.00) per product. Upon approval by the director, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year.

(b) A distributor is not required to register any brand of agricultural liming material which is already registered under this chapter by another person, providing the label does not differ in any respect.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-7 Reporting of tonnage. – (a) Within thirty (30) days following the expiration of registration, each registrant shall submit on forms furnished by the director an annual statement under oath for the twelve (12) month period ending the calendar year, setting forth the number of net tons of each agricultural liming material sold by him for use in the state during that calendar year. No tonnage fee is required on agricultural liming materials being offered for sale in this state.

(b) The director shall publish and distribute annually, to each agricultural liming material registrant or other interested persons a composite report showing the tons of agricultural liming material sold in the state. This report shall in no way divulge the operation of any registrant.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-8 Inspection, sampling, analysis. – (a) It is the duty of the director, who may act through his or her authorized agent, to sample, inspect, make analyses, and test agricultural liming materials distributed within this state as he or she deems necessary to determine whether those agricultural liming materials are in compliance with the provisions of this chapter. The director, individually or through his or her agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of this chapter and regulations pertaining to agricultural liming material, and to the records relating to their distribution.

(b) The methods of analysis and sampling are those approved by the director, and shall be guided by association of official analytical chemists procedures.

(c) The results of official analysis of agricultural liming materials and portions of official samples shall be distributed, upon request, by the director as provided in the regulations at least annually.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-9 Stop sale, use, or removal orders. – The director may issue and enforce a written or printed stop sale, use, or removal order to the owner or custodian of any lot of agricultural liming materials and to hold at a designated place when the director finds that the agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and the agricultural liming material is released, in writing, by the director, or the violation has been otherwise legally disposed of by written authority. The director shall release the agricultural liming

materials withdrawn, when the requirements of the provisions of this chapter are complied with and all costs and expense incurred in connection with the withdrawal are paid.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-10 Penalties for violations. – Any person convicted of violating any provision of this chapter or the rules and regulations promulgated under this chapter is subject to a penalty of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) to be enforced by a summary proceeding in a court of competent jurisdiction. Nothing in this chapter is construed as requiring the director or his or her authorized agent to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when he or she believes that the public interest will best be served by a suitable written warning.

History of Section.
(P.L. 1977, ch. 164, § 1.)

§ 2-21-11 Rules for administration of agricultural liming material. – The director, after reasonable notice and a hearing, is empowered to promulgate and enforce rules and regulations for the administration of this chapter and to grant exemptions from specific requirements of this chapter as, from time to time, may be deemed necessary.

History of Section.
(P.L. 1977, ch. 164, § 1.)

CHAPTER 2-22
Soil Amendments

§ 2-22-1 Title. – This chapter shall be known as the "Rhode Island soil amendment law".

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-2 Responsibility for administration. – This chapter shall be administered by the director of the department of environmental management, referred to as the director.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-3 Definitions. – As used in this chapter:

(1) "Brand" means the term, designation, trade mark, product name or other specific designation under which individual soil amendments are offered for sale.

(2) "Bulk" means in nonpackaged form.

(3) "Compost" means a soil amending material resulting from the aerobic, thermophyllic, microbial processing of organic materials.

(4) "Composter" means a producer of compost registered with the director under this chapter.

(5) "Composting" means any aerobic, thermophyllic process which allows for the conversion of raw organic materials into a stable soil amendment.

(6) "Distribute" means to import, consign, manufacture, produce, compound, mix or blend soil amendments or offer for sale, sell, barter, or otherwise supply soil amendments in this state.

(7) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends soil amendments, or who offers for sale, sells, barters, or otherwise supplies soil amendments in this state.

(8) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of soil amendment.

(9) "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a soil amendment.

(10) "Labeling" means all written, printed or graphic matter, upon or accompanying any soil amendment, or advertisements, brochures, posters, or television or radio announcements used in promoting the sale of any soil amendments.

(11) "Minimum percentage" means that percent of soil amending ingredient that must be present in a product before the product will be accepted for registration when mentioned in any form or manner.

(12) "Official sample" means any sample of soil amendment taken by the director or his or her agent and designated as official by the director.

(13) "Other ingredients" means the nonsoil amending ingredients present in soil amendments.

(14) "Percent" or "Percentage" means by weight.

(15) "Person" means individual, partnership, association, firm or corporation.

(16) "Registrant" means the person who registers soil amendments under the provisions of this chapter.

(17) "Soil amending ingredient" means a substance which improves the physical characteristics of the soil.

(18) "Soil amendment" means any substance which is intended to improve the physical characteristics of the soil, except commercial fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, unmanipulated natural substances (charcoal, sand, pumice, and clay, etc.), pesticides, and other material exempted by regulation.

(19) "Soil ingredient form" means the chemical compound such as salt, chelate, oxide, acid, etc., of an ingredient or the physical form of an ingredient.

(20) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(21) "Weight" means the weight of material as offered for sale.

History of Section.
(P.L. 1977, ch. 165, § 1; P.L. 1994, ch. 63, § 1.)

§ 2-22-4 Labeling. – (a) Soil amendment labels – the following information shall appear on the face or display side in a readable and conspicuous form, and is considered the label:

(1) Net weight
(2) Brand Name
(3) Guaranteed analysis
Soil amending ingredients
Name and source of ingredient] %
and continued until all soil amending ingredients are listed and percentages given.
Total percent of other ingredients
(4) Purpose of product
(5) Direction for application
(6) Name and address of the registrant.

(b) No information or statement shall appear on any package, label, delivery slip or advertising matter which is false or misleading to the purchaser as to the use, value, quality, analysis, type or composition of the soil amendment.

(c) The director may require proof of claims made for any soil amendment. If no claims are made he or she may require proof of usefulness and value of the soil amendments. For evidence of proof the director of environmental management may rely on experimental data, evaluations, or advice supplied from such sources as the dean of the college of resource development. The experimental design shall be related to Rhode Island conditions for which the product is intended. The director may accept or reject other sources of proof as additional evidence in evaluating soil amendments.

(d) No soil amending ingredient may be listed or guaranteed on the labels or labeling of soil amendments without the permission of the director. The director may allow a soil amending ingredient to be listed or guaranteed on the label or labeling if satisfactory supportive data is provided to the director to substantiate the value and usefulness of the soil amending ingredients. The director may rely on outside sources such as the director of the agricultural experiment station for assistance in evaluating the data submitted. When a soil amending ingredient is permitted to be listed or guaranteed it must be determinable by laboratory methods and is subject to inspection and analysis. The director may prescribe methods and procedures of inspection and analysis of the soil amending ingredient. The director may stipulate by regulation, the quantities of the soil amending ingredient or soil amending ingredients required in soil amendments.

(e) The director may allow labeling by volume rather than weight in the packaging of soil amendments.

History of Section.
(P.L. 1977, ch. 165, § 1; P.L. 1994, ch. 63, § 1.)

§ 2-22-5 Registration – Tonnage report and fee. – (a) Each separately identified product shall be registered before being distributed in this state. The application for registration shall be submitted to the director of environmental management on forms furnished or approved by the director and be accompanied by a fee of fifty dollars ($50.00) per product. Upon approval by the director, a certified copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year. Each manufacturer shall submit to the director a copy of labels and advertising literature with the registration request for each soil amendment.

(b) A distributor is not required to register any brand of soil amendment which is already registered under this chapter by another person, providing that the label does not differ in any respect.

(c) Before registering any soil amendment, the director may require evidence to substantiate the claims made for the soil amendment and proof of the value and usefulness of the soil amendment and of any process step during composting deemed essential to the safety of the soil amendment as provided in subsections (c) and (d) of § 2-22-4.

(d) The director may by regulation set the minimum amount of a soil amending ingredient and soil amending ingredients that must be present before a soil amendment can be registered and sold.

(e) The director may through promulgation of regulations require a tonnage fee and/or tonnage report annually. If required, the tonnage fee and tonnage report may be made on a calculated equivalent of volume to tons on brands labeled by volume rather than weight.

(f) The composter is required to register the operation with the director and shall identify their organic and any inorganic inputs and processes used in the making of their compost. The director shall set forth rules and regulations delineating the organic inputs allowed under the following compost designations and shall collect the appropriate registration fee for the compost operation. Compost classes are:

(1) Horticultural grade, general use, one hundred fifty dollars ($150) per year;

(2) Horticultural grade, mixed source general use, three hundred dollars ($300) per year;

(3) Non-food crop use, one thousand dollars ($1,000) per year; and

(4) Limited landscape use, two thousand five hundred dollars ($2,500) per year.

History of Section.
(P.L. 1977, ch. 165, § 1; P.L. 1994, ch. 63, § 1.)

§ 2-22-6 Inspection, sampling, analysis. – (a) It is the duty of the director of environmental management, who may act through his or her authorized agent, to sample, inspect, make analyses, and test soil amendments distributed within the state at any time and place and to any extent he or she may deem necessary to determine whether the soil amendments are in compliance with the provisions of this chapter. The director, individually or through his or her agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to soil amendments subject to the provisions of the chapter and the rules and regulations pertaining to soil amendments, and to the records relating to their distribution.

(b) The methods of analysis and sampling shall be those adopted by the director from sources such as the association of official analytical chemists, or other sources acceptable to the director.

(c) The results of official analyses of soil amendments and portions of official samples shall be distributed by the director as provided in the regulations.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-7 Penalties for deficient analysis. – (a) If the analysis shows that any soil amendment falls short of the guaranteed analysis in any one soil amending ingredient or in total soil amending ingredients, a penalty shall be assessed in favor of the department in accordance with the following provisions:

(1) A penalty of three (3) times the value of the deficiency if the deficiency in any one soil amending ingredient is more than:

(i) Twenty percent (20%) of the guarantee on any one soil amendment in which the soil amending ingredient is guaranteed up to and including twenty percent (20%);

(ii) Four percent (4%) under guarantee on any one soil amendment in which the soil amending ingredient is guaranteed twenty and one-tenth percent (20 1/10%) and above;

(2) A penalty of three (3) times the value of the total soil amending ingredients deficiency is assessed when the total deficiency is more than two percent (2%) under the calculated total soil amending ingredient guarantee;

(3) When a soil amendment is subject to penalty under both subdivisions (1) and (2) of this subsection, only the larger penalty is assessed.

(b) All penalties assessed under this section shall be paid to the director of environmental management within three (3) months after the date of notice from the director to the registrant. The penalty shall be deposited into the general treasury.

(c) Nothing contained in this section prevents any person from appealing to a court of competent jurisdiction for a judgment as to the justification of any penalties imposed under subsections (a) and (b) of this section.

(d) The penalties payable in subsections (a) and (b) of this section shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying those civil penalties.

(e) For the purpose of determining commercial values to be applied under the provisions of this section, the director shall determine from the registrant's sales invoice the values charged for the soil amending ingredients. If no invoice is available, or if the invoice fails to provide sufficient information, the director may use other methods to determine values. The values determined shall be used in determining and assessing penalties.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-8 Misbranding. – No person shall distribute a misbranded soil amendment. A soil amendment is deemed to be misbranded if:

(a) Its labeling is false or misleading in any particular;

(b) It is distributed under the name of another soil amendment;

(c) It is not labeled as required in §§ 2-22-4 and 2-22-5 and in accordance with regulations prescribed under this chapter;

(d) It purports to be or is represented as a soil amendment, unless that soil amendment conforms to the definitions of identity, if any, prescribed by regulation of the director of environmental management; in the adopting of those regulations, the director shall give due regard to commonly accepted definitions and official terms such as those issued by the association of American plant food control officials; or

(e) It does not conform to ingredient form, minimums, labeling and investigational allowances in the regulations adopted by the director.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-9 Stop sale, use, or removal orders. – The director of environmental management may issue and enforce a written or printed stop sale, use, or removal order to the owner or custodian of any lot of soil amendment and to hold at a designated place when the director finds the soil amendment is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and the soil amendment is released in writing by the director, or the violation has been otherwise legally disposed of by written authority. The director shall release the soil amendment withdrawn when the requirements of the provisions of the chapter are complied with and all costs and expenses incurred in connection with the withdrawn soil amendment have been paid.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-10 Penalties for violations. – (a) Any person convicted of violating any provision of this chapter or the rules and regulations promulgated under this chapter is subject to a penalty of not less than one hundred dollars ($100). The penalty shall not be greater than five thousand dollars ($5,000) or in addition to the penalty, the violator's registration fee shall be increased four hundred percent (400%) for the four (4) years subsequent to the penalty. All penalties shall be enforced by a summary proceeding in a court of competent jurisdiction. Nothing in this chapter shall be construed as requiring the director of environmental management or his or her authorized agent to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when he or she believes that the public interest will best be served by a suitable written warning.

(b) The director is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. The injunction to be issued without bond.

History of Section.
(P.L. 1977, ch. 165, § 1; P.L. 1994, ch. 63, § 1.)

§ 2-22-11 Rules and regulations. – The director of environmental management is authorized pursuant to publication and notice to adopt and enforce rules and regulations relating to sampling, analytical methods, form, minimum percentages, soil amending ingredients, exempted materials, investigational allowances, definitions, records, labels, labeling, liability bond, misbranding, mislabeling, and the distribution of soil amendments as may be necessary to carry into effect the full intent and meaning of this chapter. The director of environmental management is authorized and empowered to adopt and enforce rules and regulations to waive registration and fee requirements for agricultural, municipal and other compost facilities based upon the size of operation, volume and composition of material being composted.

History of Section.
(P.L. 1977, ch. 165, § 1; P.L. 1994, ch. 63, § 1; P.L. 1997, ch. 287, § 1.)

§ 2-22-12 Adulteration. – No person shall distribute an adulterated soil amendment. A soil amendment is deemed to be adulterated if:

(1) It contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plant, animal, or aquatic life when applied in accordance with directions for use on the label, or contains false or misleading information regarding input materials or production process, or if adequate warning statements and directions for use, which may be necessary to protect plant, animal, or aquatic life are not shown upon the label;

(2) If its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) If it contains unwanted crop or weed seed, or primary noxious or secondary noxious weed seed.

History of Section.
(P.L. 1977, ch. 165, § 1; P.L. 1994, ch. 63, § 1.)

§ 2-22-13 Cancellation or refusal of registration. – The director of environmental management is authorized and empowered to refuse registration of any brand of soil amendment if he or she finds the brand of soil amendment violates any section of this chapter or the rules and regulations promulgated under this chapter. The director is authorized and empowered to cancel the registration of any brand of soil amendment upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasions of this chapter, or any rules or regulations promulgated under this chapter and no registration shall be revoked until the registrant has been given the opportunity to appear for a hearing by the director.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-14 Constitutionality. – If any clause, sentence, paragraph, or part of this chapter is for any reason judged invalid by any court of competent jurisdiction, that judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph or part of this chapter directly involved in the controversy in which such judgment shall have been rendered.

History of Section.
(P.L. 1977, ch. 165, § 1.)

§ 2-22-15 Annual reports. – The registrant is required to submit an annual report of sales to the director. The composter shall submit payment to the director as follows:

(1) Eight cents ($.08) per ton for class 1 general use;
(2) Fifteen cents ($.15) per ton for class 2 use;
(3) Twenty cents ($.20) per ton for class 3 use; and
(4) Twenty-five cents ($.25) per ton for class 4 limited use.

History of Section.
(P.L. 1994, ch. 63, § 2.)

§ 2-22-16. Quality assurance funds. - All funds received by the department under this chapter shall be deposited into the feed and fertilizer quality testing fund established under § 2-7-6(a) and used for the express purpose of testing and assuring the soil amendment.

History of Section.
(P.L. 1994, ch. 63, § 2; P.L. 2016, ch. 512, art. 2, § 41.)

CHAPTER 2-23
Right to Farm

§ 2-23-1 Short title. – This chapter shall be known as "The Rhode Island Right to Farm Act".

History of Section.
(P.L. 1982, ch. 10, § 1.)

§ 2-23-2 Legislative findings. – The general assembly finds:
(1) That agricultural operations are valuable to the state's economy and the general welfare of the state's people;
(2) That agricultural operations are adversely affected by the random encroachment of urban land uses throughout rural areas of the state;
(3) That, as one result of this random encroachment, conflicts have arisen between traditional agricultural land uses and urban land uses; and
(4) That conflicts between agricultural and urban land uses threaten to force the abandonment of agricultural operations and the conversion of agricultural resources to non-agricultural land uses, whereby these resources are permanently lost to the economy and the human and physical environments of the state.

History of Section.
(P.L. 1982, ch. 10, § 1.)

§ 2-23-3 Declaration of policy. – The general assembly declares that it is the policy of the state to promote an environment in which agricultural operations are safeguarded against nuisance actions arising out of conflicts between agricultural operations and urban land uses.

History of Section.
(P.L. 1982, ch. 10, § 1.)

§ 2-23-4. "Agricultural operations" defined. -(a) As used in this chapter, "agricultural operations" includes any commercial enterprise that has as its primary purpose horticulture, viticulture, viniculture, floriculture, forestry, stabling of horses, dairy farming, or aquaculture, or the raising of livestock, including for the production of fiber, furbearing animals, poultry, or bees, and all such other operations, uses, and activities as the director, in consultation with the chief of division of agriculture, may determine to be agriculture, or an agricultural activity, use or operation. The mixed-use of farms and farmlands for other forms of enterprise including, but not limited to, the display of antique vehicles and equipment, retail sales,

tours, classes, petting, feeding and viewing of animals, hay rides, crop mazes, festivals and other special events are hereby recognized as a valuable and viable means of contributing to the preservation of agriculture.
(b) Nothing herein shall be deemed to restrict, limit, or prohibit nonagricultural operations from being undertaken on a farm except as otherwise restricted, regulated, limited, or prohibited by law, regulation, or ordinance or to affect the rights of persons to engage in other lawful nonagricultural enterprises on farms; provided, however, that the protections and rights established by this chapter shall not apply to such nonagricultural activities, uses or operations.

History of Section.
(P.L. 1982, ch. 10, § 1; P.L. 1993, ch. 151, § 1; P.L. 2004, ch. 53, § 1; P.L. 2004, ch. 178, § 1; P.L. 2007, ch. 321, § 1; P.L. 2007, ch. 408, § 1; P.L. 2014, ch. 360, § 1; P.L. 2014, ch. 406, § 1.)

§ 2-23-5 Nuisance actions against agricultural operations. – (a) No agricultural operation, as defined in this chapter is found to be a public or private nuisance, due to alleged objectionable:

(1) Odor from livestock, manure, fertilizer, or feed, occasioned by generally accepted farming procedures;

(2) Noise from livestock or farm equipment used in normal, generally accepted farming procedures;

(3) Dust created during plowing or cultivation operations;

(4) Use of pesticides, rodenticides, insecticides, herbicides, or fungicides.

This provision pertains only to nuisance actions under chapter 1 of title 10.

(b) In addition, no city or town ordinance adopted under § 23-19.2-1 shall be enforced against any agricultural operation as defined in this chapter. In addition, no rule or regulation of the department of transportation shall be enforced against any agricultural operation to prevent it from placing a seasonal directional sign or display on the state's right-of-way, on the condition that that sign or display conforms with the local zoning ordinance, and that sign or display is promptly removed by the agricultural operation upon the conclusion of the season for which said sign or display was placed.

History of Section.
(P.L. 1982, ch. 10, § 1; P.L. 1990, ch. 145, § 1.)

§ 2-23-6 Negligence actions – Pesticide use not affected. – The provisions of this chapter do not apply to agricultural operations conducted in a malicious or negligent manner, or to agricultural operations conducted in violation of federal or state law controlling the use of pesticides, rodenticides, insecticides, herbicides, or fungicides.

History of Section.
(P.L. 1982, ch. 10, § 1.)

§ 2-23-7 Severability. – If any provision of this chapter, or determination made under this chapter, or application of this chapter to any person, agency, or circumstances is held invalid by a court of competent jurisdiction, the remainder of this chapter and its application to any person, agency, or circumstances shall not be affected by the invalidity. The invalidity of any section or sections of this chapter shall not affect the remainder of this chapter.

History of Section.
(P.L. 1982, ch. 10, § 1.)

CHAPTER 2-23.1
Notification to Farmers

§ 2-23.1-1 Findings. – The general assembly finds and declares:

(a) That the preservation and expansion of agriculture are goals of the state;

(b) That among economic activities, agriculture is uniquely dependent on the land;

(c) That land use and water usage regulation and land taxation can have significant impacts on the viability of agricultural operations;

(d) That the understanding of such impacts is often not widespread or readily included in decision making; and

(e) That farmers, who have an appreciation of such impacts, may not know in a timely manner that actions are being considered at the local level that could have a direct and significant impact on agricultural operations.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-2 Purpose. – The purpose of this chapter is to foster communications between cities and towns and farmers on local actions that have a direct and significant impact on agricultural operations.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-3 Duties of the department. – The director of the department of environmental management shall adopt such rules as may be necessary to effectuate the provisions of this chapter. The division of agriculture shall by March 1, 2006, establish a list by city and town of agricultural operations, as defined in § 2-23-4, that have a current level II certificate of exemption pursuant to paragraph (32) of § 44-18-30, and shall provide by April 15, biennially commencing in 2008 to each city and town where such agricultural operations are located, a notification list of such agricultural operations located in whole or in part in the city or town. The list so established shall only include those agricultural operations that meet the criteria herein set forth and that have applied in writing to be on the list. Applications to be on the list shall be made not later than December 31, 2005 and every two (2) years thereafter, and shall include the name of the agricultural operations and location, the name and mailing address of the person to receive notification a copy of the certificate of exemption, and such other information as the department may require to determine whether the criteria set forth in this section have been satisfied.

History of Section.
(P.L. 2005, ch. 314, § 1; P.L. 2007, ch. 145, § 1; P.L. 2007, ch. 271, § 1.)

§ 2-23.1-4 Notification by towns and cities. – Town and city councils shall provide by ordinance for the notification to farmers on the list established by the division of agriculture as provided for in § 2-23.1-3. Such ordinance shall designate the official or officials responsible for providing the notification and shall provide that not later than seven (7) business days after a matter subject to notification, as provided for in § 2-23.1-5, is formally proposed for study or consideration by a public body in which the matter originates, written notification of the matter shall be mailed to said farmers. The written notification shall, as a minimum, state the matter subject to notification, the public body of the city or town which will be studying or considering the matter, and provide the name of the city or town official, whom one or more of said farmers may contact to request additional information about the matter or to request a work session as provided for in § 2-23.1-6.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-5 Matters subject to notification. – Matters subject to notification shall include the following actions to: (a) change the zoning and/or permitted uses of land used for farming; (b) designate or amend the designation of land used for farming in comprehensive plans or land use ordinances; (c) change the manner taxation of real and personal property used for farming; (d) establish or amend programs for the transfer of development rights affecting farming and hours of operation of machinery and equipment used in farming; (e) regulate water use for farming purposes; and (f) control noise and hours of operation of machinery and equipment used in farming.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-6 Work sessions. – Any farmer who receives a notification as provided for in § 2-23.1-4 may request in writing, within ten (10) business days after such notification, a work session to review the impact of the matter subject to notification on farming. The request shall be made to the official designated on the notification to receive such requests. Within twenty (20) business days after the receipt of such a request, said official shall notify in writing all farmers on the notification list of the request, providing the location, time and date of a work session on the matter, which shall be not sooner than seven (7) business days after the date of the notice of the said work session. The purpose of the work session shall be to review and consider the effects of the matter subject to notification on farming. The work session shall be open to the public and shall be prior to any final action on the matter subject to notification by the public body in the city or town in which said matter originates, and the findings and conclusions of the work session shall be reported to the public body. For any matter subject to notifications not more than one work session shall be deemed to be required by the provisions of this chapter.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-7 Emergency actions unimpaired. – The provisions of §§ 2-23.1-4 and 2-23.1-6 shall not be deemed to impair, limit, or restrict the power of a public body of a city or town to take emergency actions of a temporary duration that are necessary to protect public health, safety, or welfare.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-8 Validity of actions. – Except in instances of knowing and willful noncompliance with the provisions of this chapter, a failure to comply strictly with any of the requirements of this chapter shall not be deemed to affect or impair the validity of any action otherwise duly taken.

History of Section.
(P.L. 2005, ch. 314, § 1.)

§ 2-23.1-9 Severability. – If any clause, sentence, paragraph, section, or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate the remainder of the chapter but shall be confined in its operation to the clause, sentence, paragraph, section, or part directly involved in the controversy in which that judgment shall have been rendered.

History of Section.
(P.L. 2005, ch. 314, § 1.)

CHAPTER 2-23.2
Preservation of Agricultural Use

§ 2-23.2-1 Purpose. – The purpose of this chapter is to provide for the preservation of agriculture by protecting persons engaged in agricultural operations on agricultural lands, the development rights to which have been conveyed against changes in rules, regulations and requirements that would impair the ability to continue agricultural operations that were allowable at the time of the transfer of the development rights.

History of Section.
(P.L. 2006, ch. 68, § 1; P.L. 2006, ch. 77, § 1.)

§ 2-23.2-2 Definitions. – As used in this chapter, the following terms and phrases shall have the meaning set forth in this section unless the context indicates a different meaning or intent:

(1) "Agricultural land" means land conforming to the definition of agricultural land set forth in § 42-82-2.

(2) "Agricultural operation" means any activity defined as an agricultural operation in § 2-23-4.

(3) "Development right" means a development right conforming to the definition of a development right as set forth in § 42-82-2.

History of Section.
(P.L. 2006, ch. 68, § 1; P.L. 2006, ch. 77, § 1.)

§ 2-23.2-3 Right to agricultural use. – Unless explicitly curtailed, defined or restricted by an instrument conveying development rights to agricultural land, the right to engage in agricultural operations shall include all activities reasonably associated with and/or necessary to such agricultural operations that were allowable on the agricultural land as of the date of the final execution of the instrument conveying such development rights. A right to engage in such allowable agricultural operations shall be deemed to be an implied condition of the instrument.

History of Section.
(P.L. 2006, ch. 68, § 1; P.L. 2006, ch. 77, § 1.)

§ 2-23.2-4 Effect of rules and regulations. – All rules, regulations, ordinances and other requirements of the state and agencies, corporations, boards, commissions and political subdivisions of the state that are applicable to the conduct of agricultural operations allowable as of the date of the final execution of the instrument conveying development rights shall continue to apply to agricultural operations on such agricultural land. Unless specifically provided for by law or unless necessary to protect public health, safety or the environment from imminent hazard, no rule, regulation or requirement adopted by any agency, corporation, board, commission and/or political subdivision of the state after the date of such final execution of an instrument conveying development rights shall be deemed to diminish, restrict or impair such allowable agricultural activities, except as may be necessary not to impair the actual agricultural operations of another person engaged in agricultural operations, including those who have not conveyed development rights.

The limitations herein established shall not be deemed to diminish or impair the adoption, amendment, implementation, or enforcement of rules, regulations, ordinances, or other requirements that do not directly affect actual agricultural operations that are undertaken for the purposes of producing agricultural products.

History of Section.
(P.L. 2006, ch. 68, § 1; P.L. 2006, ch. 77, § 1.)

§ 2-23.2-5 Construction. – The provisions of this chapter shall apply to all instruments conveying development rights in effect as of or after the effective date of this chapter [June 14, 2006].

History of Section.
(P.L. 2006, ch. 68, § 1; P.L. 2006, ch. 77, § 1.)

§ 2-23.2-6 Severability. – If any provision of this chapter, or determination made under this chapter, or application of this chapter to any person, agency or circumstances is held invalid by a court of competent jurisdiction, the remainder of this chapter and its application to any person, agency or circumstances shall not be affected by the invalidity. The invalidity of any section or sections of this chapter shall not affect the remainder of this chapter.

History of Section.
(P.L. 2006, ch. 68, § 1; P.L. 2006, ch. 77, § 1.)

CHAPTER 2-24
Northeast Interstate Dairy Compact

§ 2-24-1 Ratification of compact – Text. – The governor having entered on behalf of this state into a compact, substantially in the following form, with one or more of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont and Virginia and with any other states of the United States or provinces of the Dominion of Canada as may have legally joined in this compact, the legislature signifies its approval and ratification of the compact entered into, as to any of those states or provinces that may have or may hereafter legally join in the compact:

ARTICLE I

STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

Section 1. Statement of purpose, findings and declaration of policy. The purpose of this compact is to recognize by constitutional prerequisite the interstate character of the northeast dairy industry and to form an interstate commission for the northeast region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the northeast, and to assure consumers of an adequate, local supply of pure and wholesome milk.

In today's regional dairy marketplace, cooperative, rather than individual state action may address more effectively the market disarray. Under our constitutional system, properly authorized, states acting cooperatively may exercise more power to regulate, interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the northeast dairy region. Historically, individual state regulatory action has been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937 [7 U.S.C. § 601 et seq.], establishes only minimum prices for dairy products, without preempting the power of states to regulate milk prices above the minimum levels so established. Based on this authority, each state in the region has individually attempted to implement at least one regulatory program in response to the current dairy industry crisis.

The participating states find and declare that the dairy industry is the paramount agricultural activity of the northeast. Dairy farms, and associated suppliers, marketers, processors and retailers, are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential to the region's rural communities and character. The farms preserve open spaces, sculpt the landscape and provide the land base for a diversity of recreational pursuits. In defining the rural character of our communities and landscape, dairy farms also provide a major draw for our tourist industries.

By entering into this compact, the participating states affirm that their ability to regulate the price which northeast dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the northeast dairy industry, with all the associated benefits.

ARTICLE II

DEFINITIONS AND RULES OF CONSTRUCTION

Section 2. Definitions. For the purpose of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) "Commission" means the commission established by this compact.

(2) "Compact" means this interstate compact.

(3) "Region" means the territorial limits of the states which are or become parties to this compact.

(4) "Participating state" means a state which has become a party to this compact by the enactment of concurring legislation.

(5) "Regulated area" means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(6) "Pool plant" means any milk plant located in a regulated area.

(7) "Partially regulated plant" means a milk plant not located in a regulated area but having Class I distribution within such area, or receipts from producers located in such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) "Compact over-order price" means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections ten and eleven of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

(9) "Commission marketing order" means regulations adopted by the commission pursuant to sections ten and eleven of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

(10) "Milk" means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

(11) "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of § 3.

(12) "State dairy regulation" means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

Section 3. Rules of construction. (a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may

achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III

COMMISSION ESTABLISHED

Section 4. Commission established. There is hereby created a commission to administer the compact, composed of delegations from each state in the region. A delegation shall include not less than three (3) nor more than five (5) persons. Each delegation shall include at least one (1) dairy farmer who is engaged in the production of milk at the time of appointment or reappointment and one (1) consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as provided in, the appointing state. Delegation members shall serve no more than three (3) consecutive terms, with no single term of more than four (4) years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission. Each state delegation shall be entitled to one (1) vote in the conduct of the commission's affairs.

Section 5. Voting requirements. All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's by-laws, shall be by majority vote of the delegations present. Establishment or termination of an over-order prices or commission marketing order shall require at least a two-thirds (2/3) vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of the state's delegation. A majority of the delegations from the participating states shall constitute a quorum of the conduct of the commission's business.

Section 6. Administration and management. (a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and, together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one (1) member elected by each delegation.

(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds (2/3) vote and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The commissions shall file an annual report with the secretary of agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

(1) To sue and be sued in any state or federal court;

(2) To have a seal and alter the same at pleasure;

(3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;

(4) To borrow money and to issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of § 18 of this compact;

(5) Appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications; and

(6) To create and abolish such offices, employments, and positions as it deems necessary for the purposes of their compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and

retirement rights of these officers and employees. The commission may also retain personal services on a contract basis.

Section 7. Rule-making power. In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV

POWERS OF THE COMMISSION

Section 8. Powers to promote regulatory uniformity, simplicity and interstate cooperation. The commission is hereby empowered to:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Prepare and transmit to the participating states model dairy laws and regulations dealing with the inspection of farms and plants, sanitary codes, labels for dairy products and their imitations, standards for dairy products, license standards, producer security programs, and fair trade laws.

(3) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(4) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposiums or conferences designed to improve industry relations, or a better understanding of problems.

(5) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

(6) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(7) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

(8) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

Section 9. Equitable farm prices. (a) The power granted in this section and § 10 shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish one (1) or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to class I milk. Such over-order price shall not exceed one dollar fifty cents ($1.50) per gallon. Beginning in 1990, and using that year as a base, the foregoing one dollar fifty cents ($1.50) per gallon maximum shall be adjusted annually by the rate of change in the consumer price index as reported by the bureau of labor statistics of the United States department of labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The commission is hereby empowered to establish the minimum price for milk to be paid by pool plants, partially regulated plants and all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one (1) or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal milk marketing order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the commission shall take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk.

(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

Section 10. Optional provisions for pricing order. Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

(A) With respect to regulations establishing a compact over-order price, the commission may establish one (1) equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

(B) With respect to any commission marketing order, as defined in § 2, which replaces one (1) or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions, requiring persons who bring class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price paid to producers for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under a compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provisions requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to article VII, § 18(a).

(10) Provision for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966 [42 U.S.C. § 1771 et seq.].

(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V

RULEMAKING PROCEDURE

Section 11. Rulemaking procedure. Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under § 9(f) or amendment thereof, as provided in article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by § 4 of the federal administrative procedures act, as amended (5 U.S.C. § 553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

Section 12. Findings and referendum. (a) In addition to the concise general statement of basis and purpose required by § 4(b) of the federal administrative procedures act, as amended (5 U.S.C. § 553(c)), the commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in § 13.

Section 13. Producer referendum. (a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under § 9(f) is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds (2/3) of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act [U.S.C. §§ 291 and 292], bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivisions (2) through (5) hereof.

(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner, as established, and in the form prescribed, by the commission.

(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which

he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to insure that all milk producers are informed regarding a proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his or her approval or disapproval with the commission either directly or through his or her cooperative.

Section 14. Termination of over-order price or marketing order. (a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by § 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553.)

ARTICLE VI

ENFORCEMENT

Section 15. Records, reports, access to premises. (a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall upon conviction be subject to a fine of not more than one thousand dollars ($1,000) or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

Section 16. Subpoena, hearings and judicial review. (a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas through out all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He or she shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within thirty (30) days from the date of entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy

of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the commission from obtaining relief pursuant to subsection 18. Any proceedings brought pursuant to § 18 (except where brought by way of counterclaim in proceedings instituted pursuant to this section) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

Section 17. Enforcement with respect to handlers.

(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the commission in any state or federal court of competent jurisdiction; or

(2) With the agreement of the appropriate state agency of a participating state, by referral to the state agency for enforcement by judicial or administrative remedy.

(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII

FINANCE

Section 18. Finance of start-up and regular costs. (a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under § 6 (d)(4). In order to finance the costs of administration and enforcement of this compact, including pay back of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. The initial assessment may apply to the projected purchases of handlers for the two (2) month period following the date the commission convenes. If imposed, this assessment shall be collected on a monthly basis for up to one (1) year from the date the commission convenes, in an amount not to exceed one-tenth of one percent (0.1%) of the applicable federal milk marketing order blend price per hundred weight of milk purchased from producers during the period of the assessment. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

Section 19. Audit and accounts. (a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII

ENTRY INTO FORCE – ADDITIONAL MEMBERS AND WITHDRAWAL

Section 20. Entry into force – Additional members. The compact shall enter into force effective when enacted into law by any three (3) states of the group of states composed of Connecticut, Delaware, Maine,

Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, and when the consent of congress has been obtained. This compact shall also be open to states which are contiguous to any of the named states and open to states which are contiguous to participating states.

Section 22. Withdrawal from compact. Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Section 23. Severability. If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact.

History of Section.
(P.L. 1993, ch. 106, § 1.)

CHAPTER 2-25
The Rhode Island Local Agriculture and Seafood Act

§ 2-25-1 Short title. – This chapter shall be known and may be cited as the "The Rhode Island Local Agriculture and Seafood Act."

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-2 Legislative findings. – The general assembly hereby finds and declares:

(1) A viable agricultural and seafood sector in Rhode Island represents part of a secure regional food supply, which in turn lends itself to energy and economic efficiencies;

(2) The federal government and regional entities have established and continue to establish programs and processes to support local agricultural production and increased consumption of locally produced food, and Rhode Island functions in whole or in part in the context of federal and regional programs;

(3) The general public is increasingly interested in locally produced food;

(4) The benefits of local food systems to local communities include open land, jobs, nutritious and safe foods, and youth education opportunities;

(5) Farms and commercial fishing are an integral part of Rhode Island's overall economy;

(6) Encouraging the continued growth of Rhode Island's agricultural and seafood sectors is integral to reducing food insecurity in Rhode Island;

(7) Relationship-based food systems such as farm-to-school programs, community supported agriculture (CSA) programs, farmers' markets, and pick-your-own operations are increasingly popular and offer areas of opportunity for new farmers; and

(8) The state of Rhode Island has historically established programs to provide for and regulate the agriculture and commercial fishing sectors.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-3 Legislative intent. – The general assembly intends:

(1) To support and develop more robust and self-sustaining agricultural and seafood sectors that also promotes emerging agricultural industries;

(2) That policies and programs of the state will support and promote the Rhode Island agriculture and seafood industries as a vital component of the state's economy and essential steward of our land and coastal waters;

(3) That current policies and programs pertaining to the viability of Rhode Island's agricultural and seafood industries be reviewed and confirmed or changed in order to assure the long-term economic prosperity of the industries; and

(4) That Rhode Island will promote processing and consumption of agricultural and seafood products from within Rhode Island.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-4 Definitions. – When used in this chapter, the following terms shall have the following meanings:

(1) "Director" means the director of the department of environmental management or his or her duly authorized agent or agents.

(2) "Program" means the local agriculture and seafood small grants and technical assistance program.

(3) "Fund" means the local agriculture and seafood small grants and technical assistance fund.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-5 Small grants and technical assistance program established. – The department of environmental management shall establish the local agriculture and seafood small grants and technical assistance program. Through the program the department shall: (1) Assist in the marketing of Rhode Island grown agricultural products and local seafood for the purpose of sale and promotion within the state of Rhode Island or United States; (2) Enhance the economic competitiveness of Rhode Island grown agricultural products and local seafood; (3) Provide financial and technical assistance support to organizations and farmers for activities and programs which enhance the economic viability of local agriculture, and support the development of a locally based, safe and sustainable food system; (4) Provide individual farm grants to small or beginning Rhode Island farmers that support the entry or sustainability within the respective industry; (5) Work with the state department of health to further develop and support food safety related programs and standards pertaining to local agriculture and seafood; and (6) Perform other activities necessary to facilitate the success and viability of the state's agricultural and seafood sectors.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-6 Local agriculture and seafood small grants and technical assistance fund established and solicitation of funding. – (a) For the purpose of paying the costs to the department of environmental management of administering the local agriculture and seafood small grants and technical assistance program and for the purpose of carrying out the purposes of the program as stated in subdivisions 2-25-5(3) and 2-25-5(4) a restricted receipt account is hereby created and known as the "local agriculture and seafood small grants and technical assistance fund."

(b) The program shall be empowered to apply for and receive from any federal, state, or local agency, private foundation, or individual, any grants, appropriations, or gifts in order to carry out the purposes of the program established in § 2-25-5.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-7 Use of funds. – (a) A non-profit entity or small or beginning farmer may apply to the department of environmental management for a grant to be used to fulfill the purposes of the program as stated in subdivisions 2-25-5(3) and 2-25-5(4). Any grant disbursed under this program shall not exceed twenty thousand dollars ($20,000) per year. Applications for grants authorized under this section shall:

(1) Provide a brief summary of the nonprofit entity or small or beginning farmer's mission, goals, history, programs, and major accomplishments, success stories and qualifications;

(2) Briefly describe the proposed project or program, the capacity to carry out the program and who will benefit from the program;

(3) Describe the expected outcomes and the indicators of those outcomes;

(4) Outline the timeline to be used in the implementation of the program or project; and

(5) Provide a program or project budget.

(b) The funds shall also be used by the department to provide administrative and technical support of the program, and to leverage program funds with other potential federal, state or nonprofit funding sources, and shall serve to develop, implement and enforce when appropriate food safety related standards and programs related to local agriculture and seafood in coordination with the Rhode Island department of health and appropriate federal agencies.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-8 Accountability and oversight. – (a) On an annual basis, the department shall prepare a report that details the performance of the local agriculture and seafood small grants and technical assistance program, and the disbursements made during the prior year from the local agriculture and seafood small grants and technical assistance fund and other sources, and how the department plans to allocate and use funds provided through the local agriculture and seafood small grants and technical assistance fund during the next year. The report shall include any additional, relevant information relating to the administration of the program, and the status of any state-based agricultural assessments and local food production assessments.

(b) The department shall annually schedule and conduct one or more public meetings to solicit input from the general public on whether the program is meeting its intended purposes, and to solicit recommendations for modifying the program.

(c) The department shall annually submit the report, including an addendum summarizing the feedback provided at the public meeting(s) referenced in § 2-25-9, to the general assembly.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

§ 2-25-9 Powers and duties. – The department of environmental management may adopt any rules necessary for the administration of this section.

History of Section.
(P.L. 2012, ch. 37, § 1; P.L. 2012, ch. 38, § 1.)

CHAPTER 2-26
Hemp Growth Act

§ 2-26-2. Legislative findings. -The general assembly finds and declares as follows:

(1) The cannabis sativa plant used for the production of hemp is separate and distinct from forms of cannabis used to produce marijuana.

(2) Hemp is used for products such as building materials, cloth, cordage, fiber, food, floor coverings, fuel, industrial chemicals, paint, paper, particle board, plastics, seed meal, seed oil, and yarn.

(3) Industrial hemp production has remained legal throughout most of the world and hemp has the capacity to grow in a multitude of different climates, altitudes, soils, and weather conditions.

(4) Currently, it is legal to import industrial hemp into the United States.

(5) Although federal law currently prohibits the cultivation of hemp, the laws of California, Colorado, Indiana, Kentucky, Maine, Montana, North Dakota, Oregon, South Carolina, Tennessee, Vermont, Virginia and West Virginia permit commercial hemp programs.

(6) Currently, the United States is the largest importer of hemp products, the largest portion of which is imported from China.

(7) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this chapter does not put the state of Rhode Island in violation of federal law.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-3. Definitions. -When used in this chapter, the following terms shall have the following meanings:

(1) "Applicant" means any person, firm, corporation, or other legal entity who or that, on his, her, or its own behalf, or on behalf of another, has applied for permission to engage in any act or activity that is regulated under the provisions of this chapter.

(2) "Department" means the department of business regulation.

(3) "Division" means the division of agriculture in the department of environmental management.

(4) "Grower" means a person or entity who or that produces hemp for commercial purposes.

(5) "Handler" means a person or entity who or that produces hemp for processing into commodities, products, or agricultural hemp seed.

(6) "Hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent (0.3%) on a dry-weight basis of any part of the plant cannabis, or per volume or weight of marijuana product or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant cannabis regardless of the moisture content. Hemp is also commonly referred to in this context as "industrial hemp."

(7) "Hemp products" means all products made from the plants, including, but not limited to, concentrated oil, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified for cultivation.

(8) "THC" means tetrahydrocannabinol, the principal psychoactive constituent of cannabis.

(9) "THCA" means tetrahydrocannabinol acid.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-4. Hemp an agricultural product. -Hemp is an agricultural product that may be grown as a crop, produced, possessed, distributed, and commercially traded pursuant to the provisions of this chapter. Hemp is subject to primary regulation by the department. The division may assist the department in the regulation of hemp growth and production.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-5. Authority over licensing and sales.

(a) The department shall promulgate rules and regulations for the licensing and regulation of hemp growers and handlers or persons otherwise employed by the applicant and shall be responsible for the enforcement of such licensing and regulation.

(b) All growers and handlers must have a hemp license issued by the department.

(c) The application for a hemp license shall include, but not be limited to, the following:

(1) The name and address of the applicant who will supervise, manage, or direct the growing and handling of hemp and the names and addresses of any person or entity partnering or providing consulting services regarding the growing or handling of hemp.

(2) A certificate of analysis that the seeds or plants obtained for cultivation are of a type and variety that do not exceed the maximum concentration of delta-9 THC, as set forth in § 2-26-3; any seeds that are obtained from a federal agency are presumed not to exceed the maximum concentration and do not require a certificate of analysis.

(3) The location of the facility, including the Global Positioning System location, and other field reference information as may be required by the department with a tracking program and security layout to ensure that all hemp grown is tracked and monitored from seed to distribution outlets.

(4) An explanation of the seed to sale tracking, cultivation method, extraction method, and certificate of analysis or certificate of analysis for the standard hemp seeds.

(5) Verification, prior to planting any seed, that the plant to be grown is of a type and variety of hemp that will produce a delta-9 THC concentration of no more than three-tenths of one percent (0.3%) on a dry-weight basis.

(6) Documentation that the licensee and/or its agents have entered into a purchase agreement with a hemp handler or processor.

(7) All applicants:

(i) Shall apply to the state police for a National Criminal Identification records check that shall include fingerprints submitted to the Federal Bureau of Investigation. Upon the discovery of a disqualifying conviction defined in paragraph (iv) and (v), and in accordance with the rules promulgated by the department, the state police shall inform the applicant, in writing, of the nature of the conviction, and the state police shall notify the department, in writing, without disclosing the nature of the conviction, that a conviction has been found;

(ii) In those situations in which no conviction has been found, the state police shall inform the applicant and the department, in writing, of this fact;

(iii) All applicants shall be responsible for any expense associated with the criminal background check with fingerprints.

(iv) Any applicant who has been convicted of any felony offense under chapter 28 of title 21, or any person who has been convicted of murder, manslaughter, first-degree sexual assault, second-degree sexual assault, first-degree child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon, or any assault and battery punishable as a felony or assault with intent to commit any offense punishable as a felony, shall be disqualified from holding any license or permit under this chapter. The department shall notify any applicant, in writing, for a denial of a license pursuant to this subsection.

(v) For purposes of this section, "conviction" means, in addition to judgments of conviction entered by a court subsequent to a finding of guilty, or plea of guilty, those instances where the defendant has entered a plea of nolo contendere and has received a jail sentence or a suspended jail sentence, or those instances wherein the defendant has entered into a deferred sentence agreement with the Rhode Island attorney general and the period of deferment has not been completed.

(8) Any other information as set forth in rules and regulations as required by the department.

(d) All employees of the applicant shall register with the Rhode Island state police.

(e) The department shall issue a hemp license to the applicant if he, she, or it meets the requirements of this chapter, upon the applicant paying a licensure fee of two thousand five hundred dollars ($2,500). Said license shall be renewed every two (2) years upon payment of a two thousand five hundred dollar ($2,500) renewal fee. Any licensee convicted of any disqualifying offense described in subsection (c)(7)(iv) shall have his, her, or its license revoked. All license fees shall be directed to the department to help defray the cost of enforcement. The department shall collect a nonrefundable application fee of two hundred fifty dollars ($250) for each application to obtain a license.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-6. Rulemaking authority. –

(a) The department shall adopt rules to provide for the implementation of this chapter, which shall include rules to require hemp to be tested during growth for THC levels and to require inspection of hemp during sowing, growing season, harvest, storage, and processing. Included in these rules should be a system requiring the licensee to submit crop samples to an approved testing facility, as determined by the department for testing and verification of compliance with the limits on delta-9 THC concentration.

(b) The department shall not adopt under this or any other section, a rule that would prohibit a person or entity to grow or distribute hemp based on the legal status of hemp under federal law.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-7. Registration. –

(a) Except as provided in this section, beginning sixty (60) days after the effective date of this chapter, the department shall accept the application for licensure to cultivate hemp submitted by the applicant.

(b) A person or entity registered with the department pursuant to this chapter shall allow hemp crops, throughout sowing, year-long growing seasons, harvest storage, and processing, to be inspected and tested by and at the discretion of the department.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-8. Methods of extraction. –

(a) The department shall adopt rules regarding permissible methods of extraction.

(b) No butane method of extraction shall be permitted by the department.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

§ 2-26-9. Research and educational growth by institutions of higher education.

(a) The department is authorized to certify any higher educational institution in Rhode Island to grow or handle, or assist in growing or handling, industrial hemp for the purpose of agricultural or academic research where such higher educational institution submits the following to the department:

(1) The location where the higher educational institution intends to grow or cultivate the industrial hemp;

(2) The higher educational institution's research plan; and

(3) The name of the employee of the higher educational institution who will supervise the hemp growth, cultivation, and research.

(b) Growth for purposes of agricultural and educational research by a higher educational institution shall not be subject to the licensing requirements set forth in § 2-26-5.

(c) The applicant is encouraged to partner with an institution of higher learning within the state of Rhode Island to develop best practices for growing and handling hemp.

(d) The department shall maintain a list of each higher education institution certified to grow or cultivate industrial hemp under this chapter.

History of Section.
(P.L. 2016, ch. 441, § 1; P.L. 2016, ch. 442, § 1.)

TITLE 3 – ALCOHOLIC BEVERAGES

CHAPTER 3-1
General Provisions

3-1-3 Manufacture or sale of cider and manufacture of wines and malt liquors for domestic use exempt from title. – Nothing contained in this title and chapter shall be construed as to prohibit the manufacture of cider, or the sale of cider; or the manufacture of wine or malt liquors for domestic use.

History of Section.
(P.L. 1933, ch. 2013, § 67; G.L. 1938, ch. 163, § 20; G.L. 1956, § 3-1-3.)

CHAPTER 3-6
Manufacturing and Wholesale Licenses

§ 3-6-1. Manufacturer's license.

(a) A manufacturer's license authorizes the holder to establish and operate a brewery, distillery, or winery at the place described in the license for the manufacture of beverages within this state. The license does not authorize more than one of the activities of operator of a brewery or distillery or winery and a separate license shall be required for each plant.

(b) The license also authorizes the sale at wholesale, at the licensed place by the manufacturer of the product of the licensed plant, to another license holder and the transportation and delivery from the place of sale to a licensed place or to a common carrier for that delivery. The license does authorize the sale of beverages for consumption on premises where sold; provided that the manufacturer does not sell an amount in excess of thirty-six ounces (36 oz.) of malt beverage or four and one-half ounces (4.5 oz.) of distilled spirits per visitor, per day, or a combination not greater than three (3) drinks where a drink is defined as twelve ounces (12 oz.) of beer or one and one-half ounces (1.5 oz.) of spirits, for consumption on the premises. The license also authorizes the sale of beverages produced on the premises in an amount not in excess of two hundred eighty-eight ounces (288 oz.) of malt beverages, or seven hundred fifty milliliters (750 ml) of distilled spirits per visitor, per day, to be sold in containers that may hold no more than seventy-two ounces (72 oz.) each. These beverages may be sold to the consumers for off-premises consumption, and shall be sold pursuant to the laws governing retail Class A establishments. The containers for the sale of beverages for off-premises consumption shall be sealed. The license does not authorize the sale of beverages in this state for delivery outside this state in violation of the law of the place of delivery. The license holder may provide to visitors, in conjunction with a tour and/or tasting, samples, clearly marked as samples, not to exceed three hundred seventy-five milliliters (375 ml) per visitor for distilled spirits and seventy-two ounces (72 oz.) per visitor for malt beverages at the licensed plant by the manufacturer of the product of the licensed plant to visitors for off-premises consumption. The license does not authorize providing samples to a visitor of any alcoholic beverages for off-premises consumption that are not manufactured at the licensed plant.

(c) The annual fee for the license is three thousand dollars ($3,000) for a distillery producing more than fifty thousand (50,000) gallons per year and five hundred dollars ($500) for a distillery producing less than or equal to fifty thousand (50,000) gallons per year; five hundred dollars ($500) for a brewery; and one thousand five hundred dollars ($1,500) for a winery producing more than fifty thousand (50,000) gallons per year and five hundred dollars ($500) per year for a winery producing less than fifty thousand (50,000) gallons per year. All those fees are prorated to the year ending December 1 in every calendar year and shall be paid to the division of taxation and be turned over to the general treasurer for the use of the state.

History of Section.
(P.L. 1933, ch. 2013, § 5; P.L. 1934, ch. 2088, § 2; P.L. 1935, ch. 2270, § 1; G.L. 1938, ch. 163, § 3; P.L. 1942, ch. 1212, art. 12, § 1; G.L. 1956, § 3-6-1; P.L. 1978, ch. 223, § 2; P.L. 1996, ch. 100, art. 36, § 9; P.L. 2004, ch. 595, art. 30, § 1; P.L. 2013, ch. 462, § 1; P.L. 2013, ch. 463, § 1; P.L. 2016, ch. 142, art. 13, § 1; 2016, ch. 184, § 1; P.L. 2016, ch. 198, § 1.)

3-6-1.1 Farmer-winery licenses – Fee. – (a) For the purpose of encouraging the development of domestic vineyards, the department shall issue a farmer-winery license to any applicant of the state and to applying partnerships and to applying corporations organized under the laws of any other state of the United States and admitted to do business in this state.

(b) A winegrower may operate a farmer's winery under any conditions the department may prescribe by regulation.

(c) A winegrower may import fruit, flowers, herbs, and vegetables to produce not more than seven thousand five hundred (7500) gallons of wine during his or her first year of operation, not more than five thousand (5000) gallons during his or her second year of operation, not more than two thousand five hundred (2500) gallons during his or her third year of operation and not more than one thousand (1000) gallons per year thereafter.

(d) If a winegrower suffers crop failure in his or her vineyard in a particular year to the extent that the fruit yield from his or her vineyard that year is at least twenty-five percent (25%) below the average yield for the previous two (2) years, the winegrower may import fruit into the state during that year in an amount equal to the difference between the current year's yield and the average for the previous two (2) years. A winegrower shall not import unfermented juice, wine or alcohol into the state.

(e) A winegrower may sell wine or winery products under his or her label and fermented by him or her or another winegrower licensed by the state. He or she may sell wine or winery products:

(1) At wholesale to any person holding a valid license to manufacture alcoholic beverages;

(2) At wholesale to any person holding a valid wholesaler's and importer's license under §§ 3-6-9 – 3-6-11;

(3) At wholesale to any person holding a valid farmer-winery license under this section;

(4) At retail by the bottle to consumers for consumption off the winery premises; provided, however a winegrower shall not sell wine at retail for delivery off the site of the winery premises in Rhode Island directly to Rhode Island residents, except in the manner provided for like sales and shipment in § 3-4-8.

(5) At wholesale to any person in any state or territory in which the importation and sale of wine is not prohibited by law;

(6) At wholesale to any person in any foreign country;

(7) At wholesale to liquor dealers holding a valid license under the provisions of title 3;

(8) At wholesale to restaurants holding a valid license under the provisions of title 3; and

(9) At retail by the bottle or by the glass for consumption on the winery premises.

(f) A winegrower may not sell at retail to consumers any wine or winery product not fermented in the state and sold under the brand name of the winery.

(g) A winegrower may serve complimentary samples of wine produced by the winery where the wine is fermented in the state and sold under the winery brand name.

(h) All wines sold by a licensee shall be sold under any conditions and with any labels or other marks to identify the producer as the department may prescribe.

(i) Every applicant for a farmer-winery license shall, at the time of filing an application, pay a license fee based on a reasonable estimate of the amount of wine to be produced during the year covered by the license. Persons holding farmer-winery licenses shall report annually at the end of the year covered by the

license the amount of wine produced during that year. If the total amount of wine produced during the year is less than the amount permitted by the fee already paid, the state shall reimburse the licensee for whatever fee was paid in excess. If the total amount of wine produced during the year exceeds the amount permitted by the fee already paid, the licensee shall pay whatever additional fee is owing.

History of Section.
(P.L. 1978, ch. 223, § 3; P.L. 1996, ch. 100, art. 36, § 9; P.L. 2005, ch. 330, § 1; P.L. 2005, ch. 399, § 1; P.L. 2008, ch. 60, § 1; P.L. 2008, ch. 64, § 1.)

TITLE 4--ANIMALS AND ANIMAL HUSBANDRY

CHAPTER 4-1
Cruelty to Animals

§ 4-1-1. Definitions – Responsibility for agents and employees.

(1) "Animal" and "animals" means every living creature except a human being.

(2) "Licensed graduate veterinarian" or "veterinarian" means a person licensed to engage in the practice of veterinary medicine, surgery, and dentistry in this state who is a graduate of an accredited veterinary medical, surgical, and dental school or college of a standard recognized by the Rhode Island Veterinary Medical Association.

(3) "Owner", "person", and "whoever" means corporations as well as individuals.

(4) "Guardian" shall mean a person(s) having the same rights and responsibilities of an owner, and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors, or has control, custody, or possession of an animal and who is responsible for an animal's safety and well-being.

(5) Except for livestock as defined in § 4-26-3(6), "adequate living conditions" shall mean a sanitary environment that is dry and free of accumulated feces and free of debris and garbage that may clutter the environment, pose a danger, or entangle the animal. The environment in which the animal is kept must be consistent with federal regulatory requirements, where applicable, or generally recognized professional standards, where applicable, or otherwise be of sufficient size so as not to inhibit comfortable rest, normal posture, or range of movement, and suitable to maintain the animal in a good state of health. "Adequate living conditions" for livestock as defined in § 4-26-3(6) shall mean best management practices established, no later than July 1, 2014, by the Rhode Island livestock welfare and care standards advisory council.

(6) Except for livestock as defined in § 4-26-3, "hazardous accumulation of animals" means the accumulation of a large number of animals, to a point where the owner, possessor, or person having the charge of custody of the aforementioned animals fails to or is unable to provide "adequate living conditions" as defined herein, resulting in harm or danger to the health and wellbeing of the animals.

(b) The knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by or in the custody of that corporation are held to be the acts and knowledge of that corporation.

History of Section.
(G.L. 1896, ch. 114, § 7; G.L. 1909, ch. 138, § 7; G.L. 1923, ch. 141, § 7; G.L. 1938, ch. 640, § 7; P.L. 1945, ch. 1651, § 1; G.L. 1956, § 4-1-1; P.L. 2001, ch. 72, § 1; P.L. 2013, ch. 180, § 1; P.L. 2013, ch. 232, § 1; P.L. 2017, ch. 439, § 1; P.L. 2017, ch. 444, § 1.)

§ 4-1-2. Overwork, mistreatment, or failure to feed animals – Shelter defined.

(a) Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, or mutilated, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, inflicts cruelty upon that animal, or willfully fails to provide that animal with proper food, drink, shelter, or protection from the weather, shall, for each offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars ($50.00) nor exceeding five hundred dollars ($500), or both. If the offense described in this section results in the death of the animal, the person shall be punished in the manner provided in § 4-1-5.

(b) Every owner, possessor, or person having charge of any animal may, upon conviction of a violation of this section, be ordered to forfeit all rights to ownership of the animal to the animal-control officer of the city or town in which the offense occurred or to a humane society that owns and operates the shelter that provided the subject animal shelter subsequent to any confiscation of said animal pursuant to this section.

(c) Shelter means a structure used to house any animal that will provide sufficient protection from inclement elements for the health and well being of the animal.

History of Section.
(G.L. 1896, ch. 114, § 1; P.L. 1898, ch. 548, § 1; G.L. 1909, ch. 138, § 1; G.L. 1923, ch. 141, § 1; G.L. 1938, ch. 640, § 1; G.L. 1956, § 4-1-2; P.L. 1981, ch. 298, § 1; P.L. 1984, ch. 351, § 2; P.L. 1994, ch. 307, § 1; P.L. 2016, ch. 455, § 1; P.L. 2016, ch. 458, § 1.)

§ 4-1-3.1. Prohibited practices in destruction of animals. -It is unlawful for any veterinarian or owner, as defined in § 4-1-1, or any agent of a veterinarian or owner, or any other person to destroy any animal by the use of a high altitude decompression chamber. When carbon monoxide is used as a euthanizing agent, only one animal is placed in the chamber. Violation of this section is punishable by a fine of five hundred dollars ($500).

History of Section.
(P.L. 1981, ch. 310, § 1; P.L. 1984, ch. 164, § 1.)

§ 4-1-6. Shearing of horses in winter. -No person shall cut, clip, or shear the hair or coating of any horse between October 15th and March 1st unless the necessity for the cutting, clipping, or shearing has been certified in writing and filed with the Rhode Island society for the prevention of cruelty to animals by a licensed graduate veterinarian. Any person violating this section shall, for each offense, be imprisoned not exceeding ten (10) days or be fined not exceeding fifty dollars ($50.00), or both.

History of Section.
(G.L. 1938, ch. 640, § 22; P.L. 1945, ch. 1651, § 2; G.L. 1956, § 4-1-6.)

§ 4-1-6.1. Operating upon tails of bovines prohibited.

(a) Any person who intentionally cuts or alters the bone, tissues, muscles or tendons of the tail of any bovine or otherwise operates upon it in any manner for the purpose or with the effect of docking, setting, or otherwise altering the natural carriage of the tail, or who knowingly permits the same to be done upon the

premises of which he or she is the owner, lessee, proprietor or user, or who assists in or is voluntarily present at such cutting or alteration, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars ($500), or both. If any bovine is found with the bone, tissues, muscles or tendons of its tail cut or altered as aforesaid upon the premises or in the charge and custody of any person, and the wound resulting therefrom is unhealed, such fact may be evidence of a violation of this section by the owner or user of such premises, or the person having such charge or custody.

(b) The provisions of subsection (a) of this section shall not apply to tail docking performed by a veterinarian for veterinary purposes, provided that the procedure is performed under the following conditions:

(1) The animal has been adequately anesthetized to minimize the animal's pain and suffering during the treatment or operation.

(2) The procedure is done in a way that minimizes the long-term pain and suffering resulting from the procedure.

(3) The veterinarian uses suitable instruments.

(4) The procedure is done under hygienic conditions.

(c) The owner of any bovine with a docked tail who purchased the bovine in a state where tail docking is legal shall be exempt from prosecution under this section.

History of Section.
(P.L. 2012, ch. 353, § 1.)

§ 4-1-7. Live poultry containers. -Any crate or other container used for the purpose of transporting, shipping, or holding for sale any live poultry shall be in a sanitary condition and shall be constructed so as to provide sufficient ventilation and warmth and the poultry, while in that container, shall receive any reasonable care as may be required to prevent unnecessary suffering. Any person violating any provision of this section shall, for each offense, be imprisoned not exceeding fifteen (15) days or be fined not exceeding one hundred dollars ($100), or both.

History of Section.
(G.L. 1945, ch. 640, § 23; P.L. 1945, ch. 1651, § 2; G.L. 1956, § 4-1-7.)

§ 4-1-8. Sale of chicks and ducklings – Dyeing prohibited. -It is unlawful for any person to dye a chick, duckling, or other live poultry, or to have in his or her possession any chick, duckling, or other live poultry which has been dyed. No person shall sell or offer for sale any live chicks or ducklings under two (2) months of age in quantities of less than twelve (12), and provided further, that no person, firm, corporation or association shall offer live chicks or ducklings under two (2) months of age as a bonus, or as an inducement to the sale of or in conjunction with the purchase of any article. Any person, firm, or corporation violating this section shall for each offense be punished in the manner provided in § 4-1-2. No pet store shall sell chicks or ducklings in any quantity.

History of Section.
(G.L. 1938, ch. 640, § 24; P.L. 1945, ch. 1651, § 2; P.L. 1964, ch. 24, § 1; G.L. 1956, § 4-1-8; P.L. 1968, ch. 71, § 1; P.L. 1982, ch. 308, § 1.)

§ 4-1-39. Transport and shelter of horses.

(a) Notwithstanding any other provision of law, a person may not transport or shelter, or cause or allow to be transported or sheltered any equine animal in or upon any trailer, conveyance or other vehicle whatsoever with two (2) or more levels stacked on top of one another.

(b) Any person who violates the provisions of this section shall be subject to a fine of not less than five hundred dollars ($500) per animal for a first offense, and subject to a fine of at least one thousand dollars ($1,000) per animal for all second and subsequent offenses.

History of Section.
(P.L. 2008, ch. 257, § 1; P.L. 2008, ch. 414, § 1.)

CHAPTER 4-1.1
Unlawful Confinement of a Covered Animal

§ 4-1.1-1 Definitions. – For the purposes of this chapter:
(1) "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal.
(2) "Crate" means a "gestation crate" for sows or a "veal crate" for calves.
(3) "Farm" means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber; and does not include live animal markets.
(4) "Farm owner or operator" means any person who owns or controls the operation of a farm, and does not include any non-management employee, contractor, or consultant.
(5) "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.
(6) "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate.
(7) "Sow during gestation" means a pregnant pig of the porcine species kept for the purpose of breeding.
(8) "Turning around freely" means turning in a complete circle without any impediment including a tether, and without touching the side of a crate.

History of Section.
(P.L. 2012, ch. 275, § 1; P.L. 2012, ch. 285, § 1.)

§ 4-1.1-2 Purpose. – The purpose of this chapter, subject to exceptions set forth in § 4-1.1-4, is to prohibit the confinement of calves raised for veal and sows during gestation.

History of Section.
(P.L. 2012, ch. 275, § 1; P.L. 2012, ch. 285, § 1.)

§ 4-1.1-3 Unlawful confinement. – Notwithstanding any other provision of law, a person is guilty of unlawful confinement of a sow or calf if the person is a farm owner or operator who knowingly tethers or confines any sow or calf in a manner that prevents such animal from turning around freely, lying down,

standing up, or fully extending the animal's limbs.

History of Section.
(P.L. 2012, ch. 275, § 1; P.L. 2012, ch. 285, § 1.)

§ 4-1.1-4 Exceptions. – This section shall not apply:

(1) During medical research.

(2) Temporary confinement prior to and during examination, testing, individual treatment or operation for veterinary purposes.

(3) During transportation.

(4) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions or educational programs.

(5) During temporary confinement for animal husbandry purposes for no more than six (6) hours in any twenty-four (24) hour period unless ordered by a licensed veterinarian.

(6) During the humane slaughter of a sow or pig accordance with the provisions of chapter 4-17, and other applicable laws and regulations.

(7) To a sow during the fourteen (14) day period prior to the sows expected date of giving birth and extending for a duration of time until the piglets are weaned. This period may be modified upon the order of a licensed veterinarian.

(8) To calves being trained to exhibit.

(9) To calves being trained to accept routine confinement in dairy and beef housing.

History of Section.
(P.L. 2012, ch. 275, § 1; P.L. 2012, ch. 285, § 1.)

§ 4-1.1-5 Penalty. – (a) The provisions of this chapter are in addition to, and not in lieu of, any other laws protecting animal welfare. This chapter may not be construed to limit any other state laws or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

(b) It is not an affirmative defense to alleged violations of this chapter that the calf or sow was kept as part of an agricultural operation and in accordance with customary animal husbandry or farming practices.

(c) Any person who violates the provisions of this chapter or any rules or regulations promulgated hereunder shall be fined not less than fifty dollars ($50.00) nor exceeding five hundred dollars ($500), or both.

History of Section.
(P.L. 2012, ch. 275, § 1; P.L. 2012, ch. 285, § 1.)

CHAPTER 4-2
Commercial Feeds

§ 4-2-1 Title. – This chapter shall be known as the "Rhode Island Commercial Feed Law of 1977".

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-2 Enforcing official. – This chapter shall be administered by the director of the department of environmental management of the state or his or her authorized agent, referred to as the director.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-3 Definitions. – When used in this chapter:

(1) "Brand name" means any word, name, symbol, or device, or any combination identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

(2) "Commercial feed" means all materials except whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of § 4-2-7, which are distributed for use as feed or for mixing in feed. The director by regulation may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those commodities, compounds, or substances are not inter-mixed or mixed with other materials, and are not adulterated within the meaning of § 4-2-7.

(3) "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby that commercial feed is supplied, furnished, or otherwise provided to that person and whereby that person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.

(4) "Customer formula feed" means commercial feed which consists of a mixture of commercial feeds and/or ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.

(5) "Distribute" means to offer for sale, sell, exchange, or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(6) "Distributor" means any person who distributes.

(7) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body.

(8) "Feed ingredient" means each of the constituent materials making up a commercial feed.

(9) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

(10) "Labeling" means all labels and other written, printed, or graphic matter:

(i) Upon a commercial feed or any of its containers or wrapper; or

(ii) Accompanying that commercial feed.

(11) "Manufacture" means to grind, mix, or blend, or further process a commercial feed for distribution.

(12) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(13) "Official sample" means a sample of feed taken by the director or his or her agent in accordance with § 4-2-10(c), (e), or (f).

(14) "Percent" or "percentages" means percentages by weights.

(15) "Person" means individual, partnership, corporation, and association.

(16) "Pet" means any domesticated animal normally maintained in or near the household(s) of the owner(s).

(17) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(18) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.

(19) "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(20) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(21) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-4 Registration. – (a) No person shall manufacture a commercial feed in this state, unless he or she has filed with the director on forms provided by the director, his or her name, place of business and location of each manufacturing facility in this state.

(b) No person shall distribute in this state a commercial feed except a customer formula feed, which has not been registered pursuant to this section. The application for registration, accompanied by a sixty dollar ($60.00) per brand registration fee, shall be submitted in the manner prescribed by the director, on forms furnished by the director. A tag, label, or facsimile for each brand to be registered must accompany the application. Upon approval by the director, the registration shall be issued to the applicant. All registrations expire on the 31st day of December of each year.

(c) The director is empowered to refuse registration of any commercial feed not in compliance with this chapter and to cancel any registration subsequently found not to be in compliance with any provisions of this chapter provided, that no registration shall be refused or canceled unless the registrant has been given an opportunity to be heard before the director and to amend his or her application in order to comply with the requirements of this chapter.

(d) Changes of either chemical or ingredient composition of a registered commercial feed may be permitted with no new registration required provided there is satisfactory evidence that those changes would not result in a lowering of the guaranteed analysis of the product for the purpose for which designed, and provided a new label is submitted to the director notifying the director of the change.

(e) All moneys received by the director under this chapter shall be deposited as general revenues and shall consist of all fertilizer registration and tonnage fees paid pursuant to §§ 2-7-4 and 2-7-6 and fees paid pursuant to § 4-2-4.

(f) All moneys appropriated for the feed and fertilizer quality testing program shall be made available for the following purposes:

(1) To support the feed and fertilizer testing laboratory for the testing and analysis of commercial feeds distributed within this state for the expressed purpose of detection of deficiency.

(2) For payment of ancillary services, personnel and equipment incurred in order to carry out the purposes of quality assurance defined by this chapter.

History of Section.
(P.L. 1977, ch. 170, § 2; P.L. 1989, ch. 349, § 2; P.L. 1992, ch. 133, art. 22, § 2; P.L. 1995, ch. 370, art. 40, § 3; P.L. 2004, ch. 595, art. 33, § 2.)

§ 4-2-5 Labeling. – A commercial feed shall be labeled as follows:

(a) In the case of a commercial feed, except a customer formula feed, it shall be accompanied by a label bearing the following information:

(1) The net weight.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in any terms that the director by regulation requires to advise the user of the composition of the feed or to support claims made in the labeling. In all cases, the substances or

elements must be determinable by laboratory methods such as the method published by the association of official analytical chemists (AOAC).

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. The director by regulation may permit the use of a collective term for a group of ingredients which perform a similar function, or he or she may exempt any commercial feeds, or any group of commercial feeds, from the requirement of an ingredient statement if he or she finds that this statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for all commercial feeds containing drugs and for any other feeds as the director may require by regulation as necessary for their safe and effective use.

(7) Any precautionary statement that the director by regulation determines is necessary for the safe and effective use of the commercial feed.

(b) In the case of a customer formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.

(5) Adequate directions for use for all customer formula feeds containing drugs and for any other feeds as the director may require by regulation as necessary for their safe and effective use.

(6) Any precautionary statements that the director by regulation determines are necessary for the safe and effective use of the customer formula feed.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-6 Misbranding. – A commercial feed is deemed to be misbranded:

(1) If its labeling is false or misleading in any particular.

(2) If it is distributed under the name of another commercial feed.

(3) If it is not labeled as required in § 4-2-5.

(4) If it purports to be or is represented as a commercial feed, or it purports to contain or is represented as containing a commercial feed ingredient, unless that commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the director.

(5) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed with the conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in the terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-7 Adulteration. – A commercial feed is deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, the commercial feed shall not be considered adulterated under this subsection if the quantity of that substance in the commercial feed does not ordinarily render it injurious to health.

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of § 406 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 346), other than one which is:

(i) A pesticide chemical in or on a raw agricultural commodity; or

(ii) A food additive.

(3) If it is, or it bears or contains any food additive which is unsafe within the meaning of § 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 348).

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of § 408(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 346a(a)). Where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under § 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 346a) and that raw agricultural commodity has been subject to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of that pesticide chemical remaining in or on that processed feed is not deemed unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of that residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of that processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of § 408(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 346a(a)).

(5) If it is, or it bears or contains any color additive which is unsafe within the meaning of § 706 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 376).

(6) If any valuable constituent has been in whole or in part omitted or abstracted from the feed or any less valuable substance substituted.

(7) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(8) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the director to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating those regulations, the director shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), unless he or she determines that they are not appropriate to the conditions which exist in this state.

(9) If it contains viable weed seeds in amounts exceeding the limits which the director shall establish by rule or regulation.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-8 Prohibited acts. – The following acts and the causing of these acts within the state are prohibited:

(1) The manufacture or distribution of any commercial feed that is adulterated or misbranded.

(2) The adulteration or misbranding of any commercial feed.

(3) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of § 4-2-7.

(4) The removal or disposal of a commercial feed in violation of an order under § 4-2-11.

(5) The failure or refusal to register in accordance with § 4-2-4.

(6) Failure to file any report required by this chapter or the regulations promulgated under this chapter.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-9 Rules and regulations. – (a) The director is authorized to make appropriate regulations requiring the maintenance of records, as may be deemed necessary, setting forth the number of net tons of commercial feed distributed in the state. The director has the right to examine any records to verify statements of tonnage.

(b) The director is authorized to promulgate any rules and regulations for commercial feeds and pet foods that are specifically authorized in this chapter and any other reasonable rules and regulations necessary for the efficient enforcement of this chapter. In the interest of uniformity the director shall by regulation adopt,

unless he or she determines that they are inconsistent with the provisions of this chapter or are not appropriate to conditions which exist in this state, the following:

(1) The official definitions of feed ingredients and official feed terms adopted by the association of American feed control officials and published in the official publication of that organization; and

(2) Any regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.); provided, that the director would have the authority under this chapter to promulgate those regulations.

(c) Before the issuance, amendment, or repeal of any rule or regulation authorized by this chapter, the director shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the director shall take appropriate action to issue the proposed rule or regulation or to amend or to repeal an existing rule or regulation. The provisions of this subsection notwithstanding, if the director, pursuant to the authority of this chapter, adopts the official definition of feed ingredients or official feed terms as adopted by the association of American feed control officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), any amendment or modification adopted by the association of American feed control officials or by the secretary of human services in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), shall be adopted automatically under this chapter without regard to the publication of the notice required by this subsection unless the director, by order, specifically determines that the amendment or modification shall not be adopted.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-10 Inspection, sampling, and analysis. – (a) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to those provisions, officers or employees designated by the director, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized:

(1) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold those feeds; and

(2) To inspect at reasonable times and within reasonable limits and in a reasonable manner the factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling. The inspection may include the verification of only those records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under § 4-2-9(a).

(b) A separate notice shall be given for each inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(c) If the officer or employee making the inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection upon completion of the inspection and prior to leaving the premises he or she shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) If the owner of any factory, warehouse, or establishment described in subsection (a), or the owner's agent, refuses to admit the director or the director's agent to inspect in accordance with subsections (a) and (b), the director is authorized to obtain from the attorney general a warrant directing the owner or the owner's agent to submit the premises described in the warrant to inspection.

(e) For the purpose of the enforcement of this chapter, the director or the director's designated agent is authorized to enter upon public or private premises including any vehicle of transport during regular business hours to have access to, and obtain samples, and to examine records relating to distribution of commercial feeds.

(f) Sampling and analysis shall be conducted in accordance with methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.

(g) The results of all analysis of official samples shall be forwarded by the director to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty (30) days following receipt of the analysis the director shall furnish to the registrant a portion of the sample concerned.

(h) The director, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in § 4-2-3(13) and obtained and analyzed as provided for in subsections (c), (e), and (f) of this section.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-11 Withdrawal, condemnation, and confiscation of commercial feeds. – *(a) Withdrawal from distribution orders.* When the director or the director's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed regulations under this chapter, he or she may issue and enforce a written or printed withdrawal from distribution order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the director or the court. The director shall release the lot of commercial feed so withdrawn when those provisions and regulations have been complied with. If compliance is not obtained within thirty (30) days, the director may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) Condemnation and confiscation. Any lot of commercial feed not in compliance with those provisions and regulations shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which the commercial feed is located. In the event the court finds the commercial feed is in violation of this chapter and orders the condemnation of that commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-12 Penalties. – (a) Any person convicted of violating any of the provisions of this chapter or who impedes, hinders, or otherwise prevents, or attempts to prevent, the director or his or her authorized agent in performance of his or her duty in connection with the provisions of this chapter shall be adjudged guilty of a misdemeanor and be fined not less than one hundred dollars ($100) or more than two hundred dollars ($200) for the first violation, and not less than two hundred dollars ($200) or more than five hundred dollars ($500) for each subsequent violation.

(b) Nothing in this chapter shall be construed as requiring the director or the director's representative to:

(1) Report for prosecution;

(2) Institute seizure proceedings; or

(3) Issue a withdrawal from distribution order, as a result of minor violations of the chapter, or when he or she believes the public interest will best be served by suitable notice of warning in writing.

(c) It shall be the duty of the attorney general to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the director reports violations for prosecution, an opportunity shall be given the distributor to present his or her view to the director.

(d) The director is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

(e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this chapter may within forty-five (45) days bring action in superior court in the county where the enforcement official has his or her office for judicial review of those actions. The form of the proceeding is any which may be provided by the statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy of a form of proceeding, any applicable form of legal action, including actions for declaratory judgments or writs or prohibitory or mandatory injunctions.

(f) Any person who uses to his or her own advantage, or reveals to other than the director, or the director's authorized agent(s), or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this chapter, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall on conviction be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one year or both. This prohibition shall not be deemed as prohibiting the director, or his or her authorized agent(s), from exchanging information of a regulatory nature with appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-13 Cooperation with other entities. – The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter.

History of Section.
(P.L. 1977, ch. 170, § 2.)

§ 4-2-14 Publication of information. – The director shall publish at least annually, in any forms that he or she may deem proper, information he or she may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label. The information concerning production and use of commercial feed shall not disclose the operations of any person.

History of Section.
(P.L. 1977, ch. 170, § 2.)

CHAPTER 4-3
Garbage Feeding

§ 4-3-1 Definitions. – For the purpose of §§ 4-3-1 – 4-3-11 the following words shall have the meanings ascribed to them in this section:

(1) "Director" means the director of environmental management or the director's authorized agent.

(2) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods including animal carcasses or parts,

(3) "Person" means the state, any municipality, political subdivision, institution, public or private corporation, individual, partnership, or other entity.

History of Section.
(P.L. 1954, ch. 3355, § 1; G.L. 1956, § 4-3-1; P.L. 1987, ch. 78, § 13.)

§ 4-3-2 Applicability of §§ 4-3-1 – 4-3-11. – Sections 4-3-1 – 4-3-11 shall apply to any person or persons who feeds garbage, other than from his or her own domestic household, to more than four (4) swine.

History of Section.
(P.L. 1954, ch. 3355, § 2; G.L. 1956, § 4-3-2.)

§ 4-3-3 Permit required to feed garbage. – No person shall feed garbage to swine without first securing a permit from the director. This permit shall be renewed on the first day of July of each year.

History of Section.
(P.L. 1954, ch. 3355, § 2; G.L. 1956, § 4-3-3.)

§ 4-3-4 Application for permit – Fee. – Any person desiring to obtain a permit to feed garbage to swine shall make written application to the director in accordance with the requirements of the director. At the time of filing an application, the applicant shall pay to the director a permit fee in the sum of five dollars ($5.00) for the general use of the state.

History of Section.
(P.L. 1954, ch. 3355, § 3; G.L. 1956, § 4-3-4; P.L. 1960, ch. 74, § 3.)

§ 4-3-5 Requirements for permit. – The following conditions are required for a garbage feeding permit:
(1) The feeding area is equipped with a cement base or constructed of other material approved by the director;
(2) The feeding area or platforms shall be constructed as to be readily cleaned daily, and to allow for all refuse to be disposed of;
(3) Housing meets existing sanitary and humane standards, regarding ventilation, drainage, and warmth;
(4) Premises upon which swine are kept must be kept clean and sanitary and meet the regulations of the director.

History of Section.
(P.L. 1954, ch. 3355, § 4; G.L. 1956, § 4-3-5.)

§ 4-3-6 Cooking or treatment of garbage. – All garbage, regardless of previous processing, shall, before being fed to swine, be thoroughly heated to two hundred twelve degrees Fahrenheit (212° F.) for at least thirty (30) minutes, unless treated in some other manner which shall be approved in writing by the director as being equally effective for the protection of public health.

History of Section.
(P.L. 1954, ch. 3355, § 6; G.L. 1956, § 4-3-6.)

§ 4-3-7 Revocation or denial of permits. – Upon determination that any person having a permit issued under §§ 4-3-1 – 4-3-11 or who has applied for a permit, has violated or failed to comply with any of the provisions of §§ 4-3-1 – 4-3-11, or any of the rules or regulations promulgated under these sections, the director may, after notice to the registrant, and after affording the registrant an opportunity to be heard, revoke the permit or refuse to issue a permit to an applicant.

History of Section.
(P.L. 1954, ch. 3355, § 5; G.L. 1956, § 4-3-7.)

§ 4-3-8 Access of inspectors to property. – Any authorized representative of the director has the power to enter at reasonable times upon any private or public property for the purposes of inspection and investigating conditions relating to the treating of garbage to be fed to swine as required by §§ 4-3-1 – 4-3-11.

History of Section.
(P.L. 1954, ch. 3355, § 7; G.L. 1956, § 4-3-8.)

§ 4-3-9 Maintenance and examination of records. – Any authorized representative of the director may examine any records or memoranda pertaining to the feeding of garbage to swine. The director may require maintenance of records relating to the operation of equipment for and procedure of treating garbage to be fed to swine. Copies of those records shall be submitted to the director on request.

History of Section.
(P.L. 1954, ch. 3355, § 7; G.L. 1956, § 4-3-9.)

§ 4-3-10 Enforcement – Rules and regulations. – The director is hereby charged with administration and enforcement of the provisions of §§ 4-3-1 – 4-3-11 and is authorized to make and enforce all rules and regulations which the director deems necessary to carry out the purposes of §§ 4-3-1 – 4-3-11.

History of Section.
(P.L. 1954, ch. 3355, § 8; G.L. 1956, § 4-3-10.)

§ 4-3-11 Penalty for violations. – Any person who violates any of the provisions of, or who fails to perform any duty imposed by §§ 4-3-1 – 4-3-11 or who violates any rule or regulation promulgated under these sections is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two hundred dollars ($200). In addition, that person may be enjoined from continuing that violation. Each day upon which that violation occurs constitutes a separate violation.

History of Section.
(P.L. 1954, ch. 3355, § 9; G.L. 1956, § 4-3-11.)

§ 4-3-12 Approval of feeding sites by a city or town council. – No swine shall be kept in any city or town, to be fed on swill, offal or other decaying substances, brought from any other city or town, except in a place in the city or town as is designated by the city or town council. Any person violating this section is liable to the penalty prescribed in § 23-23.5-11.

History of Section.
(G.L. 1896, ch. 91, §§ 14, 15; G.L. 1909, ch. 107, §§ 14, 15; G.L. 1923, ch. 119, §§ 14, 15; G.L. 1938, ch. 601, §§ 13,14; G.L. 1956, § 4-3-12.)

§ 4-3-13 Carrying of swill into Middletown. – No person shall carry any house offal or swill into the town of Middletown, or permit the swill or offal so carried to be fed to swine on his or her premises, or to be deposited on or spread upon his or her land, in that town. Nothing in this section shall be construed to prevent the carrying of swill or house offal through the town of Middletown to any other town. Any person violating any of the provisions of this section shall be for every offense fined not exceeding twenty dollars ($20.00) or be imprisoned not exceeding three (3) months.

History of Section.
(G.L. 1896, ch. 282, § 4; G.L. 1909, ch. 348, § 3; G.L. 1923, ch. 400, § 3; G.L. 1938, ch. 611, § 3; G.L. 1956, § 4-3-13.)

CHAPTER 4-4
Animal Diseases in General

§ 4-4-1 Appointment of commissioners to inspect diseased animals – Quarantine – Veterinarians. – The director of environmental management may appoint one or more commissioners in each county of the state, whose duty it is to visit and inquire into the condition of any domestic animal in their respective counties whenever there is reason to suspect that any domestic animal, or the carcass of any domestic animal, is affected with tuberculosis, or other contagious, infectious, or communicable disease; and the commissioners in their counties are authorized to quarantine any diseased domestic animal, or the carcass of any diseased domestic animal, until inspected by the veterinarian employed by the director. The director may also employ from time to time any number of veterinary surgeons that he or she may find necessary to carry out the purposes of this chapter.

History of Section.
(G.L. 1896, ch. 99, §§ 8, 9; P.L. 1896, ch. 344, § 4; G.L. 1909, ch. 120, §§ 8, 9; G.L. 1923, ch. 241, §§ 8, 9; P.L. 1927, ch. 971, § 1; G.L. 1938, ch. 207, § 1; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-1.)

§ 4-4-2 Compensation of commissioners and veterinarians – Duties – Removal. – Subject to chapter 4 of title 36, the director of environmental management is authorized to fix the compensation of the cattle commissioners and veterinary surgeons, to prescribe their duties, and to remove them when deemed expedient.

History of Section.
(G.L. 1896, ch. 99, § 22; P.L. 1904, ch. 1156, § 6; G.L. 1909, ch. 120, § 28; G.L. 1923, ch. 241, § 28; G.L. 1938, ch. 207, § 21; impl. am. P.L. 1952, ch. 2975, §§ 12, 17; G.L. 1956, § 4-4-2.)

§ 4-4-3 Reporting of diseased animals – Destruction. – Any owner of an animal suspected of having an animal disease determined by the director of environmental management to be contagious or injurious to public health or to the health of other animals, or any veterinarian who treats that animal, or any other person or institution having knowledge of a diseased animal, shall make a report of that information to the state department of environmental management in any manner and form as the department prescribes by regulation. The director of environmental management shall promulgate by rule a list of those animals determined to be contagious or injurious. The director of environmental management, if he or she determines an animal to have a contagious or communicable disease, shall cause that animal to be killed and the carcass to be disposed of in any manner as not to be detrimental to the public health.

History of Section.
(G.L. 1896, ch. 99, § 10; P.L. 1904, ch. 1156, § 1; P.L. 1906, ch. 1354, § 1; G.L. 1909, ch. 120, § 10; G.L. 1923, ch. 241, § 10; G.L. 1938, ch. 241, § 9; P.L. 1927, ch. 971, § 1; G.L. 1938, ch. 207, § 2; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-3; P.L. 1962, ch. 42, § 1; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1.)

§ 4-4-4 Repealed. –

§ 4-4-5 Right of entry where disease suspected. – The director of the department of environmental management or the director's duly authorized representatives, having reason to suspect the existence of any of the diseases mentioned in this chapter upon any grounds or premises, are hereby authorized and empowered to enter upon those grounds or premises for the enforcement of the provisions of this chapter.

History of Section.
(G.L. 1896, ch. 99, § 17; G.L. 1909, ch. 120, § 23; G.L. 1923, ch. 241, § 23; G.L. 1938, ch. 207, § 16; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-5.)

§ 4-4-6 Repealed. –

§ 4-4-7 Compensation for condemned equine animals. – For every horse, ass, or mule condemned and killed as affected with glanders or farcy there shall be paid a sum not to exceed fifty dollars ($50.00); provided, however, that no payment is made under the authority of this section for any horse, ass or mule that has not been owned in the state for the period of six (6) months next preceding the condemnation.

History of Section.
(G.L. 1909, ch. 120, § 31, as enacted by P.L. 1917, ch. 1539, § 1; G.L. 1923, ch. 241, § 31; G.L. 1938, ch. 207, § 23; G.L. 1956, § 4-4-7.)

§ 4-4-8 Exposure of diseased animals to contact with healthy animals. – No person having the care or custody of any animal having any one of the diseases mentioned in this chapter or chapter 5 of this title, shall, knowing the animal to have any of the diseases mentioned in this chapter or chapter 5 of this title, sell or exchange, or permit the removal, use or driving of that animal upon any public highway, or the exposure of that animal to contact with any other healthy animal of the same kind, except by permission of the director of environmental management. Any person so doing is deemed guilty of a misdemeanor, and on being convicted shall be fined not exceeding one hundred dollars ($100).

History of Section.
(G.L. 1896, ch. 99, § 16; G.L. 1909, ch. 120, § 22; G.L. 1923, ch. 241, § 22; G.L. 1938, ch. 207, § 15; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-8.)

§ 4-4-9 Sale, use, or exposure of diseased animals – Refusal to destroy. – A person who willfully sells or offers to sell, uses, exposes, or causes or permits to be sold, offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the life or health of human beings or animals, or which is diseased past recovery, or who refuses upon demand of the general agent or any special agent of the society for the prevention of cruelty to animals humanely to destroy an animal affected with any of those diseases shall, for each offense, be punished in the manner provided in § 4-1-2.

History of Section.
(G.L. 1956, ch. 640, § 20; P.L. 1945, ch. 1651, § 2; G.L. 1956, § 4-4-9.)

§ 4-4-10 Sale of diseased or disabled animals. – It is unlawful for any person holding an auctioneer's license knowingly to receive or offer for sale or to sell at public auction, other than at a sheriff 's or judicial sale under a court order, or for any person to sell or offer for sale at private sale, any animal which is suffering from any disability, lameness or disease, and any person violating any provision of this section shall, for each offense, be punished in the manner provided in § 4-1-2.

History of Section.
(G.L. 1956, ch. 640, § 21; P.L. 1945, ch. 1651, § 2; G.L. 1956, § 4-4-10.)

§ 4-4-11 Interference with enforcement – Violation of quarantine. – Any person or persons who shall willfully or intentionally interfere with any officers, duly authorized to carry out the provisions of this

chapter is deemed guilty of a misdemeanor, and upon conviction is liable to imprisonment not exceeding three (3) months, or a fine not exceeding one hundred dollars ($100), or both, at the discretion of the court.

History of Section.
(G.L. 1896, ch. 99, § 21; G.L. 1909, ch. 120, § 27; G.L. 1923, ch. 241, § 27; G.L. 1938, ch. 207, § 20; G.L. 1956, § 4-4-11.)

§ 4-4-12 Cooperation with federal government in suppression of diseases. – The governor is authorized to accept on behalf of the state the rules and regulations prepared by the secretary of agriculture under and in pursuance of § 3, 21 U.S.C. § 114, of an act of congress approved May 29, 1884, entitled "An act for the establishment of a bureau of animal industry, to prevent the exportation of diseased cattle, and to provide means for the suppression and extirpation of pleuropneumonia and other contagious diseases among domestic animals", 21 U.S.C. § 113 et seq., and to cooperate with the authorities of the United States in the provisions of that act.

History of Section.
(G.L. 1896, ch. 99, § 18; G.L. 1909, ch. 120, § 24; G.L. 1923, ch. 241, § 24; G.L. 1938, ch. 207, § 17; G.L. 1956, § 4-4-12.)

§ 4-4-13 Powers of federal and state inspectors – Assistance by peace officers. – The inspectors of the state department of environmental management and the department of agriculture of the United States, in cooperation with the state department of environmental management, or with any agent of the state, has the right of inspection, quarantine, and condemnation of animals affected with any contagious, infectious, or communicable disease, or suspected to be affected, or that have been exposed to any contagious, infectious, or communicable disease, and for these purposes are authorized and empowered to enter upon any grounds or premises. The director of agriculture or inspectors of the United States department of agriculture, in cooperation with the state department of environmental management, or with any agent of the state department of environmental management have the power to call on deputy sheriffs, constables, and peace officers to assist them in the discharge of their duties in carrying out the provisions of the act of congress approved May 29, 1884, 21 U.S.C. § 113 et seq., establishing the bureau of animal industry, or the provisions of the department of environmental management, and it is made the duty of deputy sheriffs, constables, and peace officers to assist those inspectors or agents when requested, and those inspectors or agents have the same power and protection as peace officers while engaged in the discharge of their duties.

History of Section.
(G.L. 1896, ch. 99, § 19; P.L. 1904, ch. 1156, § 5; G.L. 1909, ch. 120, § 25; G.L. 1923, ch. 241, § 25; G.L. 1938, ch. 207, § 18; G.L. 1956, § 4-4-13; P.L. 1962, ch. 54, § 1; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 2012, ch. 324, § 11.)

§ 4-4-14 State immunity. – The state is not liable for any damages or expenses incurred under §§ 4-4-12 and 4-4-13.

History of Section.
(G.L. 1896, ch. 99, § 20; G.L. 1909, ch. 120, § 26; G.L. 1923, ch. 241, § 26; G.L. 1938, ch. 207, § 19; G.L. 1956, § 4-4-14.)

§ 4-4-15 Cooperation in federal Bang's disease plan. – The state department of environmental management shall cooperate with the United States government in connection with the prevailing federal plan for the control and eradication of Bang's disease and that department may make reasonable rules and regulations governing the control and eradication of Bang's disease including federal approved vaccinal procedures; and the general assembly shall annually appropriate any sum as it may deem necessary to carry out the purposes in the operation of a plan for the payment of positive reactors to the Bang's disease test and the eradication of that contagious and infectious disease.

History of Section.
(G.L. 1956, ch. 207, § 28; P.L. 1941, ch. 1017, § 1; G.L. 1956, § 4-4-15.)

§ 4-4-16 Compensation for animals killed in Bang's disease program. – Sections 4-5-1 – 4-5-6 shall be construed to include payments for indemnities for animals killed, and for the testing and administration expense incurred, due to the prevalence of Bang's disease.

History of Section.
(G.L. 1956, ch. 207, § 29; P.L. 1941, ch. 1017, § 1; G.L. 1956, § 4-4-16.)

§ 4-4-17 Importation or exposure of diseased animals. – Any person bringing into the state any neat cattle or other animals which he or she knows to be infected with any infectious or contagious disease, or who exposes the cattle or other animals, known to him or her to be infected, to other cattle and animals not infected with an infectious or contagious disease, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

History of Section.
(G.L. 1896, ch. 98, § 1; G.L. 1909, ch. 119, § 1; G.L. 1923, ch. 245, § 1; G.L. 1938, ch. 206, § 1; G.L. 1956, § 4-4-17.)

§ 4-4-18 City and town ordinances. – The city and town councils of the several cities and towns may pass any ordinances as they think proper, to prevent the spread of infectious or contagious diseases among cattle and other animals within their cities and towns, and may prescribe penalties for the violation of the ordinances, not exceeding twenty dollars ($20.00) for any one offense.

History of Section.
(G.L. 1896, ch. 98, § 2; G.L. 1909, ch. 119, § 2; G.L. 1923, ch. 245, § 2; G.L. 1938, ch. 206, § 2; G.L. 1956, § 4-4-18.)

§ 4-4-19 Orders prohibiting importation of animals. – The director of environmental management may prohibit the introduction of any cattle or other domestic animals into the state. Any person who brings, transports or introduces any cattle or other domestic animals into the state, after the director has issued an order forbidding the introduction of that cattle or other domestic animal into the state, or after the director has published for five (5) successive days in any newspapers published in this state as the director may direct, an order forbidding that introduction, shall be fined not exceeding three hundred dollars ($300) for every offense, and every officer or agent of any company or other person, who violates that order, is subject to the fine. In case of the introduction into the state of cattle or other domestic animals, contrary to the order of the director, the introduction of each animal is deemed a separate and distinct offense.

History of Section.
(G.L. 1896, ch. 98, § 3; G.L. 1909, ch. 119, § 3; G.L. 1923, ch. 245, § 3; G.L. 1938, ch. 206, § 3; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-19.)

§ 4-4-20 Publication of information on diseases. – The director of environmental management shall endeavor to obtain full information in relation to any contagious disease which may prevail among cattle or other domestic animals near the borders of the state, and shall publish and circulate that information in his or her discretion. Should any contagious disease break out, or should there be reasonable suspicion of its existence among cattle or other domestic animals in any city or town in the state, he or she shall examine the cases, and publish the result of his or her examination, for the benefit of the public.

History of Section.

(G.L. 1896, ch. 98, § 4; G.L. 1909, ch. 119, § 4; G.L. 1923, ch. 245, § 4; G.L. 1938, ch. 206, § 4; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-20.)

§ 4-4-21 Inspectors on roads and railroads. – The director may appoint suitable and discreet persons, on or near the several highways, turnpike roads, railroads, and thoroughfares in the state, who shall inquire into all violations of this chapter and report those violations to the director.

History of Section.
(G.L. 1896, ch. 98, § 5; G.L. 1909, ch. 119, § 5; G.L. 1923, ch. 245, § 5; G.L. 1938, ch. 206, § 5; G.L. 1956, § 4-4-21.)

§ 4-4-22 Sale of infected animals or milk. – Any person who sells or offers to sell any cattle or other domestic animals, or any part of these animals, known to him or her to be infected with any contagious disease, or with any disease dangerous to the public health, or who sells or offers to sell any milk from any infected cattle or other domestic animals, shall be fined not exceeding one thousand dollars ($1,000) or be imprisoned not exceeding two (2) years, or both, in the discretion of the court.

History of Section.
(G.L. 1896, ch. 98, § 6; G.L. 1909, ch. 119, § 6; G.L. 1923, ch. 245, § 6; G.L. 1938, ch. 206, § 6; G.L. 1956, § 4-4-22.)

§ 4-4-23 Regulations for suppression of disease. – The director of environmental management may make all necessary regulations for the prevention, treatment, cure, and extirpation of any disease, and any person who fails to comply with any regulation made shall be fined not exceeding three hundred dollars ($300) or be imprisoned not exceeding one year.

History of Section.
(G.L. 1896, ch. 98, § 7; G.L. 1909, ch. 119, § 7; G.L. 1923, ch. 245, § 7; G.L. 1938, ch. 206, § 7; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-23.)

§ 4-4-24 State rules paramount to local. – Whenever the director of environmental management makes and publishes any regulations concerning the extirpation, cure, or treatment of cattle or other domestic animals infected with, or which have been exposed to any contagious disease, those regulations shall supersede the regulations made by the authorities of the several towns and cities upon that subject, and the operation of those regulations made by those authorities shall be suspended during the time those made by the director are in force.

History of Section.
(G.L. 1896, ch. 98, § 8; G.L. 1909, ch. 119, § 8; G.L. 1923, ch. 245, § 8; G.L. 1938, ch. 206, § 8; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-24.)

§ 4-4-25 Signature of orders and notices. – All orders, appointments and notices from the director of environmental management, except the order of notice provided for in § 4-4-19, shall bear his or her signature.

History of Section.
(G.L. 1896, ch. 98, § 9; G.L. 1909, ch. 119, § 9; G.L. 1923, ch. 245, § 9; G.L. 1938, ch. 206, § 9; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-4-25.)

§ 4-4-26 Limitation of prosecutions. – All prosecutions for offenses against the provisions of §§ 4-4-17 – 4-4-25 shall be commenced within thirty (30) days after the offense has been committed, and not afterwards.

History of Section.
(G.L. 1896, ch. 98, § 10; G.L. 1909, ch. 119, § 10; G.L. 1923, ch. 245, § 10; G.L. 1938, ch. 206, § 10; G.L. 1956, § 4-4-26.)

§ 4-4-27 Certification of turtles as free of salmonellosis required. – All turtles being sold in this state shall be certified by the seller as being free from salmonellosis. Any person knowingly violating this section shall upon conviction, be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200).

History of Section.
(P.L. 1972, ch. 209, § 1.)

CHAPTER 4-4.1
Importation of Equines

§ 4-4.1-1 Definitions. – As used in this chapter, the following terms have the following meanings:
(a) "CEM" means contagious equine metritis.
(b) "Director" means the director of the department of environmental management.
(c) "Department" means the department of environmental management.
(d) "Equine" means horses, including ponies, mules and donkeys.
(e) "State veterinarian" means a veterinarian employed or designated by the department.

History of Section.
(P.L. 1999, ch. 464, § 1.)

§ 4-4.1-2 Quarantine procedure. – Any person who wishes to establish a quarantine facility in this state for any equine imported from a CEM affected country shall have the proposed facility inspected and approved by the department.

A representative of the department shall, upon request, make an initial visit to the proposed facility and make recommendations for any changes required. The owner or manager shall then submit a drawing of the farm as well as a detailed to scale drawing of all buildings, paddocks, pastures, and tracks intended for quarantine use. Upon receipt of these drawings the state veterinarian shall make an inspection and, if notified the facility is adequate, approve its use as a quarantine facility.

History of Section.
(P.L. 1999, ch. 464, § 1.)

§ 4-4.1-3 Regulations. – The director may adopt regulations to carry out the intent of this chapter, which may include, without limitation, provisions relating to quarantine facilities, staff and procedures, laboratory and testing procedures, and the handling of equines, equipment and waste material handling.

History of Section.
(P.L. 1999, ch. 464, § 1.)

§ 4-4.1-4 Fees. – The director may, by regulation, provide for the payment of fees to reimburse the state for the hourly expense of the state veterinarian or agent and his or her travel and administrative expense, incurred in carrying out the responsibilities provided for by the chapter and any applicable federal law or regulation.

History of Section.
(P.L. 1999, ch. 464, § 1.)

§ 4-4.1-5 Violations – Penalties. – Any person found guilty of violating any provision of this chapter or any regulation adopted hereunder shall be guilty of a misdemeanor and may be fined not more than one thousand dollars ($1,000.00) for each violation.

History of Section.
(P.L. 1999, ch. 464, § 1.)

CHAPTER 4-5
Tuberculosis Control
SECTION 4-5-1

§ 4-5-1 Report of affected animal – Test. – Whenever the owner of any bovine animal suspects that animal to be affected with tuberculosis, and, in writing, requests the director of environmental management to inspect the animal, or if the director suspects any bovine animal to be affected with tuberculosis, the director shall immediately direct a veterinarian to inspect and test that animal on a specified day. The test in all cases shall be a tuberculin test conforming to the standards of the United States department of agriculture.

History of Section.
(G.L. 1896, ch. 99, § 10; P.L. 1904, ch. 1156, § 1; P.L. 1906, ch. 1354, § 1; G.L. 1909, ch. 120, § 10; G.L. 1923, ch. 241, § 10; P.L. 1927, ch. 971, § 1; G.L. 1938, ch. 207, § 3; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-5-1.)

§ 4-5-2 Identification of reactors. – Any animal showing a positive reaction to a tuberculin test shall be classified as a reactor and be identified in a manner which is recommended by the United States livestock sanitary association, and the animal disease eradication branch of the agricultural research service, United States department of agriculture.

History of Section.
(G.L. 1956, ch. 207, § 3A; P.L. 1956, ch. 3788, § 1; G.L. 1956, § 4-5-2.)

§ 4-5-3 Condemnation of diseased animals. – If a tuberculin test indicates that an animal is affected with tuberculosis, or if, even though the animal fails to react to that test, the veterinarian shall condemn the animal as affected with tuberculosis, the animal shall at once be appraised under § 4-5-4 and killed in the presence of the director or veterinarian and the owner, or if the owner is not present, then in the presence of the person who has charge of the animal for the owner and its carcass shall be disposed of in a manner not to be detrimental to the public health.

History of Section.
(G.L. 1896, ch. 99, § 10; P.L. 1904, ch. 1156, § 1; P.L. 1906, ch. 1354, § 1; G.L. 1909, ch. 120, § 10; G.L.

1923, ch. 241, § 10; P.L. 1927, ch. 971, § 1; G.L. 1938, ch. 207, § 3; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-5-3.)

§ 4-5-4 Appraisal of condemned animals. – (a) For the purposes of § 4-5-3, the veterinarian and the agent assigned by the director shall constitute the board of appraisers, and the estimate of value by those two (2) persons is final, except as otherwise provided. Written notice of the amount of the appraisal, signed by the board of appraisers, is to be immediately given to the owner or claimant of the animal. Any party aggrieved by an award made under this section may appeal to the director of environmental management within five (5) days after the receipt of the notice.

(b) Appraisals are based upon current receipts at nearby public auctions or public sales.

History of Section.
(G.L. 1896, ch. 99, § 11; P.L. 1904, ch. 1156, § 2; G.L. 1909, ch. 120, § 11; P.L. 1917, ch. 1542, § 1; P.L. 1921, ch. 2103, § 1; G.L. 1923, ch. 241, § 11; P.L. 1929, ch. 1308, § 1; G.L. 1938, ch. 207, § 4; G.L. 1956, § 4-5-4; P.L. 1973, ch. 174, § 1; P.L. 1982, ch. 78, § 2.)

§ 4-5-5 Sale of carcasses of condemned animals. – The director of environmental management is authorized to sell the carcass of any animal killed as tuberculous, when in the opinion of the board of appraisers that sale should be permitted. The proceeds of that sale shall be paid to the owner of the animal killed in accordance with this chapter, after deducting from those proceeds the cost of slaughtering or transporting the animal to a slaughterhouse and other expenses incident to the killing and selling of the animal.

History of Section.
(G.L. 1923, ch. 120, § 11; P.L. 1921, ch. 2103, § 1; G.L. 1923, ch. 241, § 11; P.L. 1929, ch. 1308, § 1; G.L. 1938, ch. 207, § 4; G.L. 1956, § 4-5-5.)

§ 4-5-6 Payment for condemned animals – Prerequisites. – In the case of any bovine animal condemned as having any infectious, contagious, or communicable disease considered dangerous to livestock or public health, upon receipt of a post mortem examination, conducted by a veterinarian approved by the department of environmental management or one licensed to practice veterinary medicine in this state, the state may pay to the owner an indemnity not to exceed the difference between the appraised value of each animal destroyed less the net salvage received by the owner and any funds received from federal indemnity payments. No payment shall exceed five hundred dollars ($500), and any joint state federal indemnity payments plus salvage shall not exceed the appraised value of the animals. No payment shall be made for any animal that is condemned and killed if that animal is from a herd that has not been maintained in accordance with the rules, regulations, and standards of the state, and of any state and federal regulations for the suppression of bovine disease or if that animal has been imported into this state where there has been no compliance with the rules, regulations, and standards of the state governing the requirements for importation. The premises where the diseased animal has been kept shall be thoroughly cleansed and disinfected according to the regulations of the department of environmental management.

History of Section.
(G.L. 1896, ch. 99, § 13; P.L. 1896, ch. 344, § 1; P.L. 1904, ch. 1156, § 4; G.L. 1909, ch. 120, § 13; G.L. 1923, ch. 241, § 13; P.L. 1926, ch. 788, § 1; P.L. 1927, ch. 971, § 2; P.L. 1929, ch. 1308, § 2; P.L. 1931, ch. 1702, § 1; P.L. 1931, ch. 1786, § 1; G.L. 1938, ch. 207, § 6; G.L. 1956, § 4-5-6; R.P.L. 1957, ch. 27, § 1; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 1973, ch. 174, § 2; P.L. 1979, ch. 57, § 1.)

§ 4-5-7 Repealed

§ 4-5-8 Repealed

§ 4-5-9 Animals imported for slaughter. – In the case of animals shipped into Rhode Island for immediate slaughter, the director of environmental management may at his or her discretion waive the filing of the chart and certificate; in those instances the director shall issue a special permit covering those animals for immediate slaughter.

History of Section.
(G.L. 1938, ch. 241, § 14; P.L. 1931, ch. 1786, § 2; P.L. 1934, ch. 2131, § 1; G.L. 1938, ch. 207, § 7; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-5-9.)

§ 4-5-10 Penalty for importation without permit. – Any person, firm, corporation, or association shipping, transporting, importing, or driving any bovine animals into this state without first obtaining an import permit or who fails to have any bovine animal which is being shipped, transported, imported, or driven into the state accompanied at all times with that permit shall be fined not more than five hundred dollars ($500), or be imprisoned for not more than one year, or both.

History of Section.
(P.L. 1896, ch. 344, § 2; G.L. 1909, ch. 120, § 14; G.L. 1923, ch. 241, § 14; P.L. 1926, ch. 788, § 2; P.L. 1927, ch. 1014, § 2; P.L. 1931, ch. 1786, § 2; P.L. 1934, ch. 2131, § 1; G.L. 1938, ch. 207, § 7; G.L. 1956, § 4-5-10.)

§ 4-5-11 Repealed

§ 4-5-12 Repealed

§ 4-5-13 Repealed

§ 4-5-14 Quarantine of imported cattle – Intradermic test. – If after the examination pursuant to § 4-5-13, the director of environmental management is of the opinion that any of the cattle examined are afflicted with tuberculosis, or if he or she has reason to question the accuracy or reliability of the test charts under which the cattle were imported into this state, or if for any other reason he or she believes any of the cattle examined may be affected with tuberculosis, the director, if in his or her judgment that action appears advisable, shall place the cattle in quarantine at their destination or at some other suitable place to be designated by the director, and the cattle shall be held in quarantine for a period of not more than ninety (90) days or until released by order of the director within that period. While those cattle are held in quarantine, the director shall cause them to be tested for tuberculosis with tuberculin by the intradermic test.

History of Section.
(P.L. 1900, ch. 756, § 3; G.L. 1909, ch. 120, § 18; G.L. 1923, ch. 241, § 18; P.L. 1923, ch. 432, § 1; P.L. 1926, ch. 788, § 4; P.L. 1928, ch. 1135, § 1; G.L. 1938, ch. 207, § 11; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-5-14.)

§ 4-5-15 Slaughter of infected cattle – Release of cattle free from tuberculosis. – If as the result of the test pursuant to § 4-5-14 it is found that any cattle are afflicted with tuberculosis, the diseased cattle shall be immediately slaughtered in the manner provided in § 4-5-3 and the state shall not be required to compensate the owner for their loss but the owner shall pay for testing the cattle with tuberculin. If any cattle are found free from tuberculosis as the result of the test pursuant to § 4-5-14, they shall be released for the use and benefit of the owner. If any cattle are slaughtered and upon post mortem examination it is found that the slaughtered animal was not afflicted with tuberculosis, then the animal shall be paid for by the state at its full appraised value in accordance with § 4-5-6.

History of Section.

(P.L. 1900, ch. 756, § 3; G.L. 1909, ch. 120, § 18; G.L. 1923, ch. 241, § 18; P.L. 1923, ch. 432, § 1; P.L. 1926, ch. 788, § 4; P.L. 1928, ch. 1135, § 1; G.L. 1938, ch. 207, § 11; G.L. 1956, § 4-5-15.)

§ 4-5-16 Penalty for violation of import requirements. – Any person taking cattle out of, or otherwise breaking, the quarantine provided for in § 4-5-14 or violating any other provision of §§ 4-5-12 – 4-5-15 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) or be imprisoned for not more than thirty (30) days, or both.

History of Section.
(P.L. 1900, ch. 756, § 4; G.L. 1909, ch. 120, § 19; G.L. 1923, ch. 241, § 19; P.L. 1928, ch. 1135, § 2; G.L. 1938, ch. 207, § 12; G.L. 1956, § 4-5-16.)

§ 4-5-17 Willful violations of import requirements. – When any person is shown to have knowingly brought into this state an animal suffering, or suspected to be suffering, with tuberculosis, or to have concealed the existence of that disease in any animal owned by him or her, that person is not entitled to any compensation for the animal slaughtered under this chapter, and is deemed guilty of a misdemeanor, and upon conviction shall be fined for that offense not exceeding one hundred dollars ($100).

History of Section.
(G.L. 1896, ch. 99, § 14; G.L. 1909, ch. 120, § 20; G.L. 1923, ch. 241, § 20; G.L. 1938, ch. 207, § 13; G.L. 1956, § 4-5-17.)

§ 4-5-18 Violations by public officers. – (a) Any cattle commissioner, veterinarian or other officer, agent, or employee appointed by the director of environmental management, having immediate control of the carcass of an affected animal as described in § 4-5-3, who permits the disposal of that carcass or any part in any manner as will be detrimental to the public health, shall be fined not exceeding one thousand dollars ($1,000), or imprisoned not exceeding two (2) years.

(b) Any cattle commissioner, veterinarian or other officer, agent, or employee appointed who shall knowingly certify for payment the claim of any person not the owner of the affected animals at the time of the test described in § 4-5-1, shall be fined not exceeding five hundred dollars ($500), or be imprisoned not exceeding one year.

History of Section.
(G.L. 1938, ch. 241, § 30; P.L. 1927, ch. 1014, § 3; G.L. 1938, ch. 207, § 22; G.L. 1956, § 4-5-18.)

§ 4-5-19 Penalty for violations generally. – Any person who violates any provision of this chapter for which a penalty is not otherwise provided shall be fined not exceeding five hundred dollars ($500) or be imprisoned not exceeding one year.

History of Section.
(G.L. 1938, ch. 241, § 30; P.L. 1927, ch. 1014, § 3; G.L. 1938, ch. 207, § 22; G.L. 1956, § 4-5-19.)

§ 4-5-20 Establishment of tuberculosis-free areas. – The director of environmental management may, in his or her discretion, establish circumscribed areas within which all bovine cattle are subjected to the tuberculin test, but in no case shall that area be smaller than a single city or town as provided. Before this area is established, the owners of eighty-five percent (85%) of the cattle, or seventy-five percent (75%) of the cattle owners in this area shall make application, in writing, on official form to the director, placing their herds under the inspection and supervision of the state or of the United States, for the eradication of bovine tuberculosis. Upon receipt of a sufficient number of those applications, the director shall first satisfy himself or herself that those applications have been signed by the requisite number of cattle owners within the designated area, and all those applications are open to inspection at all times. If satisfied that those

applications have been signed by the requisite number of cattle owners, the director may establish this area or areas which he or she shall clearly bound and describe, and within which bovine tuberculosis is to be eradicated at the expense of the state or United States, and he or she shall cause all those cattle within that area or areas to be quarantined, tested, appraised, and condemned as provided in §§ 4-5-1 – 4-5-6.

History of Section.
(G.L. 1938, ch. 241, § 43; P.L. 1932, ch. 1926, § 1; G.L. 1938, ch. 207, § 24; G.L. 1956, § 4-5-20.)

§ 4-5-21 Advertisement of tuberculosis-free areas. – Before proceeding to quarantine an area and to test the cattle in the area pursuant to § 4-5-20, the director of environmental management shall advertise the establishment of that area in some newspaper published in one of the towns included in that area, or if there is no newspaper published in any of those towns, then in a newspaper published in the county in which the area is situated. The advertisement shall state the date when the area is to be established and shall set forth in detail the proceedings to be followed in quarantining and testing the cattle within the area, and what will be required of the owners of those cattle. A notice similar in substance to the advertisement shall be posted on a public sign post in each city or town wholly or in part within the area. The advertisement shall be published and the notice posted not less than ten (10) days nor more than thirty (30) days before the date when the area is to be established.

History of Section.
(G.L. 1938, ch. 241, § 43; P.L. 1932, ch. 1926, § 1; G.L. 1938, ch. 207, § 24; G.L. 1956, § 4-5-21.)

§ 4-5-22 Administration of tuberculosis-free areas. – After any area has been established pursuant to §§ 4-5-20 and 4-5-21, no cattle shall be brought or transported into that area, except in accordance with the provisions of §§ 4-5-7 – 4-5-10, and except that cattle transported through the area on the highways by truck or railroad, and no cattle shall be taken from that area except with the consent of the director of environmental management during the process of accreditation. Within six (6) months after the date of the establishment of this area, the director shall to the extent that funds are available for that purpose cause all remaining untested bovine cattle in this area to be tested as provided in §§ 4-5-1 – 4-5-6 in accordance with the uniform rules and regulations promulgated by the United States livestock sanitary association and approved by the United States department of agriculture. After the area has been designated a modified accredited area, the cattle in this area shall be tested as provided in §§ 4-5-1 – 4-5-6 at such intervals as may be deemed advisable by the director of environmental management.

History of Section.
(G.L. 1938, ch. 241, § 43; P.L. 1932, ch. 1926, § 1; G.L. 1938, ch. 207, § 24; G.L. 1956, § 4-5-22.)

§ 4-5-23 Violations as to tuberculosis-free areas. – Any person or any officer or agent of any corporation who violates any provision of §§ 4-5-20 – 4-5-22 or who hinders or obstructs the director of environmental management or any other authorized person in the discharge of any duty imposed by the provisions of §§ 4-5-20 – 4-5-22, shall be punished by a fine of not more than one hundred dollars ($100) or imprisoned for not more than thirty (30) days or shall suffer both the fine and imprisonment for each offense, and for each animal transported into any of these areas contrary to the provisions of §§ 4-5-20 – 4-5-22 a separate offense may be charged.

History of Section.
(G.L. 1938, ch. 241, § 44; P.L. 1932, ch. 1926, § 1; G.L. 1938, ch. 207, § 25; G.L. 1956, § 4-5-23.)

CHAPTER 4-6
Brucellosis Control

§ 4-6-1 – 4-6-3. Repealed.. –

§ 4-6-4 Brucellosis test. – All cattle in the state shall be tested for brucellosis in a manner which conforms to the standards proposed and accepted by the United States livestock sanitary association and the United States department of agriculture. The director of environmental management shall establish the number of tests to be conducted.

History of Section.
(G.L. 1956, ch. 207, § 33; P.L. 1952, ch. 2938, § 1; G.L. 1956, § 4-6-4; P.L. 1962, ch. 43, § 1; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1.)

§ 4-6-5 Slaughter of all reactors in state. – When the records kept by the department of environmental management indicate that eighty-five percent (85%) of the total cattle of the state, excepting steers and calves under six (6) months of age, are free from brucellosis, the state regulatory officials shall require that all brucellosis reactors be slaughtered except calfhood vaccinated animals under thirty (30) months of age.

History of Section.
(G.L. 1956, ch. 207, § 34; P.L. 1952, ch. 2938, § 1; G.L. 1956, § 4-6-5.)

§ 4-6-6 Indemnities. – Indemnities shall be paid by the state for brucellosis reactors on the same basis and in the same manner as now provided for tuberculosis reactors.

History of Section.
(G.L. 1956, ch. 207, § 35; P.L. 1952, ch. 2938, § 1; G.L. 1956, § 4-6-6; P.L. 1970, ch. 127, § 4.)

§ 4-6-7 Rules and regulations. – The director of environmental management, after a public hearing, may establish rules and regulations not inconsistent with this chapter, including health requirements for importing cattle, which have the force and effect of its provisions. A complete record of all animals coming under the chapter shall be kept. The rules and regulations entitled "Health requirements for importing cattle into Rhode Island", a copy of which dated March 6, 1970, signed by the director of health, has been filed in the office of the secretary of state, are approved as the regulations to be effective and in force in the first instance under the provisions of this chapter and shall in all respects be deemed as effective as if adopted in accordance with the procedures set forth in this section. Those regulations shall remain in force under this chapter until and unless amended by the director in accordance with the procedures set forth in this section.

History of Section.
(G.L. 1956, ch. 207, § 36; P.L. 1952, ch. 2938, § 1; G.L. 1956, § 4-6-7; P.L. 1970, ch. 127, § 5.)

§ 4-6-8 Penalty for selling or transporting cattle in violation of chapter. – Any person, firm, or corporation who buys, sells and/or transports cattle in violation of this chapter, upon conviction, shall be fined not more than two hundred dollars ($200) for each animal bought, sold and/or transported.

History of Section.
(G.L. 1956, ch. 207, § 37; P.L. 1952, ch. 2938, § 1; G.L. 1956, § 4-6-8.)

§ 4-6-9 Annual appropriations – Disbursements. – The general assembly shall annually appropriate any sum that it may deem necessary to carry out the provisions of this chapter; and the state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of that sum, or so much as may be required from time to time, upon the receipt by him or her of properly authenticated vouchers.

History of Section.
(G.L. 1956, ch. 207, § 38; P.L. 1952, ch. 2938, § 1; G.L. 1956, § 4-6-9.)

CHAPTER 4-6.1
Inspection and Control of Cattle Produced Milk

§ 4-6.1-1 Definitions. – As used in this chapter:

(1) "Director" means the director of health of the state and also his or her agents and servants authorized by law or by lawful direction of the director to perform any act or to do any thing under the terms of any particular provision of this title or chapter 2 of title 21 with respect to powers, duties or obligations specifically imposed upon the director.

(2) "Person" means any individual, firm, corporation, trust or trustee, partnership, or association.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1.)

§ 4-6.1-2 Director to enforce permit requirements for producers. – The director has power, authority, and responsibility, in addition to those possessed under the provisions of chapter 2 of title 21 to enforce all requirements of that chapter that producers have permits issued by the director of health.

History of Section.
(P.L. 1962, ch. 80, § 3.)

§ 4-6.1-3 Director to keep information concerning producers. – The director shall keep a file of the names and addresses and of any additional information as he or she may require, as to all of those holding producer's permits.

History of Section.
(P.L. 1962, ch. 80, § 3.)

§ 4-6.1-4 Coloring of milk not meeting standards. – The director has authority in case of a discovery of violation of the provisions of chapters 4 – 7 of this title, specially to treat so as to prominently identify, by the use of vegetable coloring matter, any and all milk found by him or her produced under conditions constituting a violation or violations of the provisions of chapters 4 – 7 of this title.

History of Section.
(P.L. 1962, ch. 80, § 3.)

§ 4-6.1-5 Dairy farms to be open to inspection. – All dairy farms of any permittee are open to inspection by the director and his or her authorized agents at all reasonable times.

History of Section.
(P.L. 1962, ch. 80, § 3.)

§ 4-6.1-6 Director may take action concerning violations. – Whenever the director is satisfied that the farm of a Rhode Island producer or of an out-of-state producer is in violation of the terms and conditions of or the standards required under this chapter and chapter 2 of title 21, he or she may order that producer to discontinue the sale of and/or to discontinue offering for sale any milk produced by that producer until he or she is satisfied that the producer is in compliance with the terms and provisions of this chapter and chapter 2 of title 21.

History of Section.
(P.L. 1962, ch. 80, § 3, P.L. 1982, ch. 78, § 4.)

§ 4-6.1-7 Director empowered to require information. – The director has power reasonably to require from any producer holding a permit any information concerning that producer and/or his or her herds and animals as he or she may require.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1982, ch. 78, § 4.)

§ 4-6.1-8 No person to sell milk in violation of this chapter or chapter 2 of title 21. – No person shall produce for sale, sell or offer for sale, possess for sale, or distribute any milk produced in violation of this chapter or chapter 2 of title 21.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1982, ch. 78, § 4.)

§ 4-6.1-9 Director empowered to hire assistants. – The director shall employ any agents as required in enforcing the provisions of this chapter and may prescribe their duties.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1982, ch. 78, § 4.)

§ 4-6.1-10 Penalties for violations. – Any person violating this chapter, shall for the first offense be punished by a fine of not more than one hundred dollars ($100), and for any subsequent offense not more than five hundred dollars ($500) or imprisonment for not more than three (3) months or be punished by both the fine and imprisonment in the discretion of the court. Upon every conviction of an offender under this chapter, whether final or not, the director may take any action with respect to the milk or permit of the person committing the violation as he or she might by law take if that person had violated any of the provisions of chapter 2 of title 21.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1982, ch. 78, § 4.)

§ 4-6.1-11 Appropriations. – The general assembly shall annually appropriate any sums that it deems necessary for the purpose of carrying out the provisions of this chapter. The state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of these sums or so much as may from time to time be required upon receipt by him or her of properly authenticated vouchers.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1982, ch. 78, § 4.)

§ 4-6.1-12 Director of health to enforce this chapter and chapter 2 of title 21 – Rules and regulations. – The director of health shall enforce this chapter and chapter 2 of title 21 and shall make any reasonable rules and regulations that he or she may deem necessary which are not inconsistent with the provisions of those chapters for the purpose of effectuating those provisions.

History of Section.
(P.L. 1962, ch. 80, § 3; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 1982, ch. 78, § 4.)

CHAPTER 4-7
Livestock Dealers

§ 4-7-1 License required. – No person, firm or corporation, wherever located, who, in the judgment of the director of environmental management, is primarily engaged in the business of buying, selling or exchanging livestock within the state shall engage in the business of buying, selling, or exchanging livestock within the state, except for slaughter within seventy-two (72) hours, without first obtaining a license from the director of environmental management.

History of Section.
(G.L. 1956, ch. 207, § 26; P.L. 1940, ch. 900, § 1; G.L. 1956, § 4-7-1; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-2 Rules and regulations – Terms of licenses – License and renewal fees. – The director of environmental management may make rules and regulations governing animal care, the issuance of licenses and the carrying out of the licensed business and relative to the maintenance of premises, buildings and conveyances, the health rating of livestock intended for sale, and the method and time of inspection and checking of those animals. Each license shall expire on the thirtieth (30th) day of June of each year. The fee for every license or renewal is one hundred dollars ($100).

History of Section.
(G.L. 1956, ch. 207, § 26; P.L. 1940, ch. 900, § 1; G.L. 1956, § 4-7-2; P.L. 1960, ch. 74, § 4; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-3 Revocation or suspension of license. – The director may revoke or suspend any license granted by him or her, if in his or her judgment the licensee is not complying with the rules and regulations made, provided, however, that the director shall not revoke or suspend a license until he or she shall have given the licensee five days' notice in writing of his or her intention to do so. After any suspension or revocation of a license, the licensee has the opportunity to be heard in person or by counsel.

History of Section.
(G.L. 1956, ch. 207, § 26; P.L. 1940, ch. 900, § 1; G.L. 1956, § 4-7-3.)

§ 4-7-4 Dealing without license. – Any person, firm or corporation engaged in the business of buying, selling, or exchanging livestock, except for slaughter within seventy-two (72) hours, without a license shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500).

History of Section.
(G.L. 1956, ch. 207, § 27; P.L. 1940, ch. 900, § 1; G.L. 1956, § 4-7-4; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-5 Compliance with importation regulations. – Every dealer of livestock is required to comply with existing rules and regulations governing the importation of livestock into the state.

History of Section.
(G.L. 1956, ch. 207, § 39; P.L. 1953, ch. 3145, § 1; G.L. 1956, § 4-7-5; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-6 Definitions. – As used in §§ 4-7-6 – 4-7-23:

(1) "Livestock" means any bovine, equine, caprine, ovine, camelids, swine or other animal sold for any purpose.

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

(3) "Farmers' co-operative" means a nonprofit association of producers organized with or without capital stock for the purpose of producing and/or selling food commodities.

(4) "License" means the certificate issued by the director to any person, firm, partnership, or corporation regularly engaged in the business of buying, selling and/or transporting livestock to be sold or used for food.

History of Section.
(R.P.L. 1957, ch. 47, § 1; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-7 Director to supervise movement of livestock. – It is the duty of the director of the department of environmental management to supervise the movement of livestock from place to place within the state.

History of Section.
(R.P.L. 1957, ch. 47, § 2; P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-8 Application for license. – Any person, firm, partnership, or corporation, regularly engaged in the business of buying, selling and/or transporting livestock to be sold or used for any purpose, shall annually apply to the director for a license to buy, sell and/or transport livestock to be sold or used for any purpose. The application for that license shall be made upon a form prescribed by the director who may, if he or she is satisfied as to the responsibility and character of the application, issue a license to the applicant to buy, sell and/or transport livestock.

History of Section.
(R.P.L. 1957, ch. 47, § 3; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-9 – 4-7-12. Repealed.. –

§ 4-7-13 Revocation of license – Hearing. – Each license provided for in § 4-7-8 shall be issued annually and may be revoked by the director for cause. If in the judgment of the director any provision of this chapter or any rule or regulation made under these sections has been violated, the director shall send notice by registered mail to the licensee who shall be given a hearing and if violation is proven his or her license shall be revoked.

History of Section.
(R.P.L. 1957, ch. 47, § 4; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-14 Vehicle number plates. – The director shall furnish for each vehicle to be used by a licensee in the business of buying, selling, and/or transporting livestock, two (2) number plates. These plates shall be displayed prominently on the vehicle used in the buying, selling and/or transporting of livestock under this chapter.

History of Section.
(R.P.L. 1957, ch. 47, § 5; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-15 Display of license. – Any person operating a vehicle used in the business of buying, selling, and/or transporting live livestock shall deposit or display in the vehicle in some easily accessible place a license to engage in that business as provided by § 4-7-8.

History of Section.
(R.P.L. 1957, ch. 47, § 6; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-16 License plate fees. – The fee for the first license issued to any one individual or corporation in accordance with this chapter is fifty dollars ($50.00), which entitles the licensee to one set of number plates. The fee for each additional license and set of number plates is twenty-five dollars ($25.00).

History of Section.
(R.P.L. 1957, ch. 47, § 7; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-17 Bill of sale required. – No person shall transport livestock in connection with the sale of the livestock from place to place upon any public highway or road in this state unless he or she has in his or her possession a bill of sale signed by the vendor or agent of the vendor and containing the vendor's address, the date of transaction, number of livestock, and/or weight, breed and price of livestock and such other information as in the discretion of the director will describe the livestock and establish the proper ownership. The information shall be available at any time to the director or his or her authorized agent or agents.

History of Section.
(R.P.L. 1957, ch. 47, § 8; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-18 Exceptions from provisions. – This chapter shall not apply to a merchant or a producer of livestock who does not go from place to place buying, selling, and/or transporting livestock nor shall it apply to a farmers' cooperative transporting livestock in connection with the operation of a cooperative.

History of Section.
(R.P.L. 1957, ch. 47, § 9; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-19 Administration – Rules and regulations. – The director has authority to administer the provisions of this chapter. He or she shall make and may modify rules and regulations necessary or incidental to the provisions of this chapter.

History of Section.
(R.P.L. 1957, ch. 47, § 10; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-20 Enforcement. – It is the duty of the director to enforce the provisions of this chapter and to prosecute any and all persons who, in his or her opinion, are guilty of violating any of the provisions of those sections, and the director or his or her duly appointed agent or agents are not required to enter into recognizance or become liable for costs.

History of Section.
(R.P.L. 1957, ch. 47, § 11; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-21 Repealed. –

§ 4-7-22 Treble damages in civil action by producer – Alternative remedy. – Any person failing to pay for livestock purchased from the livestock producer, and who is or should be licensed under this chapter, is liable for damages three (3) times the amount unpaid plus reasonable attorney fees as liquidated damages in a civil suit brought by the livestock dealer under the applicable rules of law in the courts. This provision is an additional or alternative remedy to the livestock producer.

History of Section.
(R.P.L. 1957, ch. 47, § 13; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

§ 4-7-23 Penalty for violations. – Any person who violates any of the provisions of this chapter shall be punished for the first offense by a fine of not more than one hundred dollars ($100) and for any subsequent offense by a fine of not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or by revocation of license for not more than one year.

History of Section.
(R.P.L. 1957, ch. 47, § 14; P.L. 2004, ch. 291, § 2; P.L. 2004, ch. 468, § 2.)

CHAPTER 4-8
Milk Gathering Stations

§ 4-8-1 Definitions. – The term "station" or "milk gathering station", as used in this chapter, includes an established office where the business of buying milk or cream, as provided in this chapter, is carried on, with or without a place or premises in connection with the business for the physical handling of milk or cream.

History of Section.
(P.L. 1918, ch. 1656, § 1; G.L. 1923, ch. 204, § 1; G.L. 1938, ch. 218, § 1; G.L. 1956, § 4-8-1.)

§ 4-8-2 License required – Application. – No person, firm, association, or corporation shall buy milk or cream in the state from producers for consumption or for manufacture in the state, unless that business is regularly transacted at an office or station in the state and unless that person, firm, association, or corporation is licensed as provided in this chapter. Every person, firm, association, or corporation, before engaging or continuing in the business of buying milk or cream for the stated purposes, shall annually, on or before June 1st, file an application with the director of environmental management for a license to transact that business. The application shall state the nature of the business, the full name of the person or

corporation applying for the license, and, if the applicant is a firm or association, the full name of each member of that firm, or association, the city or town and street number at which the business is to be conducted, and any other facts as the director prescribes. The applicant shall further satisfy the director of his, her, or its character, financial responsibility and good faith in seeking to carry on the business.

History of Section.
(P.L. 1918, ch. 1656, § 2; G.L. 1923, ch. 204, § 2; G.L. 1938, ch. 218, § 2; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-2; P.L. 1962, ch. 81, § 1.)

§ 4-8-3 Issuance of license – Terms. – The director of environmental management shall issue to an applicant, on payment of twenty dollars ($20.00), a license entitling the applicant to conduct the business of buying milk and cream from producers for the stated purpose at an office or station at the place named in the application until the first day of July; provided, that if the application is presented in the month of May, and if the applicant elects, the license may be granted to begin on the first day of July and run for a term of one year. A license shall not be issued to any applicant if, during the year preceding the filing of the application, a complaint from any producer and seller of milk or cream has been filed with the director against that applicant for any of the grounds specified in § 4-8-14, and that complaint has been established as true and just, to the satisfaction of the director, after the complaint has been investigated by him or her in the manner provided by §§ 4-8-12 and 4-8-13.

History of Section.
(P.L. 1918, ch. 1656, § 2; G.L. 1923, ch. 204, § 2; G.L. 1938, ch. 218, § 2; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-3; P.L. 1960, ch. 74, § 5.)

§ 4-8-4 Proof of financial security. – (a) A license shall not be issued as provided in § 4-8-3 unless the applicant for that license files with the application, a sworn financial statement in any form and giving any information that the director of environmental management may demand. The financial statement shall be made and executed under oath or written declaration that it is made under penalty of perjury.

(b) The director shall issue a license as provided in § 4-8-3, only when the financial statement is deemed by the director to be adequate for the protection of the producers of milk selling to that dealer. If, in the judgment of the director, following examination and investigation of the financial statement, adequate financial security is not evident, the applicant shall be required before a license is issued, to furnish good and sufficient surety or sureties in any form and in any sums as the director deems necessary for the adequate protection of the producers selling to that dealer. Failure to furnish a financial statement or surety or sureties when demanded by the director shall be sufficient cause for refusal to grant a license or for the suspension or revocation of that license after the license has already been granted.

History of Section.
(P.L. 1918, ch. 1656, § 3; G.L. 1923, ch. 204, § 3; P.L. 1930, ch. 1581, § 1; G.L. 1938, ch. 218, § 3; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-4.)

§ 4-8-5 Statements of defaulted claims against licensees. – Upon default by the licensee in the payment of any money due for the purchase of milk or cream, which payment is secured by the sworn financial statement or surety provided for, the creditor may file with the director of environmental management, upon a form prescribed by him or her, a verified statement of his or her claim. If the creditor has reduced the claim to judgment or shall before the commencement of the action by the director reduce the claim to judgment, a certified copy of the record of that judgment shall also be filed with the director. Statements may be filed at any time during the period of the license for purchases made during that period or within ninety (90) days from the termination of that period.

History of Section.
(P.L. 1918, ch. 1656, § 4; G.L. 1923, ch. 204, § 4; G.L. 1938, ch. 218, § 4; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-5.)

§ 4-8-6 Action to determine amounts due creditors of licensees. – After the expiration of ninety (90) days from the termination of any license period, the director of environmental management shall, by proper action where all the creditors and any surety given, as provided, and the licensee shall be parties, proceed to determine the amount due each creditor, and the judgment rendered in that action shall be enforced ratably for those creditors against the surety. If any creditor has reduced his or her claim to judgment, that judgment shall be presumptive proof of the amount due that creditor in any action brought by the director of environmental management.

History of Section.
(P.L. 1918, ch. 1656, § 5; G.L. 1923, ch. 204, § 5; G.L. 1938, ch. 218, § 5; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-6.)

§ 4-8-7 Liability of sureties. – Every surety given in accordance with the provisions of this chapter shall be liable, in the first instance, for the payment of all claims arising during the license period for which the surety continues, and filed either during that period or within ninety (90) days after the expiration. If all claims shall be paid, the balance of the liability of each surety shall be devoted to the extinguishment ratably of claims arising during that license period, but for which statement shall not have been filed until ninety (90) days after the expiration of that period.

History of Section.
(P.L. 1918, ch. 1656, § 6; G.L. 1923, ch. 204, § 6; G.L. 1938, ch. 218, § 6; G.L. 1956, § 4-8-7.)

§ 4-8-8 Statement of disbursements – Additional bonds. – A person or corporation licensed under this chapter shall make a statement under oath of his, her, or its disbursements during a period to be prescribed by the director of environmental management, containing the names of the persons from whom products were purchased, the amount purchased and the amount due to the vendors. Those statements shall be submitted to the director, when requested by him or her, and shall be in the form prescribed by the director. If it appears from a statement or other facts ascertained by the director, upon inspection or investigation of the books and papers of the licensee, as authorized by § 4-8-12, that the security afforded to persons selling milk and cream to that licensee by the bond executed by that licensee as provided does not adequately protect the vendors, the director may require that licensee to give an additional bond, to be executed in a sum determined by the director, but not exceeding by more than fifty percent (50%) the maximum amount paid out by that licensee to sellers of milk in any one month.

History of Section.
(P.L. 1918, ch. 1656, § 7; G.L. 1923, ch. 204, § 7; G.L. 1938, ch. 218, § 7; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-8.)

§ 4-8-9 Schedule of prices – Accounts of purchases. – Every proprietor of a milk gathering station shall post in a conspicuous place in his or her milk station, a schedule of the prices being paid for milk or cream, and shall keep a correct account of all the milk or cream daily received or purchased from each person at that milk station which account shall be open to inspection by any person selling or delivering milk or cream to that proprietor.

History of Section.
(P.L. 1918, ch. 1656, § 11; G.L. 1923, ch. 204, § 11; G.L. 1938, ch. 218, § 11; G.L. 1956, § 4-8-9.)

§ 4-8-10 Record of transactions – Periodical statements to sellers. – Every proprietor of a milk gathering station shall keep, in any form that the director of environmental management may prescribe, a record of transactions of purchases of milk or cream by him or her and he or she shall, at least semimonthly, or weekly if so agreed upon by the parties to the transaction, deliver to each person from whom he or she receives or purchases milk or cream, and in the unit of measure used in computing the amount due, an itemized statement of the several amounts or quantities of the milk or cream received or

purchased at that milk station from that person during the prior half month or, if statements are delivered more frequently than semimonthly, during that period of time which has elapsed since the delivery of the last prior statement.

History of Section.
(P.L. 1918, ch. 1656, § 11; G.L. 1923, ch. 204, § 11; G.L. 1938, ch. 218, § 11; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-10.)

§ 4-8-11 Applications for investigation. – If either party to the transaction of purchase and sale between a milk producer and a licensed buyer of milk is dissatisfied relative to any transaction of purchase and sale of milk between a milk producer and a licensed buyer of milk, he or she may apply to the director of environmental management, in writing, within thirty (30) days after the delivery of the milk to the licensed buyer, for investigation. The director shall treat the application as a complaint, and cause a full investigation of the transaction complained of to be made.

History of Section.
(P.L. 1918, ch. 1656, § 12; G.L. 1923, ch. 204, § 12; G.L. 1938, ch. 218, § 12; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-11.)

§ 4-8-12 Investigative powers of director. – The director of environmental management has power to investigate upon the complaint of any interested person, or of his or her own motion, the record of any person, firm, or corporation applying for or holding a license, or any transaction involving the purchase of milk for shipment as provided for in this chapter; and for that purpose may examine the ledgers, books of account, memoranda, or other documents of any person, firm, association, or corporation applying for or holding a license and may take testimony under oath; but information relating to the general business of any that person, firm, association, or corporation, disclosed by this investigation and not relating to the immediate purpose shall be deemed of a confidential nature by the director and his or her assistants.

History of Section.
(P.L. 1918, ch. 1656, § 8; G.L. 1923, ch. 204, § 8; G.L. 1938, ch. 218, § 8; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-12.)

§ 4-8-13 Adjustments and hearings on complaints. – When a complaint is filed with the director of environmental management, he or she shall attempt to secure an explanation or adjustment, and, failing this within ten (10) days, he or she shall cause a copy of the complaint, together with a notice of the time and place for a hearing, to be served personally or by mail upon the applicant or licensee. If served by mail, the complaint and notice shall be directed to the applicant or licensee at his or her place of business, with postage fully prepaid. Service shall be made at least seven (7) days before the hearing. At the time and place appointed for the hearing, the director, or his or her representatives, shall hear the parties to the complaint, shall have power to administer oaths and shall enter in the records of the department of environmental management a decision either dismissing the complaint or specifying the facts which he or she deems established on the hearing.

History of Section.
(P.L. 1918, ch. 1656, § 8; G.L. 1923, ch. 204, § 8; G.L. 1938, ch. 218, § 8; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-13.)

§ 4-8-14 Grounds for denial or revocation of license. – The director of environmental management may decline to grant a license or may revoke a license already granted when he or she is satisfied of the existence of the following cases or either of them:

(1) Where a money judgment has been secured by any milk producer and has been entered against the applicant or licensee and remains unsatisfied of record.

(2) Where there has been a failure to make prompt settlements to persons from whom the applicant buys milk, with intent to defraud.

(3) Where there have been combinations to fix prices.

(4) Where there has been a continual course of dealing of such nature as to satisfy the director of the inability of the applicant or licensee to properly conduct the business or of an intent to deceive or defraud customers.

(5) Where there has been a continued and persistent failure to keep records, required by the director, in accordance with this chapter.

History of Section.
(P.L. 1918, ch. 1656, § 9; G.L. 1923, ch. 204, § 9; G.L. 1938, ch. 218, § 9; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-14.)

§ 4-8-15 Judicial review of decisions refusing or revoking licenses. – The action of the director in refusing to grant a license, or in revoking a license granted under this chapter shall be subject to review under the provisions of chapter 35 of title 42.

History of Section.
(P.L. 1918, ch. 1656, § 10; G.L. 1923, ch. 204, § 10; G.L. 1938, ch. 218, § 10; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-15.)

§ 4-8-16 Penalties for violations. – Any person who, being a buyer of milk for shipment for the purposes set forth in this chapter, whether that person be licensed or whether his or her business be transacted at a station or otherwise, fails to make prompt payments for milk purchased, with intent to defraud, or makes any false or misleading statement or statements enumerated in this chapter, with intent to deceive, or enters into any combination to fix prices, or not being licensed, conducts the business of buying milk for shipment as provided in this chapter, or being licensed or otherwise, engages in that business without having a station or office, or fails to conform to any requirement of or violates any of the provisions of this chapter, with intent to deceive a seller of milk, is guilty of a misdemeanor and upon conviction shall for the first offense be fined not more than two hundred dollars ($200) or imprisoned not more than thirty (30) days, or both; and shall for the second offense be fined not more than five hundred dollars ($500) or imprisoned not more than sixty (60) days, or both; and shall for the third offense within any one calendar year be imprisoned for not more than ninety (90) days, and shall forfeit his or her license and be disqualified from obtaining a license within two (2) years after the forfeiture of license.

History of Section.
(P.L. 1918, ch. 1656, § 13; G.L. 1923, ch. 204, § 13; G.L. 1938, ch. 218, § 13; G.L. 1956, § 4-8-16.)

§ 4-8-17 Disposition of fines. – All moneys collected in fines or fees under the provisions of this chapter shall be turned over to the general treasurer for the use of the state.

History of Section.
(P.L. 1918, ch. 1656, § 14; G.L. 1923, ch. 204, § 14; G.L. 1938, ch. 218, § 14; G.L. 1956, § 4-8-17.)

§ 4-8-18 Employment of help by director – Expenses. – The director of environmental management may employ any help and incur any expense necessary to carry out the provisions of this chapter within the amount appropriated.

History of Section.
(P.L. 1918, ch. 1656, § 15; G.L. 1923, ch. 204, § 15; G.L. 1938, ch. 218, § 15; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 4-8-18.)

§ 4-8-19 Other laws preserved – Producers exempt. – Nothing contained in this chapter shall be construed to repeal or alter or vary the provisions of chapter 5 of title 21, or to require the license provided for from any person whose principal business is the production of milk, or to require a license from a producer of milk who may deliver milk direct to any store or place, or who retails his or her product direct to the consumer.

History of Section.
(P.L. 1918, ch. 1656, § 16; G.L. 1923, ch. 204, § 16; G.L. 1938, ch. 218, § 16; G.L. 1956, § 4-8-19.)

CHAPTER 4-10
Handling of Live Poultry

§ 4-10-1 Definitions. – As used in this chapter:
(1) "Director" means the director of environmental management.
(2) "Farmers' cooperative" means a nonprofit association of producers organized with or without capital stock for the purpose of producing and/or selling food commodities.
(3) "License" means the certificate issued by the director to any person, firm, partnership, or corporation regularly engaged in the business of buying, selling and/or transporting live poultry to be sold or used for food.

History of Section.
(P.L. 1946, ch. 1792, § 1; G.L. 1956, § 4-10-1.)

§ 4-10-2 Supervision of movement of poultry. – It is the duty of the director of environmental management to supervise the movement of live poultry from place to place within the state.

History of Section.
(P.L. 1946, ch. 1792, § 2; G.L. 1956, § 4-10-2.)

§ 4-10-3 License to deal in or transport poultry. – Any person, firm, partnership, or corporation, regularly engaged in the business of buying, selling and/or transporting live poultry to be sold or used for food, shall annually apply to the director for a license to buy, sell, and/or transport live poultry to be so sold or used for food. The application for that license shall be made upon a form prescribed by the director who may, if he or she is satisfied as to the responsibility and character of the applicant, issue a license to the applicant to buy, sell, and/or transport live poultry.

History of Section.
(P.L. 1946, ch. 1792, § 3; G.L. 1956, § 4-10-3.)

§ 4-10-4 Limited and unlimited licenses – Bond. – Licenses shall be issued in two (2) forms:
(1) A limited license which permits the licensee to do business on a United States currency basis only.
(2) An unlimited license issued to any person, firm, or corporation, as referred to in § 4-10-3, who furnishes a bond with sufficient surety in the amount of ten thousand dollars ($10,000), executed by a surety company authorized to do business within this state, payable to any poultry producer residing in this state that has sold live poultry to that licensed dealer, conditioned upon the faithful performance of all legal obligations incurred in the buying of live poultry from the poultry producer.

History of Section.
(P.L. 1946, ch. 1792, § 3A; P.L. 1955, ch. 3611, § 1; G.L. 1956, § 4-10-4.)

§ 4-10-5 Holding of unlimited licensee's bond. – The bond required by § 4-10-4(2) shall be held by the director of environmental management to satisfy any claims held against any licensee because of failure to pay for live poultry purchased by that licensed dealer from the poultry producer.

History of Section.
(P.L. 1946, ch. 1792, § 3A; P.L. 1955, ch. 3611, § 1; G.L. 1956, § 4-10-5.)

§ 4-10-6 Defaults by licensed dealers. – (a) Upon receipt of a written notice of a default in payment, the director of environmental management shall order a hearing to be held before him or her within two (2) weeks. If the claim is approved by the director of environmental management, he or she may order payment to be made directly to the seller of the live poultry by the bonding company. The payment shall be made within two (2) weeks after approval of the claim by the director of environmental management.

(b) All unpaid claims against licensed dealers must be made within three (3) weeks from date of sale of the poultry.

History of Section.
(P.L. 1946, ch. 1792, § 3A; P.L. 1955, ch. 3611, § 1; G.L. 1956, § 4-10-6.)

§ 4-10-7 Unpaid claims exceeding bond. – If unpaid claims against dealers licensed under § 4-10-4(2), made within the period of time prescribed in § 4-10-6(b), are in excess of the surety bond, and are approved by the director of environmental management, the amounts may be prorated among the claimants by the director of environmental management.

History of Section.
(P.L. 1946, ch. 1792, § 3A; P.L. 1955, ch. 3611, § 1; G.L. 1956, § 4-10-7.)

§ 4-10-8 Issuance and revocation of licenses. – Each license shall be issued annually and may be revoked by the director for cause. If in the judgment of the director any provision of this chapter or any rule or regulation made under this chapter has been violated, the director shall send notice by registered or certified mail to the licensee who shall be given a hearing and if violation is proven his or her license shall be revoked.

History of Section.
(P.L. 1946, ch. 1792, § 4; impl. am. P.L. 1956, ch. 3717, § 1; G.L. 1956, § 4-10-8.)

§ 4-10-9 Repealed

§ 4-10-10 Display of license. – Every person operating a vehicle used in the business of buying, selling, and/or transporting live poultry shall deposit or display in that vehicle in some easily accessible place a license to engage in that business as provided by § 4-10-3.

History of Section.
(P.L. 1946, ch. 1792, § 6; G.L. 1956, § 4-10-10.)

§ 4-10-11 License fees. – The fee for the first license issued to any one individual or corporation in accordance with this chapter shall be twenty-five dollars ($25.00), which entitles the licensee to one set of

number plates. The fee for each additional license and set of number plates is two dollars ($2.00).

History of Section.
(P.L. 1946, ch. 1792, § 7; G.L. 1956, § 4-10-11; P.L. 1960, ch. 74, § 6; P.L. 2004, ch. 595, art. 33, § 3.)

§ 4-10-12 Bill of sale to accompany poultry in transit. – No person shall transport live poultry in connection with the sale from place to place upon any public highway or road in this state unless he or she has in his or her possession a bill of sale signed by the vendor or agent of that vendor and containing the vendor's address, the date of transaction, number of poultry, and/or weight, breed and price of poultry and any other information as in the discretion of the director will describe that poultry and establish specifically their proper ownership. The information shall be available at any time to the director or his or her duly authorized agent or agents.

History of Section.
(P.L. 1946, ch. 1792, § 8; G.L. 1956, § 4-10-12.)

§ 4-10-13 Persons and organizations exempt. – This chapter shall not apply to a merchant or a producer of poultry who does not go from place to place buying, selling, and/or transporting live poultry nor shall it apply to a farmers' cooperative transporting poultry in connection with the operation of a cooperative.

History of Section.
(P.L. 1946, ch. 1792, § 9; G.L. 1956, § 4-10-13.)

§ 4-10-14 Administrative powers of director – Rules and regulations. – The director has authority to administer this chapter. He or she shall make and may modify rules and regulations necessary or incidental to the provisions of this chapter.

History of Section.
(P.L. 1946, ch. 1792, § 10; G.L. 1956, § 4-10-14.)

§ 4-10-15 Enforcement – Prosecution of violations. – It is the duty of the director to enforce this chapter and to prosecute any and all persons who, in his or her opinion, are guilty of violating any of the provisions of this chapter, and the director or his or her appointed agent or agents are not required to enter into recognizance or become liable for costs. It is the duty of the attorney general to conduct the prosecution of all cases brought by the director or his or her appointed agent or agents under this chapter.

History of Section.
(P.L. 1946, ch. 1792, § 11; G.L. 1956, § 4-10-15.)

§ 4-10-16 Penalty for violations. – Any person violating the provisions of this chapter shall be punished for the first offense by a fine of not more than one hundred dollars ($100) and for any subsequent offense by a fine of not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or by imprisonment for not more than one year, or by both the fine and imprisonment.

History of Section.
(P.L. 1946, ch. 1792, § 12; G.L. 1956, § 4-10-16.)

CHAPTER 4-12
Apiculture

§ 4-12-1 Title. – Sections 4-12-1 – 4-12-17 shall be known as the "Rhode Island Apiculture Law".

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-2 Definitions. – As used in §§ 4-12-2 – 4-12-17 unless the context clearly requires otherwise, the following terms mean:

(1) "Abandoned colony or apiary" means any colony or apiary which is not currently registered and has not been registered within the preceding two (2) years and/or which the inspector is unable to locate the owner and is unable to inspect due to conditions within the colony which render the colony or apiary uninspectable.

(2) "Apiary" means any place or location where one or more colonies or nuclei of bees are kept.

(3) "Authorized official" means the state official authorized to inspect apiaries in the state of origin of bees being transported into or through the state.

(4) "Beekeeper" means any individual, person, firm, association or corporation owning, possessing, or controlling one or more colonies of bees for the production of honey, beeswax, or byproducts, or for the pollination of crops for either personal or commercial use.

(5) "Beekeeping equipment" means all hives, hive bodies, supers, frames, combs, bottom boards, covers, excluders, screens, escape boards, feeders, hive tools, slatted racks, or other devices or boxes or other containers which may have been used in the capturing or holding of swarms, and including honey which may be or may have been used in or on any hive, colony, nuclei or used in the rearing or manipulation of bees or their brood.

(6) "Bees" means any stage of the common honey bee, apis mellifera, or other bees kept for the production of honey, wax or pollination.

(7) "Colony" means the bees inhabiting a single hive, nuclei box or dwelling place.

(8) "Director" means the director of the Rhode Island department of environmental management.

(9) "Disease" means American foulbrood and any other infectious, contagious or communicable disease affecting bees or their brood.

(10) "Eradicate" means the destruction and/or disinfection of infected and/or infested bees, equipment and/or pests by burning or by treatment approved by the state inspector.

(11) "Feral colony" means an unowned or unmanaged colony of bees existing naturally.

(12) "Hive" means any man-made domicile with removable frames for keeping bees.

(13) "Inspector" means a person appointed by the director to check for diseased conditions or pest infestations in one or more apiaries as authorized by law.

(14) "Pests" means the honey bee tracheal mite, Acarapis woodi; and the Varroa mite, Varroa jacobsoni, and any other arthropod pests detrimental to honey bees; and genetic strains of the Africanized sub species, Apis mellifera adansoni and/or Apis mellifera scutellata.

(15) "Swarms" means a natural division of a colony in the process of becoming a feral colony.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-3 Inspector of apiaries – Deputies and assistants. – The director of environmental management shall appoint an inspector of apiaries, who shall assist in the enforcement of this chapter, under the supervision of the director. For those purposes, this inspector may, with the approval of the director, employ any deputies and assistants as may be necessary to enable the inspector to properly discharge duties as outlined.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-4 Inspectors – Qualification. – Any person appointed by the director as an apiary inspector shall be a practical beekeeper who before being appointed shall furnish the director with satisfactory evidence that the appointee possesses a practical knowledge of beekeeping and is familiar with the diagnosis and treatment of honey bee diseases and honey bee pests and/or is a graduate of an agricultural college with qualifying training in apiculture. The state inspector, or appointed deputies and assistants, may not own

more than fifty (50) colonies of honey bees.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-5 Inspection/survey of apiaries – Notice – Entry – Abatement of infection – Infestation of undesirable bees. – (a) The director of environmental management, to determine the presence or absence of infectious, contagious or communicable diseases or honey bee pests, shall annually either:

(1) Inspect twenty percent (20%) of the bee colonies located within thirty-three percent (33%) of the state's apiaries to determine the presence or absence of diseases and pests listed in § 4-12-2(14); or

(2) Conduct a statistical biological survey as published by the federal agriculture research service or the animal and plant health inspection service or the Beltsville beneficial insects laboratory.

Inspections or surveys will be geographically disbursed so as to be representative of the colonies within the state.

(b) A registered beekeeper may make a written request to the director for a special examination of the beekeeper's colonies. On receipt of this written request the director or authorized inspector shall inspect the bees owned and managed by that beekeeper for bee diseases or pests. A reasonable fee shall be charged which is not contingent upon issuance of a health certificate.

(c) Once written notice of inspection has been given to an owner as provided in this section, that owner shall not move any hive or hives or bees or bee equipment from the time notice is received until either seven (7) days thereafter or until the time that the results of the inspection are received.

(d) The director shall provide for controlling or eliminating infested or diseased honey bees and pests, including eliminating swarms and feral colonies as a means to prevent further dispersal and to protect the public and the economy of this state. The control procedures shall:

(1) Include abatement, as prescribed by rules adopted under this article.

(2) Include a public education program to emphasize the importance of a healthy beekeeping industry.

(3) Be designed and implemented to minimize the negative impact on beekeepers while being effective in controlling Africanized bees and other pests.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-6 Specialized examination – Inspection fees – Accessibility. – (a) Any bees kept in anything other than a hive with removable frames (which must be reasonably removable) such as box hives or other receptacles, natural or artificial, shall be deemed impossible to inspect unless the owner of these bees removes the brood or makes the brood accessible to the director or inspectors. To permit inspection of the brood, the director may order the colonies to be transferred to removable frame hives within thirty (30) days. In the event the order is not carried out, these colonies may be destroyed by the director or appointed inspectors.

(b) On finding infection or infestation or exposure to infection or infestation the director or inspector shall require that the infected, infested, or exposed bees, hives, or equipment be treated, or, after unsuccessful treatment, destroyed.

(c) The director or appointed inspector shall require removal from the state or the destruction of honey bees or beekeeping equipment which has been brought into this state in violation of this law.

(d) After inspecting infected hives, beekeeping equipment or handling diseased bees, the inspector or the deputy inspector shall, before leaving the premises or proceeding to any other apiary, thoroughly disinfect any portion of the inspector's person, clothing and/or any tools used which may have come in contact with infected material, and shall see that any assistant or assistants with him or her have likewise thoroughly disinfected their persons and clothing and any tools used by them.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-7 Certification of health – Expiration – Quarantine – Eradication. – (a) If, by reason of an owner requested inspection, the director is satisfied that no apparent disease or pest exists in any colony in an apiary, the director shall issue to the owner a certificate of health setting out the date of the inspection,

the number of colonies and the results of the inspection. This certificate shall expire ninety (90) days after the inspection.

(b) If, by reason of any inspection, the director is satisfied of the existence of any disease or pest, the director shall notify the beekeeper owning the apiary, in writing, of the results of the inspection, setting out the number and location of infected colonies and informing the owner of the proper methods of treating or destroying the infected colonies. Any apiary infected with any contagious or infectious bee disease or pest may be declared under quarantine and the owner shall be prohibited from moving this apiary, bees, honey, wax, or used beekeeping equipment. The owner shall eliminate the diseased or pest infested condition within the apiary or equipment or both, to the satisfaction of the director. The quarantine will then be lifted.

(c) If, by the time of the next inspection, which will be no more than thirty (30) days after the initial inspection, the disease or pest infested condition has not been eliminated, the director shall supervise either the treatment or eradication of the disease or pest infested bees and equipment, or shall otherwise eliminate the diseased or pest infested condition and lift the quarantine on any remaining bees, colonies or equipment.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-8 Movement permit required – When – Form – Issuance – Fee – Verbal authorization. – (a) It is unlawful to move, carry, transport, or ship bees, bees on comb, combs or used beekeeping equipment into the state unless accompanied by a valid permit issued by the director of environmental management. Applications for a permit to transport bees or used beekeeping equipment into the state shall be submitted on a form approved by the director. This application form shall be accompanied by a certificate of health issued by the authorized official of the state from which the bees are to be moved, certifying that the bees and used beekeeping equipment have been inspected by an authorized official during a period of active brood rearing, within fifteen (15) days prior to the proposed date of movement, and that these bees and used beekeeping equipment were found apparently free from any diseases or pests. Each application shall disclose the number of colonies of bees to be transported and a description of the location or locations where the bees are to be kept. Upon receipt of an application for a permit to move bees or used beekeeping equipment into the state, accompanied by a proper certificate of health and application fee of fifty dollars ($50.00) per application, the director shall issue the desired permit. This shall not apply to honey bees from quarantined areas outside the state. These quarantines shall include all federal, state or Rhode Island exterior quarantines. Importation of honey bees from quarantined areas shall be in accordance with regulations made pursuant to this law.

(b) Regardless of the provisions in subsection (a) of this section, the director has the authority to issue a permit without inspection to the person or persons owning these bees and equipment providing these bees and beekeeping equipment were certified and moved from the state within fifteen (15) days prior to the desired date of reentry and if the director is satisfied these bees and equipment have not been exposed to diseased bees, pests, or equipment. This section shall not apply to bees or beekeeping equipment returning from quarantined areas.

(c) A verbal authorization may be allowed by the director if the written permit outlined above has been submitted and received in a timely manner but has not been returned by the time the bees are to be moved.

(d) Combless packages of bees or queens, or both, may be admitted into Rhode Island without a Rhode Island permit, when accompanied by a valid certificate of inspection from the state of origin stating that they are free of diseases and pests. This shall not apply to honey bees from quarantined areas outside the state. These quarantines shall include all federal, state or Rhode Island exterior quarantines. Importation of honey bees from quarantined areas shall be in accordance with regulations made pursuant to this law.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-9 Quarantine areas outside state – Seizure – Inspection – Eradication. – Whenever the director finds that there exists in any other state, territory, or district or part of any state, territory, or district, any harmful pests or diseases of honey bees, the director shall promulgate, and enforce by appropriate regulations, a quarantine prohibiting the importation of or the transportation into or through Rhode Island

or any portion of Rhode Island, from any other state, territory or district, any honey bees, used beekeeping equipment, or any other article or product capable of carrying these pests or diseases. The director shall make rules for the seizure, inspection, disinfection, eradication, destruction, or other disposition of any honey bees, used beekeeping equipment or any other regulated article or product capable of carrying these pests or diseases in violation of this quarantine.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-10 Quarantines inside state – Seizure – Inspection – Notice – Eradication – Lien for expenses. – (a) Whenever the director finds there exists in this state, or any part of this state, a harmful disease or pest of honey bees, which, for the protection of the apiculture and/or agriculture industry within the state, should be prevented from spreading and be controlled or eradicated, the director shall adopt and carry out any restrictive and control measures as may be deemed necessary and advisable and shall cooperate with other state agencies and with the United States department of agriculture.

(b) The director shall promulgate regulations establishing quarantines and quarantine restrictions covering areas in the state affected by these honey bee diseases or pests, and other areas within the state which are likely to be affected by these diseases and pests.

(c) Under these quarantines the director or authorized personnel shall prohibit and prevent the movement, shipment, or transportation without inspection of any honey bees, used beekeeping equipment, or any other regulated material or article of any character capable of carrying this disease or pest in any stage of its development, originating in or which has been stored in quarantined areas or in any area outside the state infested with this disease or pest, except under any conditions as the director may prescribe as to inspection, treatment and certification. In carrying out the provisions of this section the director or authorized personnel may intercept, stop and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon, or other vehicles or carriers whether air, land or water, and may open and inspect any container or shipment thought to be carrying this disease or pest in any stage of its development. Any honey bees, used beekeeping equipment, or any other regulated articles moved, shipped, or transported in violation of this quarantine shall be seized and treated, destroyed or otherwise disposed of in accordance with the instructions of the director.

(d) Under these quarantines the director shall require the treatment or destruction of infected or infested honey bee colonies as may be necessary to effectively destroy or prevent the development of this disease and pests of honey bees. It shall be the duty of the owner or person in charge of any apiary or any other regulated article within this quarantined area upon due notice, to take any action as is required within the time limit specified and in a manner designated by the director.

(e) In case the owner or person in charge of any apiary, used beekeeping equipment or other regulated articles within the quarantined area neglects or refuses to carry out the instructions of the director contained in the notice within time limits specified, the director or authorized personnel shall take the action required, and the director shall have and enforce a lien for the expense against the place in or upon which the expense was incurred in the same manner as liens are had and enforced upon buildings and lots, wharves and piers for labor and materials furnished by virtue of contract with the owner.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-11 Revocation of movement permit. – Any permit for the movement of bees or used beekeeping equipment into the state, or any health certificate, issued by the director or authorized personnel, may be revoked for cause by the director or authorized personnel. Notice of this revocation shall be in writing and shall be mailed, by certified mail, to the last known address of the holder of the permit or certificate.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-12 Registration of apiaries. – (a) All apiaries in the state must be registered, annually, with the director of environmental management not later than March first. All persons owning honey bees within the state shall annually notify the director of the keeping of bees, their location and number of colonies.

(b) Any person(s) within the state who sells, gives, barters, or otherwise transfers ownership of bees and/or honey bee colonies, and/or nuclei colonies shall notify the director, in writing, within thirty (30) days of the name and address of the new owner.

(c) Between 14 and 30 days prior to March first annually the director shall cause notice of the registration requirement to be published at least twice in the state newspaper and in other newspapers and journals of general circulation adequate to provide reasonable notice throughout the state.

(d) The director shall mail to all registered beekeepers the necessary registration material annually, at least thirty (30) days prior to March first.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-13 Identification of apiaries – Abandoned apiaries – Written notice – Steps to protect neighboring apiaries. – (a) Each colony within an apiary shall be identified with the owner's name and address. This identification may be affixed to external parts of the colony or placed between the inner and outer covers of each colony.

(b) When a colony or apiary is deemed to be abandoned written notice shall be given, by certified mail, to the owner or operator, if he or she can be located, that the colony or apiary is an abandoned colony or apiary. The abandoned colony or apiary shall be conspicuously marked as abandoned. If the owner cannot be located, this notice shall be served on the owner of the land on which the colony or apiary is located. If this colony or apiary continues to be abandoned for sixty (60) days, the director shall take whatever steps are necessary to protect the welfare of neighboring apiaries, including the removal or destruction of apiaries deemed as abandoned.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-14 Reports and records of inspector. – The inspector of apiaries shall make annual written reports to the director of the department of environmental management, giving the number of colonies inspected, the number of diseased colonies found, the number of colonies treated, and the number of colonies destroyed. A record shall also be kept of the locations where disease and/or pest infestations exists. This record however shall not be made public, but may be reviewed with the consent of the director of environmental management.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-15 Powers and duties of director – Rulemaking. – The director shall, from time to time, make regulations carrying out the provisions and requirements of §§ 4-12-1 – 4-12-17, including regulations under which inspectors and other employees shall:

(1) Inspect apiaries and equipment associated with beekeeping;

(2) Investigate, control, eradicate, and prevent the dissemination of honey bee diseases and pests; and

(3) Supervise or cause the treatment, control or destruction of honey bees infected with diseases or pests.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-16 Beekeeping advisory board. – (a) A beekeeping advisory board shall be established.

(b) The board shall consist of six (6) members appointed for terms as indicated:

(1) The president of the Rhode Island beekeeping association (1 year).

(2) Two (2) members from the Rhode Island beekeeping association appointed by that organization's president (3 years).

(3) One member of the Rhode Island fruit growers association appointed by that organization's president (3 years).

(4) One member from the Rhode Island agriculture council appointed by that organization's president (1 year).

(5) One at large member who is knowledgeable in beekeeping appointed by the director of the department of environmental management (1 year).

(c) The president of the Rhode Island agricultural council shall serve as ex-officio member.

(d) The initial terms of those members appointed for three (3) years shall be staggered so as to ensure that no more than one third (1/3) of these members will be appointed during a given year. Members shall serve without compensation.

(e) The advisory board shall serve in an advisory capacity to the director of environmental management in all aspects of beekeeping as it relates to the control and elimination of honey bee diseases and pests, inspection of apiaries and establishment of internal and external quarantines as outlined in this chapter.

(f) The board will advise the director on policies, procedures, and regulations designed to strengthen the beekeeping industry within the state so as to make the state self sufficient in the area of pollination required to support the state's agricultural industry.

(g) The advisory board shall meet with the director of the department of environmental management quarterly and at any other times as requested by the director.

History of Section.
(P.L. 1989, ch. 495, § 2.)

§ 4-12-17 Penalties. – Any person who violates any provision or requirement of §§ 4-12-1 – 4-12-16 or who forges, counterfeits, defaces, destroys, or wrongfully uses or possesses any certificate provided for in §§ 4-12-5 – 4-12-14 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000).

History of Section.
(P.L. 1989, ch. 495, § 2.)

CHAPTER 4-17
Humane Slaughter of Livestock

§ 4-17-1 Declaration of policy. – It is declared and determined as a matter of legislative finding that the use of humane methods in the slaughter of livestock prevents needless suffering, results in safer and better working conditions for persons engaged in the slaughtering industry, brings about improvement of products and economy in slaughtering operations, and produces other benefits for producers, processors, and consumers that tend to expedite the orderly flow of livestock and their products. It is declared to be the policy of the state to require that the slaughter of all livestock and the handling of livestock, in connection with slaughter, be carried out only by humane methods and to provide that methods of slaughter conform generally to those employed in other states where humane slaughter is required by law and to those authorized by the Federal Humane Slaughter Act of 1958, 7 U.S.C. § 1901 et seq., and regulations under that act.

History of Section.
(P.L. 1961, ch. 26, § 1.)

§ 4-17-2 Definitions. – As used in chapter:

(1) "Director" means the director of environmental management.

(2) "Humane method" means either:

(i) A method through which the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that is rapid and effective before being shackled, hoisted, thrown, cast, or cut; or

(ii) A method in accordance with the ritual requirements of the Jewish faith or any other religious faith through which the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

(3) "Livestock" means cattle, cows, sheep, swine, horses, mules, goats and any other animal which can or may be used in and for the preparation of meat or meat products.

(4) "Packer" means any person engaged in the business of slaughtering, or manufacturing or preparing meat or meat products for sale, either by that person or others, or of manufacturing or preparing livestock products for sale by that person or others.

(5) "Person" means any individual, partnership, corporation, or association doing business in this state, in whole or in part.

(6) "Slaughterer" means any person who regularly engages in the commercial slaughtering of livestock.

(7) "Stockyard" means any place, establishment, or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, for the handling, keeping, and holding of livestock for the purpose of sale or shipment.

History of Section.
(P.L. 1961, ch. 26, § 1.)

§ 4-17-3 Shackling and hoisting. – No slaughterer, packer, or stockyard operator shall shackle, hoist, or otherwise bring livestock into position for slaughter by any method which causes injury or pain.

History of Section.
(P.L. 1961, ch. 26, § 1.)

§ 4-17-4 Method of slaughter. – No slaughterer, packer, or stockyard operator shall bleed or slaughter any livestock except by a humane method.

History of Section.
(P.L. 1961, ch. 26, § 1.)

§ 4-17-5 Administration – Rules and regulations – Manual use of hammer, sledge, or poleax declared inhumane. – The director shall administer the provisions of this chapter. He or she shall promulgate and may from time to time revise rules and regulations which conform substantially to the rules and regulations promulgated by the secretary of agriculture of the United States pursuant to the Federal Humane Slaughter Act of 1958, 7 U.S.C. § 1901 et seq. The use of a manually operated hammer, sledge or poleax is declared to be an inhumane method of slaughter within the meaning of this chapter.

History of Section.
(P.L. 1961, ch. 26, § 1.)

§ 4-17-6 Penalty for violations. – Any person who violates any provision of this chapter shall, upon conviction, be punished by a fine of not more than five hundred ($500) dollars, or by imprisonment for not more than one year.

History of Section.
(P.L. 1961, ch. 26, § 1.)

§ 4-17-7 Exemption of ritual slaughter. – Nothing in this chapter shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this chapter, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this chapter. For the purposes of this section, the term "ritual slaughter" means slaughter in accordance with § 4-17-2(2)(ii).

History of Section.
(P.L. 1961, ch. 26, § 1.)

CHAPTER 4-21
Exemption From Liability Arising From Equine Activities

§ 4-21-1 Definitions. – For the purpose of this chapter, the following words or phrases shall have the following meanings:

(1) "Engages in an equine activity" means riding, training, assisting in veterinary treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted, visiting or touring or utilizing an equine facility as part of an organized event or activity, or any person assisting a participant or show management. The term "engages in an equine activity" does not include being a spectator at an equine activity, except in cases where the spectator knowingly places himself in a restricted area.

(2) "Equine" means a horse, pony, mule, or donkey.

(3) "Equine activity" means:

(i) Equine shows, fairs, competitions, or performances that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, riding, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, gymkhana games, and hunting;

(ii) Equine training or teaching activities, or both;

(iii) Boarding equines, including their normal daily care;

(iv) Riding, inspecting, or evaluating by a purchaser or an agent an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(v) Rides, trips, hunts or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor;

(vi) Placing or replacing horseshoes or hoof trimming on an equine; and

(vii) Providing or assisting in veterinary treatment.

(4) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or not for profit, which sponsors, organizes, or provides the facilities for an equine activity, including but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, stable and farm owners and operators, instructors, and promoters or equine facilities, including but not limited to farms, stables, clubhouses, pony ride strings, fairs, and arenas at which the activity is held.

(5) "Equine professional" means a person engaged for compensation to:

(i) Instruct a participant or rent to a participant an equine for the purpose of riding, driving or being a passenger upon the equine;

(ii) Rent equipment or tack to a participant;

(iii) Provide daily care of horses boarded at an equine facility; or

(iv) Train an equine.

(6) "Inherent risks of equine activities" means those dangers or conditions which are an integral part of equine activities, including but not limited to:

(i) The propensity of equines to behave in ways that may result in injury, harm, or death to persons on or around them;

(ii) The unpredictability of an equine's reaction to things as sounds, sudden movement, and unfamiliar objects, persons, or other animals;

(iii) Collisions with other equines or objects; or

(iv) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, as failing to maintain control over the equine or not acting within his or her ability.

(7) "Participant" means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

History of Section.
(P.L. 1993, ch. 357, § 1.)

§ 4-21-2 General provisions. – Except as provided in § 4-21-3, an equine activity sponsor, an equine professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities unless the equine activity sponsor, professional or other person are demonstrated to have failed to exercise due care under the circumstances towards the participant and, except as provided in § 4-21-3, no participant nor any participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities unless this equine activity sponsor, professional or other person shall be demonstrated to have failed to exercise due care under the circumstances towards the participant.

History of Section.
(P.L. 1993, ch. 357, § 1.)

§ 4-21-3 Exceptions. – (a) This chapter does not apply to horse racing meetings to which chapter 3 of title 41 is applicable.

(b) Nothing in § 4-21-2 prevents or limits the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:

(1) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it did cause the injury; or

(B) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity, and determine the ability of the participant to safely manage the particular equine based on the participant's representations of his or her ability;

(2) Owns, leases, rents, has authorized use of, or is otherwise in lawful possession and control of the land, or facilities upon which the participant sustained injuries because of a dangerous condition which was known or should have been known to the equine activity sponsor, equine professional, or person;

(3) Commits an act of omission that constitutes willful or wanton disregard for the safety of the participant, and that act of omission caused the injury; or

(4) Intentionally injures the participant.

History of Section.
(P.L. 1993, ch. 357, § 1.)

§ 4-21-4 Posting and notification. – (a) Every equine professional shall post and maintain signs which contain the warning notice specified in subsection (b). These signs shall be placed in a clearly visible location in the proximity of the equine activity. The warning notice specified in subsection (b) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in subsection (b).

(b) The signs and contracts described in subsection (a) shall contain the following warning notice:

WARNING

Under Rhode Island Law, an equine professional, unless he or she can be shown to have failed to be in the exercise of due care, is not liable for an injury to, or the death of, a participant in equine activities resulting from the inherent risks of equine activities, pursuant to this chapter.

History of Section.
(P.L. 1993, ch. 357, § 1.)

CHAPTER 4-26
The Rhode Island Livestock Welfare and Care Standards Advisory Council Act of 2012

§ 4-26-1 Short title. – This chapter shall be known and may be cited as the "Rhode Island Livestock Welfare and Care Standards Advisory Council Act of 2012."

History of Section.
(P.L. 2012, ch. 368, § 1; P.L. 2012, ch. 381, § 1.)

§ 4-26-2 Findings. – The general assembly hereby finds that:

(1) Livestock is the core of dairy and livestock farming in Rhode Island.

(2) The care and management of livestock are important to the profitability of Rhode Island farms and the maintenance of Rhode Island's working landscape.

(3) There exists in this state a demand for safe, locally produced food.

(4) Livestock raised on Rhode Island farms offers profit potential and economic opportunity for Rhode Island producers.

(5) Livestock deserve a safe, healthy and humane environment that ensures protection from unnecessary or unjustifiable pain.

(6) The state would benefit from a diverse body charged with making policy recommendations to the department regarding livestock care.

(7) It is the intent of this legislation to assure the continued success of livestock and dairy farming in Rhode Island and the continuance of a safe, local food supply.

History of Section.
(P.L. 2012, ch. 368, § 1; P.L. 2012, ch. 381, § 1.)

§ 4-26-3 Definitions. – As used in this chapter, unless the context indicates a different meaning or intent:

(1) "Advisory council" or "council" means the Rhode Island livestock welfare and care standards advisory council act of 2012 established pursuant to § 4-26-4.

(2) "Agricultural operation" means any individual, partnership or corporation that complies with § 44-27-3 and subsection 2-1-22(j) and produces and distributes a commercial food, feed, fiber or horticultural product.

(3) "Biosecurity" means security from transmission of infectious diseases, parasites and pests.

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

(5) "State veterinarian' means a licensed veterinarian employed by the department of environmental management.

(6) "License" means the certificate issued by the director to any person, firm, partnership, or corporation regularly engaged in the business of buying, selling and/or transporting livestock to be sold or used for food.

(7) "Livestock" means any bovine, equine, caprine, ovine, camelid, swine, poultry, or other animal that is raised for production of food or fiber, or is used for work, commerce, or exhibition.

History of Section.
(P.L. 2012, ch. 368, § 1; P.L. 2012, ch. 381, § 1.)

§ 4-26-4 Advisory council established. – (a) There is established a livestock care standards advisory council consisting of the state veterinarian, or his or her designee, who shall serve as the chairperson and six (6) public members appointed by the director as follows:

(1) A representative from the Rhode Island farm bureau, or his or her designee, who shall serve as secretary;

(2) A representative from the Rhode Island society for the prevention of cruelty to animals, or his or her designee;

(3) A Rhode island based livestock farmer, or his or her designee;

(4) A representative from the University of Rhode Island department of environment and life sciences, or his or her designee;

(5) A representative from a Rhode Island nonprofit animal welfare entity, or his or her designee; and

(6) A representative from a national nonprofit animal welfare entity.

(b) Two (2) of those new members first appointed by the director shall serve initial terms of three (3) years; two (2) of those new members first appointed by the director shall serve an initial term of two (2) years; and two (2) of those new members, appointed by the director shall serve an initial term of one year. Thereafter, all appointed members of the advisory council shall be appointed to serve for terms of three (3) years. The members are eligible to succeed themselves. A vacancy other than by expiration shall be filled in the manner of the original appointment but only for the unexpired portion of the term.

(c) The director may remove any member from the council for neglect of any duty required by law, or for incompetence, or unprofessional or dishonorable conduct.

(d) The members of the council shall receive no compensation for their services but may receive reimbursement for travel and other necessary expenses while engaged in the performance of official duties of the council.

(e) The council shall meet at least quarterly and at the call of the chairperson or four (4) members of the council. A majority of seats filled shall constitute a quorum.

(f) The council shall receive staff and administrative support from the department. The director shall furnish the advisory board a suitable location to hold its meeting.

(g) All departments and agencies of the state shall furnish such advice and information, documentation, and otherwise to the council and its agents as is deemed necessary or desirable by the council to facilitate the purposes of this chapter.

History of Section.
(P.L. 2012, ch. 368, § 1; P.L. 2012, ch. 381, § 1.)

§ 4-26-5 Duties of the council. – The council shall support and work collaboratively with the department as follows:

(1) Review and evaluate laws and rules of the state applicable to the care and handling of livestock as defined in subsection 4-26-3(c) including, but not limited to:

(i) The overall health and welfare of livestock species;

(ii) Agricultural operation best management practices;

(iii) Biosecurity and disease prevention;

(iv) Humane transport and slaughter practices; and

(v) Any other matters the council considers necessary for the proper care and well being of livestock animals in the state.

(2) Respond to requests from the legislature for information and comments on proposed legislation;

(3) Issue recommendations necessary to achieve these goals;

(4) Submit policy recommendations to the director and general assembly on any of the subject matter set forth under subdivision (ii) of this subsection.

History of Section.
(P.L. 2012, ch. 368, § 1; P.L. 2012, ch. 381, § 1.)

§ 4-26-6 Reporting requirements. – (a) The council shall provide a report of its recommendations and findings. Said report shall be provided to the department, governor and general assembly by April 30, 2013.

(b) Thereafter, the council shall provide a written report to the governor and the general assembly, no later than April 30 of each year, on the progress made in achieving the goals and objectives set forth in this chapter and any other pertinent information by April 30, 2013.

(c) The council shall be subject to the provisions of chapter 38-2, access to public records act, and chapter 42-46, open meetings act.

History of Section.
(P.L. 2012, ch. 368, § 1; P.L. 2012, ch. 381, § 1.)

TITLE 21 – FOOD AND DRUGS

CHAPTER 21-2
Milk Sanitation Code

§ 21-2-1 Short title. – This chapter shall be known as "The Rhode Island Milk Sanitation Code".

History of Section.
(P.L. 1962, ch. 80, § 1; P.L. 1982, ch. 189, § 1.)

§ 21-2-2 Declaration of policy. – Milk is recognized to be one of the most perfect foods afforded by nature. It is unique in that its consumption in adequate quantities is essential to the nutritional well being of the individual; but if its production and distribution are not properly safeguarded, it may be instrumental in the transmission of diseases infectious to people. It is declared to be the policy of the state that for the protection of the health and welfare of the people of the state of Rhode Island the environmental conditions surrounding the production, handling, transportation, distribution, and sale of milk and milk products shall be to protect the public health and to provide consumers with products which are identified in such a way as to promote honesty and fair dealing in the best interests of the consumers. Specifically, it is declared to be the policy of the state to provide:

(1) That the people of Rhode Island shall have a supply of milk adequate to their needs and demands under all conditions.

(2) That milk provided for consumers within the state of Rhode Island shall be of good quality, shall be safe for human consumption, shall contain no live bacteria capable of transmitting disease to people, shall contain adequate nutritional components, and shall be free of adulteration.

(3) That milk sold or produced in Rhode Island shall come from healthy cows or goats.

(4) That milk sold or produced in Rhode Island shall be produced on farms having standards and conditions of sanitation adequate to ensure production of milk that is safe and of good quality.

(5) That milk sold or produced in Rhode Island shall be produced, processed, and handled by personnel free from any communicable disease.

(6) That milk to be consumed in the state of Rhode Island shall at all stages in its travel from animal to ultimate consumer is transported in equipment and/or packages which shall be designed, filled, operated, maintained, and emptied to prevent the introduction and/or propagation of bacteria, dirt or any other foreign substances.

(7) That all milk sold in Rhode Island shall be handled and processed under conditions of good sanitation and shall be finally packaged free from contamination, dirt, or any other foreign substances and/or adulteration.

(8) That all milk sold within the state of Rhode Island shall be pasteurized by a recognized method of pasteurizing adequate to destroy bacteria capable of transmitting disease to people. Provided, that a physician may authorize an individual sale of goat milk directly from producer to consumer by written, signed prescription.

(9) That the branding or labeling of packages in which all milk sold in the state of Rhode Island shall be delivered to the consumer shall state the grade of milk packaged, may state any special attributes of the milk, and that all statements made on any packaging labels shall not be false or misleading.

(10) That this state shall cooperate in the preparation and promulgation of any set of standards, regulations, statutes, or other means of control of sanitation in the production, transportation, handling, processing, and distribution of milk, or any one or more of them, according to a uniform system of requirements to be adopted alike by all or a majority of the states which contribute milk to the Rhode Island

market.

History of Section.
(P.L. 1962, ch. 80, § 1; P.L. 1984, ch. 132, § 3; P.L. 1989, ch. 205, § 3.)

§ 21-2-3 Definitions. – (a) "Cream" means the liquid milk product high in fat from milk, which may have been adjusted by adding to it: milk, concentrated milk, dry whole milk, skim milk, or nonfat dry milk.

(b) "Director" means the director of the department of health unless otherwise specified.

(c) "Goat milk" is the lacteal secretion, practically free from colostrum, obtained by the complete milking of healthy goats. The word "milk" is interpreted to include goat milk.

(d) "Grade A" means milk, cream, and products of milk and cream which comply with the applicable provisions of regulations established by the director.

(e) "Milk" means the lacteal secretion, practically free from colostrum, obtained by complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall contain not less than eight and one-fourth percent (8.25%) milk solids not fat and not less than three and one-fourth percent (3.25%) milk fat. Milk may have been adjusted by separating part of the milk fat from it or by adding cream, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk to it. The milk may be homogenized.

(f) "Raw milk for pasteurization" means grade "A" milk for pasteurization and raw products of milk which comply with the sanitary standards for their production, transportation, receiving, handling, storage, processing, distribution, and sale as established by the director.

(g) "Raw milk cheese" means any aged hard cheese manufactured from raw milk which has not undergone the process of pasteurization and which contains generally recognized safe and suitable ingredients as defined in 21 CFR 184.

History of Section.
(P.L. 1982, ch. 78, § 2; P.L. 1984, ch. 132, § 3; P.L. 1989, ch. 205, § 3; P.L. 2005, ch. 285, § 1.)

§ 21-2-4 Repealed. –

§ 21-2-5 Analysis of raw milk by private milk laboratories. – (a) Each milk plant engaged in processing milk shall, at least once in each calendar month, either through its own agents or through its milk haulers, collect, preserve, and submit to a private milk laboratory for analysis a sample or samples of the milk of each producer supplying milk to the milk plant. The laboratory shall determine the bacterial counts of the sample, both as raw milk and after pasteurization in the laboratory, the determination to be made by the standard plate count method, as well as a determination for any harmful substances that the director may by regulation require, and shall keep a record of these findings for a period of not less than one year following the findings which shall be open to inspection by the director or any milk inspector. The laboratory shall make a report to the milk plant submitting the sample with respect to each determination.

(b) The director may by regulation require any milk plant to submit samples of milk after pasteurization in the plant to a private laboratory for analysis for the purpose of ascertaining bacterial counts or the presence of harmful substances or organisms as the director may require, and the laboratory shall make its reports on its analysis available to the director in the same manner as with respect to samples of raw milk submitted by producers.

(c) Regulations promulgated by the director pursuant to this section requiring sampling by a private milk laboratory shall not impose an unreasonable burden on milk plants. The director may in his or her discretion engage private laboratories to perform any additional tests that he or she may require in the event the expense of the tests constitutes an unreasonable burden on milk plants. The director may by regulation require producers of raw milk cheese to submit samples of unpasteurized milk for said analysis.

History of Section.
(P.L. 1962, ch. 80, § 1; P.L. 1984, ch. 132, § 3; P.L. 2005, ch. 285, § 1.)

§ 21-2-6 Grade A dairy farm permit holders. – (a) All grade A dairy farms shall be inspected at least two (2) times each year by the department of health. If the grade A dairy farm is located outside of the state, the department may accept the inspection of some person or agency outside of the state of Rhode Island who has been qualified and approved by the director to make the inspection.

(b) Every grade A dairy farm permit holder shall be equipped with a bulk storage and pickup tank with suitable and adequate cooling equipment, and no grade A raw milk for pasteurization from grade A dairy farms shall be picked up in cans.

(c) No milk sold or shipped by a grade A dairy farm permit holder as grade A raw milk for pasteurization shall be commingled in any manner with milk or milk products of any other grade if it is to be sold as grade A pasteurized milk.

(d) The director of health shall be responsible for the enforcement of this section.

History of Section.
(P.L. 1962, ch. 80, § 1; impl. am. P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 1984, ch. 132, § 3; P.L. 1989, ch. 205, § 3.)

§ 21-2-7 Permits. – (a) It shall be unlawful for any milk producer whose dairy farm is located wholly or partly in this state to sell or to offer to sell milk or milk products or to have milk stored for sale who does not possess at all times a Rhode Island producer's permit from the director.

(b) It shall be unlawful for any milk hauler to transport any milk or milk products to any milk plant in the state of Rhode Island or to transport any milk in this state destined for sale in this state unless he or she shall at all times possess a Rhode Island milk hauler's permit from the director.

(c) It shall be unlawful for any person to operate a milk plant in the state of Rhode Island who does not possess a Rhode Island milk plant permit from the director with respect to each plant located in Rhode Island.

(d) It shall be unlawful for any milk distributor to sell or offer to sell milk or milk products, including raw milk cheese, within the state of Rhode Island unless he or she shall at all times possess a milk distributor's permit from the director.

(e) It shall be unlawful for any milk hauler to transport any milk or milk products from any point outside the state into the state of Rhode Island for sale or processing in this state or for any milk plant located in Rhode Island to process any milk or milk products which come from any point outside the state of Rhode Island or for any milk distributor to sell any milk or milk products within this state which come from any point outside this state, unless:

(1) Every producer who produces any part of the milk or milk products shall have been inspected and shall from time to time be inspected with the same minimum frequency, to the same degree, and according to the same requirements as provided in this chapter or any regulations promulgated under this chapter in the case of Rhode Island producers;

(2) Every vehicle in which the milk is transported to the plant where processed shall from time to time be inspected with the same minimum frequency, to the same degree, and according to the same requirements as provided in this chapter or any regulations promulgated pursuant to this chapter in the case of Rhode Island milk hauler permittees; and

(3) The operator of each milk plant located outside the state of Rhode Island where any part of the milk is processed at all times possesses an out-of-state milk plant permit from the director.

(f) It shall be unlawful for any person located in the state of Rhode Island to sell or offer for sale to any milk hauler or milk plant, or for any milk plant to pasteurize any raw milk for pasteurization, any part of which shall be used for grade A pasteurized milk or for any grade A milk product, unless the person at all times is in possession of a Rhode Island grade A producer's permit.

(g) The fees for the permits referred to in this section shall be as follows:

(1) In-state milk processors: one hundred sixty dollars ($160);

(2) Out-of-state milk processors: one hundred sixty dollars ($160);

(3) Milk distributors: one hundred sixty dollars ($160);

(4) Milk producers and milk haulers shall be exempt from permit fees.

History of Section.

(P.L. 1931, ch. 1777, §§ 1, 11; G.L. 1938, ch. 217, §§ 1, 10; G.L. 1956, §§ 21-2-1, 21-2-12; G.L. 1956, § 21-2-7, P.L. 1962, ch. 80, § 1; P.L. 1990, ch. 10, art. 8, § 1; P.L. 2001, ch. 77, art. 15, § 1; P.L. 2005, ch. 285, § 1; P.L. 2007, ch. 73, art. 39, § 36.)

§ 21-2-7.1. Rhode Island raw milk cheese. -It shall be lawful to produce in this state for sale raw milk cheese, as defined in § 21-2-3, provided that for the facility for making of such raw milk cheese, an in-state processors permit is obtained pursuant to § 21-2-7. The fee for such permit shall be in accordance with the provisions of § 23-1-54 for permits issued pursuant to § 21-2-7(g)(1), and the facility where the cheese is made shall comply with applicable standards, administered by the director, for a food business, that are reasonable and appropriate for a facility of this type and nature.

History of Section.
(P.L. 2016, ch. 536, § 2.)

§ 21-2-8 Issuance of permits. – *(a) General Requirements.* The director shall issue a permit as required in § 21-2-7 of any type or kind only after receipt by him or her of a written application upon a form furnished by the director and setting forth any information concerning the applicant and his or her operation and facilities that the director may by regulation require. No permit shall be issued except on the basis of an inspection of the applicant's operation and facilities by a milk inspector of the department of health, if the applicant's place of business or operation is located in the state of Rhode Island, or if located outside the state, upon the basis of an inspection by a milk inspector of the department or by some person or agency outside of the state of Rhode Island but qualified and approved by the director to make inspections of the type required in the state where the applicant's operation or facilities are located. The permit shall issue only after the foregoing conditions and those special conditions, if any, as may be required in the case of any particular type of permit provided in this chapter, shall have been complied with. Every permit shall be granted upon the express condition that the applicant shall at all times conduct his or her operations and maintain his or her facilities in accordance with: (1) the requirements of this chapter, (2) all regulations of the director promulgated in accordance with the provisions of this chapter, and (3) the terms of § 21-4.1-6.

(b) Rhode Island milk producer's permit. A milk producer's permit shall issue only after the director shall have ascertained that, according to the records of the department, the applicant is currently complying with the provisions of chapters 4 – 7 of title 4.

(c) Distributor's permit. No distributor's permit shall be required in the case of retail stores purchasing milk finally bottled or packaged from a permittee under this statute for resale at retail to the ultimate consumer within the state of Rhode Island, but it shall be unlawful for any distributor to sell milk or have milk in his or her possession to sell which has not been processed by a person holding a permit from the director.

(d) Out-of-state milk plant permit. An out-of-state milk plant permit shall be issued by the director only after he or she has received from the applicant for a milk plant permit a statement in writing in an approved form that the applicant agrees, as a condition precedent to the issuance of the permit, that his or her milk plant may be inspected at any time by the director or by milk inspectors of the state of Rhode Island and/or by any other inspectors approved by the director under the provisions of this chapter to make inspections in the state where the milk plant may be located, and that the director and his or her designated agents and representatives may at all reasonable times have access to the books and records of the milk plant for the purpose of enforcing compliance on the part of the applicant with the provisions of this chapter.

(2) Out-of-state milk plants shall meet the provisions of the regulations established by the director to sell, continue to sell, or offer for sale grade A milk or milk products in the state of Rhode Island. The regulations shall be consistent with the Federal Pasteurized Milk Ordinance.

History of Section.
(P.L. 1931, ch. 1777, §§ 2, 3, 5, 10; P.L. 1932, ch. 1865, § 1; P.L. 1933, ch. 2035, § 1; P.L. 1933, ch. 2036, § 1; P.L. 1936, ch. 2355, §§ 1, 3; P.L. 1937, ch. 2534, § 1; G.L. 1938, ch. 217, §§ 2 to 4, 9; G.L. 1956, §§ 21-2-2 to 21-2-4, 21-2-6, 21-2-11; G.L. 1956, § 21-2-8, P.L. 1962, ch. 80, § 1; P.L. 1968, ch. 158, § 1; P.L. 1989, ch. 205, § 3; P.L. 1992, ch. 320, § 2.)

§ 21-2-9 Duration and renewal of permits. – (a) All permits issued by the director shall, unless renewed, expire at midnight of the last day of the twelfth month after the date of issue.

(b) All permits may, except in the case of any permit revoked for cause after a hearing, as provided in this chapter, be renewable by the director upon the filing at least twenty (20) days before the expiration of the permit with the director of an application for renewal giving any information that the director shall, by written regulation, reasonably require.

History of Section.
(P.L. 1931, ch. 1777, § 5; P.L. 1936, ch. 2355, § 1; P.L. 1937, ch. 2534, § 1; G.L. 1938, ch. 217, § 4; P.L. 1940, ch. 901, § 1; G.L. 1956, § 21-2-6; G.L. 1956, § 21-2-9; P.L. 1962, ch. 80, § 1; P.L. 1968, ch. 158, § 1; P.L. 1982, ch. 189, § 1.)

§ 21-2-10 Issuance of temporary permits. – In any case where a milk plant located outside of the state of Rhode Island shall make application in the first instance for a permit, the director may, in his or her absolute discretion, after taking any measures that he or she shall deem necessary to investigate the health of the animals furnishing milk to the plant, their facilities, and the facilities of the plant and/or the quality of milk of the applicant, as the circumstances shall require, issue a temporary permit which shall permit the milk plant to sell or process milk, as the case may be, for ultimate sale in the state of Rhode Island. No temporary permit shall extend for a period in excess of thirty (30) days.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-11 Emergency powers. – (a) In the event of any serious disaster, such as conflagration, enemy attack, earthquake, flood, hurricane, tornado, drought, or other emergency, which shall result in an unusual nonseasonal shortage in the milk supply in the state of Rhode Island, the director shall have power, upon issuance of an order by him or her specifying the nature and extent of the emergency and without notice: (1) to suspend part or all of the regulations made under authority of this chapter; (2) to promulgate other or additional emergency regulations; and (3) to suspend part or all of the requirements of this chapter pertaining to inspection and the obtaining of permits by milk plants located outside the state of Rhode Island from which milk is derived for sale in the state of Rhode Island and pertaining to inspection of their milk producers and haulers.

(b) In the case of any special emergency, the director may issue emergency permits for the importation of milk into the state of Rhode Island which has not been inspected at the source in accordance with this statute and the regulations pursuant to this chapter; provided, that the director shall be satisfied that any source of milk admitted by emergency permit shall not constitute a threat to the health of the people of Rhode Island, and provided that environmental conditions surrounding the production, transportation, and processing of the imported milk shall reasonably have been subject to inspection at its source under authority of law other than that of the state of Rhode Island.

(c) The suspension and emergency regulations shall be for the duration of the emergency or forty (40) days, whichever period shall be shorter.

(d) The director is empowered in the event of any contamination or threat of contamination of the milk supply alone to promulgate additional emergency regulations pertaining to the treatment and conditions of production, distribution, and sale of milk, the regulations to go into effect immediately without a hearing. The emergency regulations shall be in effect forty (40) days or the duration of the emergency, whichever period shall be shorter. The director shall promulgate the emergency regulations by filing a copy of the regulations in the secretary of state's office and having copies available for public inspection. As soon as practicable, the director shall give notice of the promulgation of the emergency regulations.

History of Section.
(P.L. 1931, ch. 1777, §§ 2, 13; P.L. 1932, ch. 1865, §§ 1, 3; P.L. 1933, ch. 2037, § 1; G.L. 1938, ch. 217, §§ 2, 12; P.L. 1941, ch. 1043, § 5; G.L. 1956, §§ 21-2-4, 21-2-14; G.L. 1956, § 21-2-11; P.L. 1962, ch. 80, § 1; P.L. 1984, ch. 132, § 3; P.L. 1985, ch. 150, § 36; P.L. 2002, ch. 292, § 45.)

§ 21-2-12 Revocation of permits. – In the event that any permittee shall be deemed by the director to have violated any of the provisions of this chapter, or of the regulations promulgated under this chapter, or of the terms of § 21-4.1-6, he or she may, in his or her discretion, initiate proceedings for the revocation of the permit of the permittee. The director shall give the permittee twenty (20) days' written notice of a hearing at which the permittee shall be given opportunity to show cause as to why his or her permit shall not be revoked. The director may, at the hearing, have the assistance of counsel in ruling upon evidence and in connection with the conduct of the hearing, or, in the alternative, the hearing may be conducted by a subordinate designated by the director for that purpose, who shall take a written record of the proceedings by a competent court stenographer, and the director may decide the issues arising at the hearing upon the basis of the written record. Any decision on the revocation of any permit shall be made by the director in writing by filing his or her written decision containing his or her findings of fact and conclusions in his or her office and serving a copy by registered or certified mail of his or her decision in the matter on the permittee.

History of Section.
(P.L. 1931, ch. 1777, § 7; P.L. 1936, ch. 2355, § 2; G.L. 1938, ch. 217, § 6; G.L. 1956, § 21-2-8; G.L. 1956, § 21-2-12; P.L. 1962, ch. 80, § 1; P.L. 1984, ch. 132, § 3; P.L. 1992, ch. 320, § 2.)

§ 21-2-13 Appeals. – An appeal from any decision or order of the director may be taken by any aggrieved party to the superior court in the manner provided for in chapter 35 of title 42.

History of Section.
(P.L. 1984, ch. 132, § 2.)

§ 21-2-14 Temporary permit suspension. – Temporary permit suspensions shall take place in accordance with procedures set forth in the Grade "A" Pasteurized Milk Ordinance 1978 recommendations of the U.S. Public Health Service/Food and Drug Administration, and subsequent revisions.

History of Section.
(P.L. 1989, ch. 205, § 2.)

§ 21-2-15 Repealed

§ 21-2-16 Embargo of sale or distribution of milk. – In the event that any milk inspector or the director shall at any time, upon inspection of any dairy farm of any Rhode Island milk producer or of the facilities or equipment of any hauler or of any milk processing plant or of the plant, store, or other premises of any distributor, or upon the examination, inspection, or analysis of any quantity of milk or milk product, or in the event that he or she shall receive a report of any unsatisfactory inspection as to the animals of any producer, become satisfied or has probable cause to believe that any supply or quantity of milk is adulterated or so misbranded as to be dangerous or fraudulent within the meaning of chapter 31 of this title, he or she may embargo the supply or quantity of milk in accordance with the procedures set forth in § 21-31-6.

History of Section.
(P.L. 1962, ch. 80, § 1; impl. am. P.L. 1962, ch. 80, § 12, P.L. 1963, ch. 74, § 1; P.L. 1984, ch. 132, § 3.)

§ 21-2-17 , 21-2-18. Repealed.. –

§ 21-2-19 Inspections and inspectors. – The operations and facilities of all permittees located in the state of Rhode Island shall be inspected by the director or a milk inspector subordinate to the director at least

twice each year. The operations and facilities of all permittees located outside the state of Rhode Island shall likewise be inspected by the director or a milk inspector subordinate to the director at least twice a year; provided, that in the event that the director shall be satisfied that the entire inspection service of another state shall be adequate and reliable to ensure compliance with the provisions of this chapter on the part of producers, milk haulers, or permittees in another state, or in the event that he or she shall be satisfied as to the reliability of any one or more individual inspectors located in another state to ensure compliance, he or she may certify the service or the inspectors, as the case may be, to make the inspections of the operations and facilities of out-of-state permittees located in another state required under this section and required as a condition precedent to the issuance of permits in the first instance.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-20 Special inspections. – In the event that any operator of a milk plant or distributor shall desire to obtain milk to be sold in the state of Rhode Island from any location outside the state, and inspectors for that location have not been certified or approved by the director, and it shall be necessary in order to make the milk conform to the requirements of this statute and the regulations promulgated to provide specially for the necessary inspections pertaining to it, the director may in the alternative either: (1) approve and certify an inspector specially for the purpose; or (2) send an inspector from the director's own department for the purposes of making the inspections. In either event the milk haulers, the operator of milk plants, or distributors, as the case may be, requesting the inspection and the issuance of any permits involved, shall pay to the director all of the reasonable expenses and the salary pro rata of the inspectors not only of the inspection in the first instance incident to the issuance of permits, but for all subsequent inspections required by the director in the premises, the expenses to be allocated proportionately, according to volume, among the permittees requesting the inspections, if more than one.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-21 Inspectors and assistants. – The director shall employ any inspectors and assistants in enforcing the provisions of this chapter as he or she shall deem necessary and may delegate to them any powers possessed by him or her under the provisions of this chapter except those conferred upon him or her by §§ 21-2-11, 21-2-23, and 21-2-29 and which he or she is not in those sections specifically authorized to delegate.

History of Section.
(P.L. 1931, ch. 1777, § 14; G.L. 1938, ch. 217, § 13; G.L. 1956, § 21-2-15; G.L. 1956, § 21-2-21, P.L. 1962, ch. 80, § 1.)

§ 21-2-22 Inspection of animals and milk. – (a) Responsibility for the inspection of herds and animals of milk producers within the state of Rhode Island shall be imposed upon the director of environmental management who shall enforce compliance on the part of Rhode Island producers with the provisions of, and as provided in chapters 4, 5, 6, and 7 of title 4. With respect to the herds of producers of milk sold or destined for sale in the state of Rhode Island whose herds or establishments are located outside the state, it shall be the duty of the director of environmental management, either personally or through the director's subordinates or veterinarians or technicians approved by the director, to make inspection of the herds and animals, wherever located, to assure himself or herself that they comply in all respects with the same requirements pertaining to the herds and animals of Rhode Island producers under the provisions of chapters 4, 5, 6, and 7 of title 4, or in the event that the director is satisfied as to the competence and reliability of an entire inspection service or of individual inspectors of cattle available in the state where the herds or establishments of the out-of-state producers are located, he or she may approve the service or the inspectors, as the case may be, and solicit and accept the certification of those inspectors to the health of the herds and animals of out-of-state producers furnishing milk to out-of-state milk plant permittees and

compliance with the standards provided for Rhode Island producers; provided, that in the case of any producer outside of the state of Rhode Island who desires certification for the production of grade A milk, all inspections for animal disease and compliance with the provisions of chapters 4, 5, 6, and 7 of title 4, and for compliance with the requirements for grade A producers provided in § 21-2-6(b) – (d), shall be made by the director of health himself or herself, his or her own subordinates, or by veterinarians or technicians approved by him or her. It shall be the duty of the director of health to procure any necessary information with respect to the herds of producers located outside the state of Rhode Island, milk from which is processed or sold in Rhode Island, required to ensure that the herds substantially comply with the same requirements as in the case of Rhode Island producers imposed upon them by the provisions of chapters 4, 5, 6, and 7 of title 4.

(b) The director of the department of environmental management shall provide all information and reports necessary to the director of department of health for the enforcement of chapter 6.1 of title 4 and this chapter.

History of Section.
(P.L. 1962, ch. 80, § 1; impl. am. P.L. 1962, ch. 80, § 12; P.L. 1963, ch. 74, § 1; P.L. 1982, ch. 78, § 6.)

§ 21-2-23 Director empowered to make regulations. – (a) The director of health is authorized to promulgate any regulations that are necessary to carry into effect the provisions of this chapter, which shall include, but not be limited to, providing for: (1) standards of identity, labeling requirements, maintaining standards for milk and milk products sold or offered for sale in final package forms; (2) standards for the production, transportation, receiving, handling, storage, processing, distributions, and sale of raw milk for pasteurization and products of raw milk, including all pertinent sanitary standards and uniform minimum requirement for inspection of dairy farms, milk plants and receiving stations; and may in like manner amend, modify or repeal those rules and regulations which shall be consistent with the provisions of the Grade "A" Pasteurized Milk Ordinance 1978 recommendations of the U.S. Public Health Service/Food and Drug Administration, 1983 Revisions, which shall become upon the passage of this act the rules and regulations under this chapter in accordance with § 21-2-2(10).

(b) The adoption and amendment of regulations in the future shall be in accordance with chapter 35 of title 42; provided, that amendments to the Grade "A" Pasteurized Milk Ordinance adopted by the interstate milk shippers conference shall become a part of the regulations under this chapter. Provided, that a person adversely affected by any regulation may, within thirty (30) days, file with the director, in writing, those objections to a regulation automatically adopted which stays the effect of the regulation. If no substantial objections are received and no hearing is requested within thirty (30) days after publication of a notice of the adoption of a regulation, it shall be effective as of the date it was adopted by the interstate milk shippers conference. When automatic adoption is stayed by a timely objection, the director, after notice, shall conduct a public hearing in accordance with the provisions of chapter 35 of title 42. The director of health is authorized to adopt any other regulations for milk and other related products that he or she deems necessary in accordance with authority granted under this chapter, chapters 27 and 31 of this title and § 23-1-18(5).

(c) The director shall publish a notice of the adoption in a newspaper having general circulation throughout the state.

History of Section.
(P.L. 1984, ch. 132, § 2.)

§ 21-2-24 – 21-2-28. Repealed..

§ 21-2-29 Standards to be maintained. – All milk and milk products as defined in this chapter which are to be shipped, brought, carried, or transported into Rhode Island for sale, distribution, use, or processing in this state, shall come from animals that are of a substantially equal or higher health status as applied to brucellosis, tuberculosis, or other diseases as those animals located within Rhode Island from which milk is produced for sale, distribution, use, or processing.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-30 Information to be furnished to director. – Every person engaged in the business of producing, handling, transporting, processing, packaging, selling, or distributing milk in Rhode Island shall upon request furnish the director, whenever requested by the director, the following information: (1) full name and place of business; (2) number of quarts of milk handled weekly by him or her or it; and (3) the names and addresses of all producers, milk haulers or milk plants supplying milk to him or her. Every milk plant holding a Rhode Island milk plant permit shall report coincidentally with and by means of a copy of any report which he or she makes, or is required to make, to the federal milk marketing administrator whenever he or she shall have added or dropped a milk producer.

History of Section.
(P.L. 1931, ch. 1777, § 8; G.L. 1938, ch. 217, § 7; G.L. 1956, § 21-2-9; G.L. 1956, § 21-2-30, P.L. 1962, ch. 80, § 1.)

§ 21-2-31 Labeling of containers of milk and milk products. – (a) All containers in or from which milk or milk products are sold or offered for sale shall bear a label in accordance with regulations adopted under this chapter.

(b) All labels or marks shall be displayed in the manner and include any matters as shall be prescribed by the rules and regulations of the director; provided, nothing contained in this section shall be construed to empower the director to disapprove of or to change any dealer from using the common name of his or her firm, or of any registered trademark, brand, or trade name customarily used by him or her in the identification of any or all of his or her products.

(c) Samples of all labels or marks to be used on containers of milk or milk products shall be submitted for approval as to color, size of lettering, and matter. No misleading mark or words shall be placed on any container of milk or milk products. The cap or cover of all containers of milk or milk products must cover the pouring lip to at least its largest diameter.

History of Section.
(G.L. 1909, ch. 203, § 23; P.L. 1926, ch. 820, § 1; G.L. 1938, ch. 216, § 23; P.L. 1954, ch. 3311, § 2; G.L. 1956, § 21-5-16; P.L. 1959, ch. 184, § 1; G.L. 1956, § 21-2-31; P.L. 1962, ch. 80, § 1; P.L. 1963, ch. 91, § 4; P.L. 1984, ch. 132, § 3.)

§ 21-2-32 Labeling as to breed of cows. – (a) The labels of milk containers may carry in addition to one of the above grade names, but set apart from those grade names, the name of the breed of cows producing the milk or the registered trade name or trademark for the breed; provided containers so labeled contain only milk produced from the breed named.

(b) The label of milk product containers may carry in addition to one of the terms defined in § 21-2-31 which correctly describes the contents, but set apart from that term, the name of the breed of cows producing the milk from which the milk product was derived, or the registered trade name or trademark for the breed; provided that containers so labeled contain only a milk product derived from milk produced from the breed named.

History of Section.
(G.L. 1938, ch. 216, § 22, P.L. 1954, ch. 3311, § 1; G.L. 1956, § 21-5-17; P.L. 1959, ch. 181, § 1; G.L. 1956, § 21-2-32, as enacted by P.L. 1962, ch. 80, § 1; P.L. 1963, ch. 91, § 5.)

§ 21-2-33 – 21-2-42. Repealed.. –

§ 21-2-43 Enforcement of chapter. – The director is authorized to enforce the provisions of this chapter.

History of Section.
(P.L. 1962, ch. 80, § 1; P.L. 1968, ch. 158, § 1.)

§ 21-2-44 State statutory provisions and rules paramount to local. – Whenever there is any provision of this chapter or any other statute defining a particular kind, type, or grade of milk or milk product or setting forth requirements as to the chemical or bacteriological components, standards, or requirements for that kind, type, or grade of milk or milk product, or specifying standards or methods for the processing, treatment, or packaging or labeling of the milk or milk product, or when the director shall have lawfully established a definition or requirements by regulation, the provisions of that chapter, statute, or regulation shall supersede any definition or requirements for it which may be contained in any city or town ordinance or in the regulations of any city or town office or department, whether made under a statute or an ordinance.

History of Section.
(P.L. 1931, ch. 1777, § 15; G.L. 1938, ch. 217, § 14; G.L. 1956, § 21-2-16; G.L. 1956, § 21-2-44, P.L. 1962, ch. 80, § 1; P.L. 1989, ch. 542, § 35.)

§ 21-2-45 Standardization permitted. – Milk may be standardized by the addition to it of milk, skimmed milk, or cream. The standardized milk shall meet the specifications set forth in this chapter.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-46 Wholesale and contract sales. – Nothing contained in this chapter shall be construed to prohibit the sale of milk, cream, skim milk, or milk products to any milk plant, either at wholesale or pursuant to contract, by weight and test and/or upon the basis of milk fat content and/or on the basis of bacterial counts or other sanitation requirements; provided, that in the case of milk or milk products of a particular description or grade, nothing in this section shall be construed to authorize a sale of any milk or milk product which does not at least conform to the requirements of that description or grade.

History of Section.
(G.L. 1923, ch. 203, § 39, P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 38; G.L. 1956, § 21-5-26; G.L. 1956, § 21-2-46, P.L. 1962, ch. 80, § 1.)

§ 21-2-47 – 21-2-50. Repealed.. –

§ 21-2-51 Access of enforcement officers. – The director and the director's duly authorized milk inspectors, deputies, and assistants, or any of them, shall have access, at all reasonable hours, to all premises and places where milk or milk products are produced, handled, or processed or where the process of pasteurization is carried on, for the purpose of the enforcement of the provisions of this chapter.

History of Section.
(P.L. 1931, ch. 1777, § 6; G.L. 1938, ch. 217, § 5; G.L. 1956, § 21-2-7; G.L. 1956, § 21-2-51, P.L. 1962, ch. 80, § 1.)

§ 21-2-52 Appropriations and disbursements. – The general assembly shall annually appropriate any sums that it may deem necessary for the purpose of carrying out the provisions of this chapter; and the state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of any sum appropriated, or so much of it as may be required, upon receipt by him or her of properly

authenticated vouchers.

History of Section.
(P.L. 1931, ch. 1777, § 17; G.L. 1938, ch. 217, § 16; G.L. 1956, § 21-2-18; G.L. 1956, § 21-2-52, P.L. 1962, ch. 80, § 1.)

§ 21-2-53 Powers of superior court in equity. – In addition to any other remedy set forth in this chapter for the enforcement of the provisions of the chapter or any rule, regulation, order, or decision of the director, the superior court shall have jurisdiction in equity, upon a bill of complaint filed by the director or his or her authorized agents, to restrain or enjoin any person, his or her agents, and servants, from committing any act prohibited by this chapter or prohibited by any lawful rule, regulation, order, or decision of the director. If it is established upon hearing that any person charged, himself or herself or by his or her agents and servants, has been or is committing any act declared to be unlawful by this chapter or is in violation of any rule, regulation, order, and decision of the director, the court shall enter a decree enjoining that person, corporation, or trustee from further commission of that act or actions. In case of violation of an injunction issued under this section, the court or any judge of the court shall summarily try and punish the person, or his or her agents and servants, or both, for contempt of court. The existence of other civil or criminal remedies shall be no defense to this proceeding. The director, or his or her authorized agents, shall not be required in that proceeding to give or post a bond when making an application for an injunction, a restraining order, preliminary injunction, or permanent injunction under this section. The court may issue an ex parte restraining order, until further hearing, upon a reasonable showing ex parte that the respondent has been guilty of a violation, and shall have power to enter preliminary injunctions and grant other relief, pendente lite, which may pertain to equity and justice in the premises. All proceedings under this section, and any appellate proceedings which may follow, shall in all respects follow the course of equity.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-54 Prosecution of violations. – The director, or any duly authorized agent, may file a complaint in writing at the suit of the director as complainant in the district court within the district where any violation of the provisions of this chapter or of the lawful regulations of the director adopted pursuant to this chapter are alleged to have been committed. The director or a duly authorized agent shall be exempt from filing any bond or furnishing any surety for costs.

History of Section.
(P.L. 1962, ch. 80, § 1.)

§ 21-2-55 Penalties for violations. – Persons convicted of violating any of the provisions of this chapter or the regulations adopted in accordance pursuant to this chapter shall be punished by a term of imprisonment not exceeding three (3) months or by a fine not exceeding one hundred dollars ($100) for the first offense; by a term of imprisonment not exceeding six (6) months or by a fine not exceeding two hundred dollars ($200) for the second offense; and by a term of imprisonment not exceeding one year or by a fine not exceeding five hundred dollars ($500) for a third or subsequent offense.

History of Section.
(P.L. 1984, ch. 132, § 2.)

§ 21-2-56 Taking of samples in investigation of violations. – No person, firm, or corporation, nor the employee of any person, firm, or corporation, shall be liable to prosecution under the provisions of this chapter if the prosecution is based upon samples of milk, unless samples of milk or cream upon which the prosecution is based are taken upon his or her premises or while in his or her possession or under his or her

control by an inspector of milk or a collector of samples of milk of some city or town or an employee of the state department of health, and a sealed sample of it is given to him or her.

History of Section.
(G.L. 1909, ch. 173, § 15, P.L. 1921, ch. 2070, § 3; G.L. 1923, ch. 203, § 15; G.L. 1938, ch. 216, § 15; P.L. 1941, ch. 1043, § 1; P.L. 1954, ch. 3311, § 1; G.L. 1956, § 21-5-27; G.L. 1956, § 21-2-56, P.L. 1962, ch. 80, § 1.)

§ 21-2-57 Severability. – In the event that any provision of this chapter or the application of it to any person or circumstance shall be held invalid, that invalidity shall not affect the provisions or applications of this chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are declared to be severable.

History of Section.
(P.L. 1962, ch. 80, § 1.)

CHAPTER 21-2.1
Farm Milk Holding Tanks

§ 21-2.1-1 Calibration, testing, and sealing of farm milk holding tanks – Fees. – The capacity of every farm milk holding tank (when used as a measure) shall be calibrated, tested, and sealed by the director of labor and training. The fee for this calibration shall be five dollars ($5.00) plus a fee of one-half cent ($0.005) per gallon for its determined total capacity.

History of Section.
(P.L. 1965, ch. 150, § 1.)

§ 21-2.1-2 Tampering with the gauging mechanism prohibited – Penalty for violation. – It shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) for each offense for any person to tamper with or alter in any way the gauging mechanism of a farm milk holding tank.

History of Section.
(P.L. 1965, ch. 150, § 1.)

§ 21-2.1-3 Frequency of calibration required. – Every farm milk holding tank (when used as a measure) shall be recalibrated at least once every three (3) years. Following the calibration, testing, and sealing as set forth in § 21-2.1-1, the state sealer of weights and measures of the department of labor and training shall issue and deliver to the owner of the milk holding tank a gallonage chart and weight conversion chart applicable to that holding tank.

History of Section.
(P.L. 1965, ch. 150, § 1.)

CHAPTER 21-4.1
Milk Commission

§ 21-4.1-1 Milk commission – Composition. – There shall be a milk commission which shall consist of three (3) members: the director of health or his or her designee, the attorney general or his or her designee, and the director of environmental management or his or her designee. The members of the commission shall elect a chairperson from among themselves.

History of Section.
(P.L. 1991, ch. 344, § 1; P.L. 1992, ch. 320, § 3.)

§ 21-4.1-2 Definitions. – As used in this chapter, unless otherwise specified, the following words have the following meaning:

(1) "Commission" means the Rhode Island milk commission.

(2) "Consumer" means any person other than a milk dealer who purchases milk for fluid consumption.

(3) "Dealer" means any person who purchases or receives milk from a producer for the purpose of resale.

(4) "Department" means the department of health.

(5) "Director" means the director of health or his or her duly authorized agents.

(6) "Fluid milk products" or "Class 1 milk" means milk, skimmed milk, flavored milk or skimmed milk, cultured skimmed milk, buttermilk, filled milk, concentrated milk, and any mixture of milk or skimmed milk and cream containing less than ten percent (10%) butterfat. The term includes these products in fluid, frozen, fortified, or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as eggnog, yogurt, whey, ice cream mix, ice milk mix, milk shake base mix, evaporated or condensed milk or skimmed milk (in either plain or sweetened form), and any product that contains six percent (6%) or more non-milk fat (or oil). Fluid milk products that have been placed in containers for disposition to retail or wholesale outlets are referred to as packaged fluid milk products.

(7) "Market" means any city, town or parts of a city or town of the state, or two (2) or more cities or towns or parts of cities or towns designated by the commission as a natural marketing area.

(8) "Person" means any individual, partnership, firm, corporation, association or other unit, and the state and all political subdivisions or agencies of the state, except state owned and operated institutions.

(9) "Producer" means a Rhode Island dairy farmer who produces milk that is moved, other than in packaged form, from his or her farm to a pool plant or any other plant as diverted milk.

History of Section.
(P.L. 1991, ch. 344, § 1; P.L. 1992, ch. 320, § 3.)

§ 21-4.1-3 Powers and duties. – (a) The commission shall set the minimum price paid to the producer for Class 1 milk.

(b) The commission shall conduct independent studies and reviews of the economics and practices of the milk industry in order to determine whether any producer or dealer is engaged in predatory pricing or other anticompetitive activity in violation of § 6-13-2.1.

(c) The commission may adopt, promulgate and enforce all rules, regulations and orders necessary to the commission's performance of its duties under this chapter.

(d) Every producer and every dealer shall keep and render to the commission, at the times and in the manner and form as shall be prescribed by the rules and regulations of the director, accounts of all business transacted which is related to the production, purchasing, processing, distribution or sale of milk in this state. Those accounts shall reasonably and accurately reflect, in any detail that the commission deems necessary and appropriate: (1) milk prices generally, (2) container costs, (3) price categories relating to different quantities of milk packaged and sold in separate containers, (4) distribution costs, and (5) any other matters which affect or which are relevant to retail milk prices in this state.

(e) All information collected and renamed by the commission in the performance of its duties shall be confidential, except that the information may be disclosed to public officials when necessary or appropriate to the performance of their official duties. Collective information of a general statistical nature may be reported.

(f) The commission shall conduct any public hearings that it deems necessary and appropriate to its performance of its duties under this chapter.

History of Section.
(P.L. 1991, ch. 344, § 1; P.L. 1992, ch. 320, § 3.)

§ 21-4.1-4 Annual report. – (a) On or before January 15 of each year the commission shall submit a report to the general assembly, which annual report may include, but need not be limited to:

(1) A summary of its activities during the previous year;

(2) A description of any and all complaints of predatory pricing or other anti-competitive practices which have been referred to the attorney general; and

(3) Any recommendations that it may have relative to the need for and the appropriateness of regulatory or legislative action relative to the milk industry.

(b) In making recommendations for regulatory or legislative action, the commission shall take into account, among any other factors which it may deem appropriate:

(1) The public health and welfare and the insuring of an adequate supply of pure and wholesome fluid milk products to the inhabitants of the state under varying conditions in various marketing areas;

(2) Prevailing prices in neighboring states;

(3) Seasonal production and other conditions affecting the cost of production, transportation, and marketing in the milk industry, including a reasonable return to the dealer and different retail delivery volumes of milk;

(4) The effect of prices paid to producers on the ability of the Rhode Island dairy industry to compete in supplying milk to Rhode Island consumers;

(5) The strength and viability of the Rhode Island dairy industry as a whole; and

(6) The extent of any social or economic benefits of maintaining dairy processing in different regions of the state.

History of Section.
(P.L. 1991, ch. 344, § 1; P.L. 1992, ch. 320, § 3.)

§ 21-4.1-5 Recordkeeping. – All producers and dealers shall keep records consistent with all current state and federal law and regulations.

History of Section.
(P.L. 1991, ch. 344, § 1; P.L. 1992, ch. 320, § 3.)

§ 21-4.1-6 Prohibition on pricing. – No dealer shall purchase or receive Class 1 milk from any Rhode Island producer for any price less than the minimum price set by the commission pursuant to § 21-4.1-3(a) of this chapter.

History of Section.
(P.L. 1992, ch. 320, § 4.)

§ 21-4.1-7 Denial or revocation of permit. – Violation of the prohibition set forth in § 21-4.1-6 by any dealer shall be grounds for the denial of any permit sought by that dealer pursuant to § 21-2-8 and for revocation of any permit previously issued to that dealer, in accordance with § 21-2-12.

History of Section.
(P.L. 1992, ch. 320, § 4.)

§ 21-4.1-8 Preference. – Notwithstanding any provisions to the contrary contained in chapter 2 of title 37 or in any city or town charter or ordinance, any Rhode Island milk processor or distributor which bids on any state, city, town, or regional school district contract for the purchase of milk within this state shall be

entitled to and shall be given a percentage preference of one quarter of one percent (0.25%) over any out-of-state milk provider or distributor bidding on the same contract.

History of Section.
(P.L. 1992, ch. 320, § 4.)

CHAPTER 21-5
Analysis of Milkfat Content in Milk or Milk Products

§ 21-5-1 – 21-5-3. Repealed.. –

§ 21-5-4 Annual inspection of testing machines. – Each Babcock or other centrifugal machine used by any person within the state of Rhode Island for determining the composition of milk, cream, or any milk product for purposes of inspection shall be inspected at least once in each calendar year by the director of labor and training.

History of Section.
(G.L. 1923, ch. 203, § 32; P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 31; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 21-5-35; G.L. 1956, § 21-5-4; P.L. 1962, ch. 80, § 2; P.L. 1968, ch. 158, § 2.)

§ 21-5-5 Condemnation or correction of defective machines. – Each Babcock or other centrifugal machine used as described in § 21-5-4 which, in the opinion of the director, is not in condition to give accurate results may be condemned by the director. No Babcock or other centrifugal machine which has beencondemned shall be used for determining the composition or value of milk, cream, or any milk product, unless and until that machine is corrected to the satisfaction of the director and approved by him or her.

History of Section.
(G.L. 1923, ch. 203, § 32; P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 31; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 21-5-36; G.L. 1956, § 21-5-5; P.L. 1962, ch. 80, § 2.)

§ 21-5-6 Certification of testing machine operators – Fees. – It shall be unlawful for any person within the state of Rhode Island to manipulate the Babcock or other centrifugal machine to determine the composition of milk, cream, or any milk product for purposes of inspecting milk or milk products without first obtaining a certificate from the director that he or she is competent to do that work. The fee for certification shall be five dollars ($5.00), and shall be paid to the director for the use of the state. If a holder of a certificate is notified by the director to correct his or her use of the centrifugal machine, the actual cost of an inspection to ascertain if that person has corrected his or her use of the machine shall be paid by the person or by his or her employer to the director for the use of the state.

History of Section.
(G.L. 1923, ch. 203, § 33; P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 32; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 21-5-37; P.L. 1960, ch. 74, § 10; G.L. 1956, § 21-5-6; P.L. 1962, ch. 80, § 2; P.L. 1968, ch. 158, § 2.)

§ 21-5-7 Issuance and revocation of machine operator certificates. – The director may issue certificates of competency to persons desiring to manipulate the Babcock or other centrifugal machine who, in his or her opinion, are competent. The director may make and enforce rules governing applications for the certificates and the granting of them, and may revoke the authority of any holder of a certificate who, in the director's opinion, is not correctly manipulating a machine or is using dirty or unsatisfactory glassware or utensils in connection with the work. No holder of a certificate whose authority has been revoked shall after this manipulate any machine within the state of Rhode Island for the purposes mentioned in § 21-5-6, until another certificate is granted to that person.

History of Section.
(G.L. 1923, ch. 203, § 34; P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 33; G.L. 1956, § 21-5-38; G.L. 1956, § 21-5-7; P.L. 1962, ch. 80, § 2.)

§ 21-5-8 Repealed

§ 21-5-9 Rules and regulations as to weighing and testing. – The director may make any rules and regulations, not inconsistent with law, that in his or her judgment may be helpful in carrying out the provisions of this chapter and for the purpose of insuring accuracy in the weighing, sampling, and testing of milk, cream, and milk products within the state of Rhode Island.

History of Section.
(G.L. 1956, ch. 203, § 36; P.L. 1928, ch. 1138, § 1; P.L. 1932, ch. 1915, § 1; G.L. 1938, ch. 216, § 35; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 21-5-40; G.L. 1956, § 21-5-9; P.L. 1962, ch. 80, § 2; P.L. 1968, ch. 158, § 2.)

§ 21-5-10 Penalty for obstruction or violations. – Whoever hinders or obstructs the director, or a duly authorized assistant, in the discharge of any authority or duty imposed by any provision of this chapter, and whoever violates any provision of this chapter or of any lawful regulations of the director made under the provisions of this chapter, shall be punished by a fine not more than one hundred dollars ($100).

History of Section.
(G.L. 1923, ch. 203, § 37; P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 36; impl. am. P.L. 1939, ch. 660, § 160; G.L. 1956, § 21-5-41; G.L. 1956, § 21-5-10; P.L. 1962, ch. 80, § 2.)

§ 21-5-11 Testing for information only. – This chapter shall not affect any person using any centrifugal or other machine or test to determine the composition or value of milk, cream, or milk products if that use or test is made for that person's information only, and not for purposes of inspection, or as a basis for payment in buying or selling.

History of Section.
(G.L. 1923, ch. 203, § 30; P.L. 1928, ch. 1138, § 1; G.L. 1938, ch. 216, § 37; G.L. 1956, § 21-5-42; G.L. 1956, § 21-5-11; P.L. 1962, ch. 80, § 2.)

§ 21-5-12 Inspectors and assistants. – The director shall employ and prescribe the duties of inspectors and assistants in enforcing the provisions of this chapter.

History of Section.
(G.L. 1923, ch. 203, § 29; P.L. 1927, ch. 1014, § 5; P.L. 1931, ch. 1703, § 1; G.L. 1938, ch. 216, § 29; G.L. 1956, § 21-5-43; G.L. 1956, § 21-5-12; P.L. 1962, ch. 80, § 2.)

§ 21-5-13 Enforcement. – When prosecuting any complaint under any provision of this chapter, the director and his or her deputies and assistants shall not be required to give surety for costs or enter into any recognizance.

History of Section.
(G.L. 1923, ch. 203, § 29; P.L. 1927, ch. 1014, § 5; P.L. 1931, ch. 1703, § 1; G.L. 1938, ch. 216, § 29; G.L. 1956, § 21-5-43; G.L. 1956, § 21-5-13; P.L. 1962, ch. 80, § 2.)

§ 21-5-13 Enforcement. – When prosecuting any complaint under any provision of this chapter, the director and his or her deputies and assistants shall not be required to give surety for costs or enter into any recognizance.

History of Section.

(G.L. 1923, ch. 203, § 29; P.L. 1927, ch. 1014, § 5; P.L. 1931, ch. 1703, § 1; G.L. 1938, ch. 216, § 29; G.L. 1956, § 21-5-43; G.L. 1956, § 21-5-13; P.L. 1962, ch. 80, § 2.)

CHAPTER 21-11
Meats

§ 21-11-1 "Animals" defined. – For the purposes of this chapter, "animal" is construed to mean any cattle, swine, sheep, goat, or equine.

History of Section.
(G.L. 1938, ch. 264, § 1; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-1; P.L. 1970, ch. 141, § 1.)

§ 21-11-2 Sale of meat not handled in compliance with provisions. – It shall be unlawful for any person, firm, association, or corporation to handle, sell, or possess with intent to sell within this state the carcass of any animal or part of the carcass, any meat, meat product, or meat food product capable of use as human food which has not been slaughtered, canned, cured, smoked, salted, packed, rendered, handled, or processed in compliance with the provisions of this chapter and the regulations adopted in accordance with this chapter.

History of Section.
(P.L. 1935, ch. 2265, § 1; G.L. 1938, ch. 264, § 1; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-2; P.L. 1970, ch. 141, § 2.)

§ 21-11-3 License required for processing and packing houses. – No person, firm, association, or corporation shall operate within this state any establishment for the purpose of slaughtering any animal for human consumption, or for canning, curing, smoking, salting, packing, rendering, or handling the carcass of any animal or part of the carcass, or for the manufacturing of any meat product or meat food product, until that person, firm, association, or corporation shall have obtained a license from the department of health. This section shall not apply to a retail market offering for sale only those primal parts commonly known in the trade as sides, quarters, shoulders, hams, backs, bellies, tongues, livers, or similar parts, or meat, meat products, or meat food products, which have been obtained from the establishment of a person, firm, association, or corporation licensed in accordance with provisions of this section, nor to any retail market where meat processing consists solely of grinding meat for sale on the premises.

History of Section.
(G.L. 1938, ch. 264, § 2; P.L. 1943, ch. 1306, § 1; P.L. 1944, ch. 1469, § 1; G.L. 1956, § 21-11-3; P.L. 1970, ch. 141, § 3; P.L. 2002, ch. 292, § 47.)

§ 21-11-4 Issuance and term of licenses – Suspension or revocation. – The director of health shall, upon receipt of application for a license to operate an establishment for any or all of the purposes mentioned in § 21-11-3, cause that establishment to be inspected and, if it is found to conform to the provisions of this chapter and the regulations adopted in accordance with this chapter, shall issue a license upon receipt of a fee as set forth in § 23-1-54; provided, that the license fee shall be at a reduced rate, as also set forth in § 23-1-54, for any one establishment where: (1) the meat is sold only at retail, (2) no slaughtering is performed, and (3) no more than one of the activities described in § 21-11-3 for which a license is required is performed. In order to set the license renewal dates so that all activities for each establishment can be combined on one license instead of on several licenses, the department of health shall set the license renewal date. The license period shall be for twelve (12) months, commencing on the license renewal date, and the license fee shall be at the full annual rate regardless of the date of application or the date of issuance of license. If the license renewal date is changed, the department may make an adjustment to the fees of licensed establishments, not to exceed the annual license fee, in order to implement the change in license renewal date. Applications for renewal of licenses, accompanied by the prescribed fee, shall be submitted at least two (2) weeks before the renewal date. Licenses issued or renewed under this section

may be suspended or revoked for failure to comply with the provisions of this chapter or the regulations adopted in accordance with this chapter.

History of Section.
(P.L. 1935, ch. 2265, § 4; G.L. 1938, ch. 264, § 4; P.L. 1939, ch. 716, § 1; G.L. 1938, ch. 264, § 2; P.L. 1943, ch. 1306, § 1; P.L. 1944, ch. 1469, § 1; G.L. 1956, § 21-11-4; P.L. 1960, ch. 76, § 20; P.L. 1961, ch. 31, § 1; P.L. 1993, ch. 94, § 1; P.L. 2001, ch. 77, art. 15, § 3; P.L. 2007, ch. 73, art. 39, § 38; P.L. 2012, ch. 241, art. 9, § 31.)

§ 21-11-5 Regulations concerning processing and packing plants. – The director of health may adopt regulations governing the plant, equipment, operation, and maintenance of establishments defined in § 21-11-3, the methods and materials used, the source and quality of water, sewage and waste disposal, the approval or condemnation and disposal of any carcass or part of a carcass, meat, meat products, and meat food product, insofar as they relate to the health and protection of the public and any matters which relate to the health and protection of the public. These regulations may prescribe the manner in which inspection will be performed and the periods during which licensees may operate.

History of Section.
(P.L. 1935, ch. 2265, § 3; G.L. 1938, ch. 264, § 3; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-5; P.L. 1970, ch. 141, § 4.)

§ 21-11-6 Stamping of meat – Sale of unstamped meat prohibited. – The director of health shall cause to be prepared a suitable stamp for impression upon the carcass of any animal or part of the carcass or any meat, meat product, or meat food product which has been examined and found to be sound, healthful, wholesome, and fit for human consumption. The carcass of any animal or part of the carcass or any meat, meat product, or meat food product not impressed in this manner shall be unsalable as food, and if exposed or offered for sale shall be confiscated.

History of Section.
(P.L. 1935, ch. 2265, §§ 5, 6; G.L. 1938, ch. 264, §§ 4-6; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-6.)

§ 21-11-6.1 Watering of meat. – It shall be unlawful for any person, firm, association, or corporation to sell or possess with intent to sell within this state any meat the moisture content of which exceeds the maximum permitted under federal rules or regulations for meat shipped in interstate commerce.

History of Section.
(P.L. 1968, ch. 5, § 1.)

§ 21-11-7 Processing for private use. – The provisions of this chapter shall not apply to slaughtering of animals, or the canning, curing, smoking, packing, or rendering of the carcass of any animal or part of the carcass, where the animal is slaughtered by the owner of the animal and where the meat, meat product, or meat food product obtained from the animal is used for the private use of the owner of the animal slaughtered, or of the owner's immediate family.

History of Section.
(G.L. 1938, ch. 264, § 5; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-7; P.L. 1972, ch. 279, § 1.)

§ 21-11-8 Federally inspected meat exempt. – Nothing in this chapter shall be construed to prevent the sale or possession of the carcass of any animal or part of the carcass or any meat, meat product, or meat food product which has been inspected and passed by the agricultural research service of the United States Department of Agriculture.

History of Section.
(G.L. 1938, ch. 264, § 1; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-8.)

§ 21-11-9 Penalties for violations. – Any person, firm, association, or corporation violating any of the provisions of this chapter or the regulations authorized by this chapter shall be punished:

(1) By a term of imprisonment not exceeding three (3) months or by a fine not exceeding one hundred dollars ($100) for the first offense;

(2) By a term of imprisonment not exceeding six (6) months or by a fine not exceeding two hundred dollars ($200) for the second offense; and

(3) By a term of imprisonment not exceeding one year or by a fine not exceeding five hundred dollars ($500) or by both the fine and imprisonment for a third or subsequent offense.

History of Section.
(P.L. 1935, ch. 2265, § 9; G.L. 1938, ch. 264, § 9; G.L. 1938, ch. 264, § 6; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-9.)

§ 21-11-10 Enforcement – Prosecution of violations. – It shall be the duty of the director of health or the director's duly appointed agents to enforce the provisions of this chapter and the regulations adopted in accordance with this chapter and to prosecute all persons guilty of violations of it. In all prosecutions the director, or his or her duly appointed agents, shall not be required to enter into any recognizance or to give surety for costs.

History of Section.
(G.L. 1938, ch. 264, § 7; P.L. 1943, ch. 1306, § 1; G.L. 1956, § 21-11-10.)

CHAPTER 21-13
Poultry

§ 21-13-1 Definitions. – For the purpose of this chapter, the following words have the meanings ascribed to them in this section:
(1) "Director" means the director of health or his or her duly authorized agent.
(2) "Person" means the state, any municipality, political subdivision, institution, public or private corporation, individual partnership, or other entity.

History of Section.
(P.L. 1956, ch. 3804, § 1; G.L. 1956, § 21-13-1; P.L. 1963, ch. 74, § 1.)

§ 21-13-2 Registration of persons engaged in slaughtering and evisceration. – All persons engaged in slaughtering and/or eviscerating of poultry for human consumption shall register annually with the director of the department of health during the month of January. Registrations issued will expire on December 31 and must be renewed annually.

History of Section.
(P.L. 1956, ch. 3804, § 3; G.L. 1956, § 21-13-2; P.L. 1963, ch. 74, § 1.)

§ 21-13-3 Premises for slaughtering or evisceration. – All poultry prepared for human consumption in Rhode Island shall be slaughtered and/or eviscerated on premises approved by the director of health.

History of Section.
(P.L. 1956, ch. 3804, § 2; G.L. 1956, § 21-13-3; P.L. 1963, ch. 74, § 1.)

§ 21-13-4 Regulations. – (a) The director of health is authorized to adopt regulations relating to the premises, facilities, materials used, and procedures followed at places where poultry for human consumption is slaughtered, eviscerated, or processed or where poultry products for human consumption are prepared, insofar as the regulations relate to the health and protection of the public.

(b) The director, for the health and protection of the public, is authorized to make ante-mortem inspections of poultry and to quarantine, or segregate, or re-inspect poultry or poultry products at any places where poultry is slaughtered, eviscerated, or processed or poultry products are prepared. The director, for the health and protection of the public, is authorized to condemn and render inedible diseased or unwholesome poultry or poultry products and to retain poultry or poultry products pending their further examination. The director is authorized to adopt regulations dealing with the identification of poultry and the marketing and labeling of poultry products or their containers, essential to the proper administration of this chapter.

History of Section.
(P.L. 1956, ch. 3804, § 4; G.L. 1956, § 21-13-4; P.L. 1963, ch. 74, § 1; P.L. 1970, ch. 220, § 1.)

§ 21-13-5 Hearing on regulations. – Before establishing the regulations as provided for in § 21-13-4, the director shall hold a public hearing, notice of which shall be given in a newspaper of statewide circulation.

History of Section.
(P.L. 1956, ch. 3804, § 5; G.L. 1956, § 21-13-5.)

§ 21-13-6 Inspection powers. – The director of health or any of the director's subordinates may enter at reasonable times upon any private or public property for the purposes of inspection and investigating conditions relating to the slaughtering, eviscerating, and processing of poultry or poultry products to be used for human consumption.

History of Section.
(P.L. 1956, ch. 3804, § 7; G.L. 1956, § 21-13-6; P.L. 1970, ch. 220, § 2.)

§ 21-13-6.1 Watering of poultry. – It shall be unlawful for any person, firm, association, or corporation to sell or possess with intent to sell within this state any poultry or poultry product the moisture content of which exceeds the maximum permitted under federal rules or regulations of poultry or poultry products shipped in interstate commerce.

History of Section.
(P.L. 1968, ch. 5, § 2.)

§ 21-13-7 Penalties for violations. – Any person, firm, or corporation, which, by itself or its agents or employees, violates any provision of this chapter or any regulation made pursuant to this chapter shall be fined not more than one hundred dollars ($100) or less than twenty-five dollars ($25.00) for the first offense and not more than two hundred dollars ($200) or less than fifty dollars ($50.00) for each subsequent offense. The superior court shall have jurisdiction in equity to enforce the provisions of this chapter and the regulations adopted pursuant to this chapter.

History of Section.
(P.L. 1956, ch. 3804, § 9; G.L. 1956, § 21-13-7; P.L. 1970, ch. 220, § 3.)

§ 21-13-8 Revocation or refusal of registration. – Upon determination that any person having a registration issued under this chapter, or who has applied for a registration, has violated or failed to comply with any of the provisions of this chapter, or any of the rules or regulations promulgated pursuant to this chapter, the director may, after due notice to the registrant, and after affording the registrant an opportunity to be heard, revoke the registration or refuse to issue a registration to an applicant.

History of Section.
(P.L. 1956, ch. 3804, § 3; G.L. 1956, § 21-13-8.)

§ 21-13-9 Scope of application. – The provisions of this chapter shall apply to every person, firm, partnership, or corporation engaged in slaughtering or eviscerating poultry, or in the preparation of poultry products for human consumption.

History of Section.
(P.L. 1956, ch. 3804, § 8; G.L. 1956, § 21-13-9; P.L. 1970, ch. 220, § 4.)

§ 21-13-10 Responsibility for chapter. – The director of health shall carry out the provisions of this chapter.

History of Section.
(P.L. 1956, ch. 3804, § 6; G.L. 1956, § 21-13-10; P.L. 1963, ch. 74, § 1.)

CHAPTER 21-17
Eggs

§ 21-17-1 Shell eggs – Labeling as to grade and size. – All shell eggs sold or offered for sale in this state for human consumption shall be labeled with the grade and size designation as set forth in the Rhode Island consumer grades.

History of Section.
(G.L. 1938, ch. 211, § 1; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-1.)

§ 21-17-2 Consumer grades – Regulations. – The Rhode Island consumer grades for shell eggs shall be designated AA-A-B-C. The standards for quality of individual eggs shall be established by the director of environmental management under the provisions of § 21-20-5 and shall apply to all shell eggs sold or offered for sale. The means used in determining these grades and standards shall be specified by regulation issued by the director of environmental management.

History of Section.
(G.L. 1938, ch. 211, § 2; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-2; impl. am. P.L. 1965, ch. 137, § 1; P.L. 1977, ch. 171, § 1.)

§ 21-17-3 Establishment of size and weight classes. – The size and weight classes for all shell eggs sold or offered for sale in Rhode Island shall be established by the director of environmental management under the provisions of § 21-20-5.

History of Section.
(G.L. 1938, ch. 211, § 3; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-3; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-17-4 Hearings on quality, weight, and size requirements. – Before establishing or changing the standards of quality, weight, and size requirements for Rhode Island consumer grades for shell eggs, the director shall hold a public hearing, notice of which shall be given in a newspaper of statewide circulation. The specifications for consumer grades and weight classes and the standards for quality of individual eggs shall be those promulgated by the U.S. Department of Agriculture as set forth in the regulations governing

the grading of shell eggs and the U.S. standards, grades, and weight classes for shell eggs (7 CFR part 56).

History of Section.
(G.L. 1938, ch. 211, § 9; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-4; P.L. 1977, ch. 171, § 1.)

§ 21-17-5 Advertising – Containers – Invoices. – All advertising of shell eggs shall include the correct size and grade designation in describing the eggs and the correct size and grade designation shall appear in clearly legible letters on the top or side of the exterior of any container in which the eggs are offered for sale. An invoice stating both the correct size and the correct quality grade designations shall accompany each delivery of eggs to a retailer. The invoice shall also include the name and address of both buyer and seller, date of sale, and shall conform to regulations issued by the director of environmental management.

History of Section.
(G.L. 1938, ch. 211, § 4; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-5; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-17-6 Use of terms importing freshness. – The terms "fresh eggs," "strictly fresh eggs," "new-laid eggs," or words or descriptions of similar import shall not be used in connection with the sale or offering for sale or advertising for sale of eggs in Rhode Island that do not meet the minimum requirements for Rhode Island consumer grade A or better.

History of Section.
(P.L. 1936, ch. 2354, § 1; G.L. 1938, ch. 211, § 1; G.L. 1938, ch. 211, § 5; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-6; P.L. 1977, ch. 171, § 1.)

§ 21-17-7 False representations as to grade or size – Sale of inedible eggs. – No person, firm, or corporation shall falsely advertise, falsely label, or falsely represent in any manner the grade or size of eggs sold or offered for sale in Rhode Island. The sale of inedible eggs for human consumption as defined under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., is prohibited. The sale of restricted eggs as defined by the federal Egg Products Inspection Act, 21 U.S.C. § 1031 et seq., is prohibited to retailers.

History of Section.
(G.L. 1938, ch. 211, § 6; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-7; P.L. 1977, ch. 171, § 1.)

§ 21-17-8 Exemption of sales by producers. – All eggs intended for sale to a first receiver who normally grades them into proper sizes and grades before reselling them shall be exempt from the provisions of §§ 21-17-1 – 21-17-10 until they are offered for resale.

History of Section.
(G.L. 1938, ch. 211, § 7; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-8.)

§ 21-17-9 Enforcement – Appropriations. – The director of environmental management shall administer and enforce the provisions of §§ 21-17-1 – 21-17-10, and shall make suitable regulations to carry out the administration and enforcement. The general assembly shall annually appropriate any sum that it may deem necessary to carry out the purposes of §§ 21-17-1 – 21-17-10.

History of Section.
(P.L. 1936, ch. 2354, § 5; G.L. 1938, ch. 211, § 5; G.L. 1938, ch. 211, § 8; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-9; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-17-10 Penalties for violations. – Any person, firm, or corporation, which by itself, or its agents or employees, violates any provisions of §§ 21-17-1 – 21-17-10, or any regulation made pursuant to those sections, or fails to comply with any of the requirements of those sections or knowingly misrepresents the condition, size, or quality of any eggs, shall be fined not more than fifty dollars ($50.00) for the first offense and not more than two hundred dollars ($200) for each subsequent offense. Complaints for the violation of the provisions of §§ 21-17-1 – 21-17-10 may be made by any person, and if made by the

director or a duly authorized agent, the director or agent shall be exempt from giving surety for costs on that complaint.

History of Section.
(P.L. 1936, ch. 2354, § 7; G.L. 1938, ch. 211, § 7; G.L. 1938, ch. 211, § 10; P.L. 1947, ch. 1880, § 1; G.L. 1956, § 21-17-10; P.L. 1977, ch. 171, § 1.)

§ 21-17-11 "Cold storage eggs" defined. – "Cold storage eggs" as used in this chapter means eggs that have been artificially cooled for thirty (30) days or more at or below a temperature of forty degrees Fahrenheit (40° F.), and no other eggs shall be sold as "cold storage eggs."

History of Section.
(P.L. 1915, ch. 1190, § 1; G.L. 1923, ch. 168, § 29; G.L. 1938, ch. 269, § 23; G.L. 1956, § 21-17-11.)

§ 21-17-12 Labeling of cold storage eggs. – Whenever "cold storage eggs" are sold at wholesale or retail, or offered or exposed for sale, the case, package, box, or other container in which the eggs are placed or delivered shall be marked plainly and conspicuously with the words "cold storage eggs," or there shall be attached to the container a placard or sign having on it those words. If "cold storage eggs" are sold at retail or offered or exposed for sale without a container or placed upon a counter or elsewhere, a sign or placard having the words "cold storage eggs" plainly and conspicuously marked upon it shall be displayed in, upon, or immediately above the eggs; the display of the words "cold storage eggs" as required by this chapter shall be in letters not less than one inch (1") in height and shall be done in the manner that is approved by the department of health.

History of Section.
(P.L. 1915, ch. 1190, § 2; G.L. 1923, ch. 168, § 30; G.L. 1938, ch. 269, § 24; impl. am. P.L. 1939, ch. 660, § 180; G.L. 1956, § 21-17-12.)

§ 21-17-13 Penalty for violations. – Any person, firm, or corporation violating any of the provisions of § 21-17-12 shall be punished by a fine of not less than ten dollars ($10.00), nor more than one hundred dollars ($100), for each offense.

History of Section.
(P.L. 1915, ch. 1190, § 3; G.L. 1923, ch. 168, § 31; G.L. 1938, ch. 269, § 25; G.L. 1956, § 21-17-13.)

§ 21-17-14 Rules and regulations – Enforcement. – The department of health shall have the same duties and powers relative to the making of rules and regulations relative to the enforcement of § 21-17-12 as is or shall be conferred upon it by chapter 1 of this title with reference to other foods.

History of Section.
(P.L. 1915, ch. 1190, § 4; G.L. 1923, ch. 168, § 32; G.L. 1938, ch. 269, § 26; impl. am. P.L. 1939, ch. 660, § 180; G.L. 1956, § 21-17-14.)

§ 21-17-15 Complaints for violations. – Complaints for the violation of the provisions of § 21-17-12 may be made by any person, and if made by the director or a duly authorized agent of the director of health, the director or agent shall be exempt from giving surety for costs on that complaint.

History of Section.
(P.L. 1915, ch. 1190, § 5; G.L. 1923, ch. 168, § 33; G.L. 1938, ch. 269, § 27; impl. am. P.L. 1939, ch. 660, § 180; G.L. 1956, § 21-17-15.)

CHAPTER 21-18
Apples

§ 21-18-1 "Closed package" defined. – "Closed package" when used in this chapter means a barrel, box, basket, or other container the contents of which cannot be sufficiently inspected without opening it or removing any kind of cover or lid to expose the surface contents to view.

History of Section.
(P.L. 1931, ch. 1701, § 4; G.L. 1938, ch. 212, § 4; G.L. 1956, § 21-18-1.)

§ 21-18-2 Marking of closed packages. – Each closed package of apples packed or repacked within the state and intended for sale within or without the state shall be marked or branded at the time of packing, repacking, or closing with a statement of the quantity of the contents, the name and address of the person by whose authority the apples were packed, the true name of the variety, and the minimum size or numerical count of the apples contained in it, in accordance with § 21-18-6. If the true name of the variety is not known to the packer or other person by whose authority the apples are packed, the statement shall include the words "Variety Unknown." If apples are repacked, the packages shall be marked "Repacked," and shall bear the name and address of the person by whose authority it is repacked in place of that of the person by whose authority it was originally packed.

History of Section.
(P.L. 1931, ch. 1701, § 1; G.L. 1938, ch. 212, § 1; G.L. 1956, § 21-18-2.)

§ 21-18-3 Marking of minimum size. – Unless the package is marked with the numerical count, the minimum size of all apples, as required by § 21-18-2, shall be marked upon the package, and shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom ends. Minimum sizes shall be stated in variations of one-quarter of an inch (1/4"), such as two inches (2"), two and one-quarter inches (21/4") and so forth, in accordance with the facts. Minimum sizes may be designated by figures instead of words. The word "minimum" may be designated by using the abbreviation "min."

History of Section.
(P.L. 1931, ch. 1701, § 6; G.L. 1938, ch. 212, § 6; G.L. 1956, § 21-18-3.)

§ 21-18-4 Style of marking. – The branding or marking of barrels, boxes, or baskets under the provisions of this chapter shall be in block letters and figures not less than one-half inch (1/2") in height. The director of environmental management shall prescribe rules and regulations as to the lettering to be used in branding or marking other packages.

History of Section.
(P.L. 1931, ch. 1701, § 2; G.L. 1938, ch. 212, § 2; G.L. 1956, § 21-18-4; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-18-5 Misbranded packages. – For the purposes of this chapter, apples packed in a closed package shall be deemed to be misbranded:

(1) If the package fails to bear all statements required by § 21-18-2.

(2) If the package bears any statement, design, or device regarding the article or its contents which shall be false or misleading in any particular, or is falsely branded in any particular.

History of Section.
(P.L. 1931, ch. 1701, § 3; G.L. 1938, ch. 212, § 3; G.L. 1956, § 21-18-5.)

§ 21-18-6 Standard barrel and bushel. – The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: length of stave, twenty-eight and one-half inches (28 1/2"); diameter of heads, seventeen and one-eighth inches (17 1/8"); distance between heads, twenty-six inches (26"); circumference of bulge, sixty-four inches (64"), outside measurements; and the thickness of staves not greater than four-tenths of an inch (4/10"); provided that any barrel of a different form having a capacity of seven thousand fifty-six cubic inches (7,056 cu. in.) shall be a standard barrel. The standard bushel box or standard bushel basket for apples shall be a container having a capacity of not less than one United States standard bushel or two thousand one hundred fifty and forty-two one-hundredths cubic inches (2,150.42 cu. in.). Containers for apples other than the standard barrel or bushel shall be marked in terms of cubical capacity or count.

History of Section.
(P.L. 1931, ch. 1701, § 5; G.L. 1938, ch. 212, § 5; G.L. 1956, § 21-18-6.)

§ 21-18-7 Prosecution of violations. – When the director of environmental management becomes cognizant of the violation of any provision of this chapter, he or she shall cause notice of the violation together with a copy of the findings to be given to the person or persons concerned. Persons notified shall be given a hearing under rules and regulations prescribed by the director. Notices of the hearing shall specify the date, hour, and place of the hearing. Whenever any prosecution takes place, the state director of environmental management shall not be required to furnish surety for costs, upon any complaint made by him or her.

History of Section.
(P.L. 1931, ch. 1701, § 7; G.L. 1938, ch. 212, § 7; G.L. 1956, § 21-18-7; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-18-8 Penalties for violations. – Whoever himself or herself or by servant or agent misbrands apples within the meaning of this chapter, or packs, sells, distributes, or offers or exposes for sale or distribution apples which are misbranded, or apples in closed or open packages so packed that the faced or shown surface gives a false representation of the contents of the package, or packs, sells, distributes, or offers or exposes for sale or distribution, apples in violation of any provision of this chapter, shall be punished for the first offense by a fine not exceeding twenty-five dollars ($25.00) and for a subsequent offense by a fine not exceeding one hundred dollars ($100), or be imprisoned for a term of three (3) months, or both the fine and imprisonment.

History of Section.
(P.L. 1931, ch. 1701, § 8; G.L. 1938, ch. 212, § 8; G.L. 1956, § 21-18-8.)

CHAPTER 21-20
Fruits and Vegetables Generally

§ 21-20-1 Vegetables to be sold by weight. – It shall be unlawful for any person, firm, partnership, or corporation to sell at retail or offer to sell at retail any lima, fava, shell, wax, or green snap beans, peas, spinach, kale, dandelions, and potatoes, and any other vegetables of the commonly accepted staple classes as may be determined by the director of environmental management, in any other manner or measure other than by weight.

History of Section.
(P.L. 1942, ch. 1202, § 1; G.L. 1956, § 21-20-1.)

§ 21-20-2 Penalty for sales other than by weight. – Every person, firm, partnership, or corporation violating § 21-20-1 shall be fined not less than twenty dollars ($20.00) and not more than fifty dollars ($50.00), one-half (1/2) of the fine to the use of the city or town where the offense was committed and one-

half (1/2) of the fine to the use of the state.

History of Section.
(P.L. 1942, ch. 1202, § 2; G.L. 1956, § 21-20-2.)

§ 21-20-3 Enforcement of provisions. – The enforcement of §§ 21-20-1 and 21-20-2 shall be under the jurisdiction of the director of environmental management.

History of Section.
(P.L. 1942, ch. 1202, § 3; G.L. 1956, § 21-20-3; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-20-4 Sale of nuts, beans, and berries by dry measure. – Nuts and shelled beans and all kinds of berries, whenever sold by measure, shall be sold by dry measure. And any person who shall sell any nuts or shelled beans or any kind of berries by any measure other than dry measure shall be fined not exceeding twenty dollars ($20.00), one-half (1/2) of the fine to the use of the town or city in which the offense shall have been committed and one-half (1/2) of the fine to the complainant.

History of Section.
(G.L. 1896, ch. 146, § 8; G.L. 1909, ch. 172, § 8; G.L. 1923, ch. 202, § 8; G.L. 1938, ch. 383, § 8; G.L. 1956, § 21-20-4.)

§ 21-20-6 Penalty for violations. – Any person, firm, or corporation who shall violate any provision of § 21-20-5 or any rule or regulation of the director of environmental management made pursuant to that section shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100) or be imprisoned for a term of three (3) months, or by both fine and imprisonment.

History of Section.
(G.L. 1923, ch. 241, § 35; P.L. 1926, ch. 789, § 1; P.L. 1930, ch. 1602, § 1; G.L. 1938, ch. 212, § 10; G.L. 1956, § 21-20-6; impl. am. P.L. 1965, ch. 137, § 1.)

§ 21-20-7 Exemptions. – When products are grown or produced on a Rhode Island farm and sold or offered for sale at the farm, roadside stands, farmers markets or pick-your-own operations located in Rhode Island, the products may be sold or offered for sale by weight, dry measure or count, provided, that they are clearly marked as to the method of sale being used.

History of Section.
(P.L. 2003, ch. 184, § 1; P.L. 2003, ch. 188, § 1.)

CHAPTER 21-25
Corn and Corn Meal

§ 21-25-1 "Rhode Island corn" defined. – Within the meaning of this chapter "Rhode Island corn" means corn of a light amber color, hard and sound of kernel, generally known as Rhode Island white cap corn and grown in the soil of Rhode Island within the state of Rhode Island.

History of Section.
(P.L. 1940, ch. 898, § 1; G.L. 1956, § 21-25-1.)

§ 21-25-2 Labeling of containers of corn. – The words "Rhode Island" shall not be stamped, marked, printed, branded, or used on any package, bag, bottle, can, box, tub, firkin, or container of any kind in which any corn may be stored or from or in which corn may be sold or offered or exposed for sale unless the corn shall be Rhode Island corn within the meaning of this chapter.

History of Section.
(P.L. 1940, ch. 898, § 2; G.L. 1956, § 21-25-2.)

§ 21-25-3 Labeling of corn meal. – The words "Rhode Island" shall not be stamped, marked, printed, branded, or used on any package, bag, bottle, can, box, tub, firkin, or container of any kind in which any corn meal may be stored or from or in which corn meal may be sold or offered or exposed for sale unless the corn meal has been ground or manufactured in Rhode Island from Rhode Island corn within the meaning of this chapter.

History of Section.
(P.L. 1940, ch. 898, § 3; G.L. 1956, § 21-25-3.)

§ 21-25-4 Penalty for misbranding. – Every person, firm, or corporation, as principal, or by a servant, or agent, who shall sell or offer to sell or expose for sale or have in their possession with intent to sell, contrary to the provisions of this chapter, any package, bag, bottle, can, box, tub, firkin, or container of any kind which has been stamped, marked, printed, branded, and is to be used for the sale, offering, or exposing for sale of any Rhode Island corn meal when the corn meal contained in it has not been ground or manufactured in Rhode Island from Rhode Island corn as required by this chapter, shall for each offense be fined one hundred dollars ($100), one-half (1/2) of the fine to the use of the complainant and one-half (1/2) of the fine to the use of the state; and on trial for the offense, proof of the sale or offering to sell or of the exposing for sale of the article or substance shall be evidence or knowledge of the character of the article or substance so sold or offered or exposed for sale and of knowledge that it was not stamped, marked, printed, branded, or used in accordance with the requirements of this chapter.

History of Section.
(P.L. 1940, ch. 898, § 4; G.L. 1956, § 21-25-4.)

§ 21-25-5 Prosecution of violations. – It shall be the duty of the director of health to prosecute any person, firm, or corporation violating any of the provisions of this chapter, and the director when making a complaint shall not be required to give surety for the payment of costs.

History of Section.
(P.L. 1940, ch. 898, § 5; G.L. 1956, § 21-25-5.)

CHAPTER 21-27
Sanitation in Food Establishments

§ 21-27-6.1 Farm home food manufacture. – Notwithstanding the other provisions of this chapter, the department of health shall permit farm home food manufacture and the sale of the products of farm home food manufacture at farmers' markets, farmstands, and other markets and stores operated by farmers for the purpose of the retail sale of the products of Rhode Island farms, provided that the requirements of this section are met.

(1) The farm home food products shall be produced in a kitchen that is on the premises of a farm and meets the standards for kitchens as provided for in minimum housing standards, adopted pursuant to chapter 24.2 of title 45 and the Housing Maintenance and Occupancy Code, adopted pursuant to chapter 24.3 of title 45, and in addition the kitchen shall:

(i) Be equipped at minimum with either a two (2) compartment sink or a dishwasher that reaches one hundred fifty (150) degrees Fahrenheit after the final rinse and drying cycle and a one compartment sink;

(ii) Have sufficient area or facilities, such as portable dish tubs and drain boards, for the proper handling of soiled utensils prior to washing and of cleaned utensils after washing so as not to interfere with safe food handling; equipment, utensils, and tableware shall be air dried;

(iii) Have drain boards and food preparation surfaces that shall be of a nonabsorbent, corrosion resistant material such as stainless steel, formica or other chip resistant, nonpitted surface;

(iv) Have self-closing doors for bathrooms that open directly into the kitchen;

(v) If farm is on private water supply it must be tested once per year.

(2) The farm home food products are prepared and produced ready for sale under the following conditions:

(i) Pets are kept out of food preparation and food storage areas at all times;

(ii) Cooking facilities shall not be used for domestic food purposes while farm home food products are being prepared;

(iii) Garbage is placed and stored in impervious covered receptacles before it is removed from the kitchen, which removal shall be at least once each day that the kitchen is used for farm home food manufacture;

(iv) Any laundry facilities which may be in the kitchen shall not be used during farm home food manufacture;

(v) Recipe(s) for each farm home food product with all the ingredients and quantities listed, and processing times and procedures, are maintained in the kitchen for review and inspection;

(vi) List ingredients on product;

(vii) Label with farm name, address and telephone number.

(3) Farm home food manufacture shall be limited to the production of nonpotentially hazardous food and foods that do not require refrigeration, including:

(i) Jams, jellies, preserves and acid foods, such as vinegars, that are prepared using fruits, vegetables and/or herbs that have been grown locally;

(ii) Double crust pies that are made with fruit grown locally;

(iii) Yeast breads;

(iv) Maple syrup from the sap of trees on the farm or of trees within a twenty (20) mile radius of the farm;

(v) Candies and fudges;

(vi) Dried herbs and spices.

(4) Each farm home kitchen shall be registered with the department of health and shall require a notarized affidavit of compliance, in any form that the department may require, from the owner of the farm that the requirements of this section have been met and the operation of the kitchen shall be in conformity with the requirements of this section. A certificate of registration shall be issued by the department upon the payment of a sixty-five dollar ($65.00) fee and the submission of an affidavit of compliance. The certificate of registration shall be valid for one year after the date of issuance; provided, however, that the certificate may be revoked by the director at any time for noncompliance with the requirements of the section. The certificate of registration, with a copy of the affidavit of compliance, shall be kept in the kitchen where the farm home food manufacture takes place. The director of health shall have the authority to develop and issue a standard form for the affidavit of compliance to be used by persons applying for a certificate of registration; the form shall impose no requirements or certifications beyond those set forth in this section and § 21-27-1(6). No certificates of registration shall be issued by the department prior to September 1, 2002.

(5) Income from farm home food manufacture shall not be included in the calculation of farm income for the purposes of obtaining an exemption from the sales and use tax pursuant to § 44-18-30(32), nor shall any equipment, utensils, or supplies acquired for the purpose of creating or operating farm home food manufacture be exempt from the sales and use tax as provided for in § 44-18-30(32).

History of Section.
(P.L. 2002, ch. 415, § 2; P.L. 2005, ch. 410, § 11; P.L. 2007, ch. 73, art. 39, § 41.)

CHAPTER 21-32
Advertising of Rhode Island Products

§ 21-32-1 Advertising of Rhode Island grown farm products, eggs, poultry, and turkeys produced in this state. – Only farm products grown and eggs, poultry, and turkeys produced in Rhode Island shall be

advertised or sold in Rhode Island as "native," "native grown," "Rhode Island grown," or under terms of similar import. Any person, firm, partnership, or corporation advertising farm products as "native," "native grown" or "Rhode Island grown" shall be required to furnish proof that the products were grown or produced in Rhode Island if requested so to do by the director of environmental management.

History of Section.
(R.P.L. 1957, ch. 54, § 1.)

§ 21-32-2 Enforcement – Penalty. – The director of environmental management shall enforce this chapter. Any person who violates any provision of this chapter shall be fined not more than twenty-five dollars ($25.00) for each violation.

History of Section.
(R.P.L. 1957, ch. 54, § 2.)

CHAPTER 21-34
Food Donations
SECTION 21-34-1

§ 21-34-1 Immunity from liability for food donors. – A person, or organization including, but not limited to, a farmer, a processor, distributor, wholesaler, or retailer of food, or restaurant, or accredited culinary arts school, who in good faith donates food, including surplus, prepared food that has been maintained at a safe temperature, which appears to be fit for human consumption at the time it is donated to a bona fide charitable or nonprofit organization for the use or distribution to the needy shall not be liable for civil damages or criminal penalties for any injury or illness resulting from the nature, age, condition, or packaging of the donated food unless the injury or illness is a direct result of the intentional misconduct or recklessness of the donor.

History of Section.
(P.L. 1981, ch. 386, § 1; P.L. 2005, ch. 364, § 1; P.L. 2005, ch. 385, § 1.)

§ 21-34-2 Immunity from liability for distributors. – A bona fide nonprofit or charitable organization which in good faith receives, prepares and distributes to the needy, without charge, food which appears to be fit for human consumption at the time it is distributed, including food prepared on the premises of the organization, shall not be liable for civil damages or criminal penalties for any injury or illness resulting from the nature, age, condition, or packaging of the food unless the injury or illness is a direct result of the intentional misconduct or recklessness of the organization.

History of Section.
(P.L. 1981, ch. 386, § 1; P.L. 2008, ch. 258, § 1; P.L. 2008, ch. 423, § 1.)

§ 21-34-3 Authority of department of health not restricted. – Nothing contained in this chapter is intended to restrict the authority of the department of health to regulate or ban the use of donated food.

History of Section.
(P.L. 1981, ch. 386, § 1.)

CHAPTER 21-36
The Inter-Agency Food & Nutrition Policy Advisory Council

§ 21-36-1 Short title. – This chapter shall be known and may be cited as the "The Inter-Agency Food and Nutrition Policy Advisory Council Act."

History of Section.
(P.L. 2012, ch. 37, § 3; P.L. 2012, ch. 38, § 3.)

§ 21-36-2 Definitions. – As used in this chapter, unless otherwise specified, the following word has the following meaning: "Council" means the inter-agency food and nutrition policy advisory council.

History of Section.
(P.L. 2012, ch. 37, § 3; P.L. 2012, ch. 38, § 3.)

§ 21-36-3 Council composition. – There shall be an inter-agency food and nutrition policy advisory council which shall consist of seven (7) members: the director of health, or his or her designee; the director of environmental management, or his or her designee; the director of administration, or his or her designee; the director of the department of human services, or his or her designee; the director of the division of elderly affairs, or his or her designee; the director of the department of corrections, or his or her designee; and the commissioner of elementary and secondary education, or his or her designee. The members of the commission shall elect a chairperson from among themselves.

History of Section.
(P.L. 2012, ch. 37, § 3; P.L. 2012, ch. 38, § 3; P.L. 2014, ch. 67, § 1; P.L. 2014, ch. 73, § 1.)

§ 21-36-4 Powers and duties. – (a) The council shall examine issues regarding the identification and development of solutions to regulatory and policy barriers to developing a strong sustainable food economy and healthful nutrition practices.

(b) The council shall collaborate with other task forces, committees, or organizations that are pursuing initiatives or studies similar to the purposes and duties outlined in this chapter.

(c) The council shall collaborate with, serve as a resource to, and receive input from food policy councils in the state.

(d) The council shall examine any other program and policy issues the council considers pertinent.

History of Section.
(P.L. 2012, ch. 37, § 3; P.L. 2012, ch. 38, § 3.)

§ 21-36-5 Reporting requirements. – The council shall provide a written report to the general assembly by March 30th of each year regarding its activities for the preceding calendar year.

History of Section.
(P.L. 2012, ch. 37, § 3; P.L. 2012, ch. 38, § 3.)

TITLE 23 – HEALTH and SAFETY

CHAPTER 23-25
Pesticide Control

§ 23-25-1 Short title. – This chapter shall be known as the "Pesticide Control Act".

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-1; P.L. 1979, ch. 39, § 1.)

§ 23-25-2 Enforcing official. – The provisions of this chapter shall be administered by the director of environmental management of the state, referred to as the director.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-2; P.L. 1979, ch. 39, § 1.)

§ 23-25-3 Declaration of purpose. – The purpose of this chapter is to regulate, in the public interest, the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides as defined in this chapter. The general assembly finds that pesticides are valuable to our state's agricultural production and to the protection of human life and the environment from insects, rodents, weeds, and other forms of life which may be pests; but it is essential to the public health and welfare that they be regulated to prevent adverse effects on human life and the environment. New pesticides are continually being discovered, synthesized, or developed which are valuable for the control of pests and for use as defoliants, desiccants, and plant regulators. Those pesticides may be ineffective, may cause injury to man, or may cause unreasonable adverse effects on the environment if not properly used. Pesticides may injure human life or animals, either by direct poisoning or by gradual accumulation of pesticide residues in the tissue. Crops or other plants may also be injured by their improper use. The drifting or washing of pesticides into streams, lakes, or other bodies of water may cause appreciable damage to aquatic life. A pesticide applied for the purpose of killing pests in a crop which is not itself injured by the pesticide, may drift and injure other crops or non-target organisms with which it comes in contact. It is deemed necessary to provide for regulation of pesticides.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-3; P.L. 1979, ch. 39, § 1.)

§ 23-25-4 Definitions. – As used in this chapter:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

(2) "Adulterated" applies to any pesticide if its strength or purity falls below the professed standards of quality as expressed on its labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by humans or animals.

(4) "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.

(5) "Beneficial insects" means those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

(6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

(7) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant with or without causing abscission.

(8) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(9) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than humans and other than bacteria, virus, or other micro-organism on or in living humans or other living animals) but not including equipment used for the application of pesticides when sold separately from it.

(10) "Director" means the director of environmental management.

(11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

(12) "Environment" includes water, air, land, and all plants and humans and other living animals in it, and the interrelationships which exist among these.

(13) "EPA" means the United States Environmental Protection Agency.

(14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., and other legislation supplementary to it and amendatory of it.

(15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except those in or on processed food, beverages, or pharmaceuticals.

(16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-25-9(a)(2).

(17) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to § 23-25-8 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the interior under 16 U.S.C. § 1531 et seq.

(18) "Inert ingredient" means an ingredient which is not an active ingredient.

(19) "Ingredient statement" means:

(i) Statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and

(ii) When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(20) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their immature stages, and to other allied classes of anthropods whose members are wingless and usually have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(21) "Integrated Pest Management (IPM)" refers to a method of pest control that uses a systems approach to reduce pest damage to tolerable levels through a variety of techniques, including natural predators and parasites, genetically resistant hosts, environmental modifications and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical defenses first and chemical pesticides second.

(22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(23) "Labeling" means the label and all other written, printed, or graphic matter:

(i) Accompanying the pesticide or device at any time; or

(ii) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of EPA, the United States Departments of Agriculture and Interior, and the department of health and human services; state experiment stations; state agricultural colleges; and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(24) "Land" means all land and water areas, including airspace, all plants, animals, structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or mobile, including any used for transportation.

(25) "Nematode" means invertebrate animals of the phylum Nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(26) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for altering the behavior of plants or the produce of these but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

(27) "Permit" means a written certificate, issued by the director, authorizing the purchase, possession, and/or use of certain pesticides or pesticide uses defined in subdivisions (34) and (35) of this section.

(28) "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity, or any organized group of persons whether incorporated or not.

(29) "Pest" means:

(i) Any insect, rodent, nematode, fungus, or weed; and

(ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or other living animals) which the director declares to be a pest under § 23-25-9(a)(1).

(30) "Pesticide" means:

(i) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and

(ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(31) "Pesticide dealer" means any person who distributes within the state any pesticide product classified for restricted use by EPA or limited use by the director.

(32) "Private applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on land owned or rented by him or her or his or her employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on land of another person.

(ii) "Certified private applicator" means any private applicator who is certified under § 23-25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide classified for restricted use by EPA or limited use by the director.

(iii) "Commercial applicator" means any person (whether or not that person is a private applicator with respect to some uses), including employees of any federal, state, county or municipal agency, department, office, division, section, bureau, board, or commission, who applies or supervises the application of any pesticide for any purpose or on any property other than as provided by the definition of "private applicator".

(iv) "Certified commercial applicator" means any commercial applicator who is certified under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a pesticide classified for restricted use by EPA or limited use by the director.

(v) "Licensed commercial applicator" means any commercial applicator who is licensed under § 23-25-12 as authorized to use or supervise the use of any pesticide not classified for restricted use by EPA or limited use by the director on land not owned or rented by him or her.

(33) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment.

(34) "Registrant" means a person who has registered any pesticide pursuant to the provisions of this chapter.

(35) "Restricted use pesticide" means a pesticide or pesticide use that is classified for restricted use by the administrator of EPA, or under § 23-25-6(h).

(36) "State limited use pesticide" means any pesticide or pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable adverse effects on the environment including humans, land, beneficial insects, animals, crops, and wildlife, other than pests.

(37) "Under the direct supervision" means that on-site supervision of any pesticide application by an appropriately certified or licensed applicator who is responsible for the application and is capable of dealing with emergency situations which might occur.

(38) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(39) "Weed" means any plant which grows where not wanted.

(40) "Wildlife" means all living things that are neither human nor, as defined in this chapter, pests, including but not limited to mammals, birds, and aquatic life.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.4-4; P.L. 1979, ch. 39, § 1; P.L. 1986, ch. 347, § 1; P.L. 1988, ch. 84, § 22; P.L. 2002, ch. 418, § 1.)

§ 23-25-5 Misbranded. – The term "misbranded" applies:

(1) To any pesticide or device designated under § 23-25-9(b)(4):

(i) If its labeling bears any statement, design, or graphic representation relative to it or to its ingredients which is false or misleading in any particular;

(ii) If it is an imitation of or is distributed under the name of another pesticide;

(iii) If any word, statement, or other information required to appear on the label or labeling is not prominently placed on it with any conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in any terms as to render it unlikely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(2) To any pesticide:

(i) If the labeling does not contain a statement of the EPA use classification under which the product is registered;

(ii) If the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under § 3(d) of FIFRA, 7 U.S.C. § 136a(d), are not adequate to protect health and the environment;

(iii) If the label does not bear:

(A) Name, brand, or trademark under which the pesticide is distributed;

(B) An ingredient statement on that part of the immediate container (and on the outside container and wrapper of the retail package, if there is one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase; provided, that the ingredient statement may appear prominently on another part of the container, as permitted pursuant to § 2(q)(2)(A) of FIFRA, 7 U.S.C. § 136(q)(2)(A), if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

(C) A warning or caution statement which may be necessary and which, if complied with together with any requirements imposed under § 3(d) of FIFRA, 7 U.S.C. § 136a(d), would be inadequate to protect the health and environment;

(D) The net weight or measure of the content;

(E) The name and address of the manufacturer, registrant, or person for whom manufactured; and

(F) The EPA registration number assigned to each establishment in which it was produced and the EPA registration number assigned to the pesticide, if required by regulations under FIFRA.

(iv) If the pesticide contains any substance or substances in quantities highly toxic to humans, unless the label bears, in addition to other label requirements:

(A) The skull and crossbones;

(B) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and

(C) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(v) If the pesticide container does not bear a registered label.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-5; P.L. 1979, ch. 39, § 1.)

§ 23-25-6 Registration. – (a) Every pesticide that is distributed in the state shall be registered with the director subject to the provisions of this chapter and shall be categorized for registration purposes. These categories shall be: "consumer protection and health benefits products", which means all disinfectants, sanitizers, germicides, biocides and other pesticides labeled for use directly on humans or pets or in or around household premises, and "agricultural and other pesticides", which means restricted-use pesticides and other pesticides that are not consumer protection and health benefits products. That registration shall be renewed annually prior to January 31; provided, that registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as a constituent part to make a pesticide that is registered under the provisions of this chapter or if the pesticide is distributed under the provisions of an experimental use permit issued under § 23-25-7 or an experimental use permit issued by the EPA.
(b) The applicant for registration shall file a statement with the director that shall include:
(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, other than the applicant's;
(2) The name of the pesticide;
(3) Other necessary information required for completion of the department of environmental management's application for registration form. The director may, upon receipt of an application, designate a pesticide product as a "statewide minor use" product. Such products will be those which, due to limited distribution within the state, do not, in the opinion of the director, warrant payment of the registration fee and surcharge required to register a product within Rhode Island. Upon designating a product as a "statewide minor use" the director shall register the product for sale or distribution while waiving both the registration fee and surcharge. The applicant wishing to have a product so designated shall submit a completed application containing the following information:
(i) The product name;
(ii) EPA registration number, if applicable;
(iii) Description of pest to be controlled, and applicable sites;
(iv) Documentation that the product is not registered due to limited market; and
(v) Explanation as to why there are not effective, reasonable alternative products currently registered.
(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136a et seq.
(c) The director, when he or she deems it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.
(d) The director may require a full description of the tests made and the results of the tests upon which the claims are based on any pesticide not registered pursuant to § 3 of FIFRA, 7 U.S.C. § 136a, or on any pesticide on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.
(e) The director may prescribe other necessary information by regulation.
(f) The applicant desiring to register a pesticide shall, unless the director has determined the subject product is a "statewide minor use" product pursuant to subsection (b)(3), pay an annual registration fee of fifty dollars ($50.00) to the general treasurer for each pesticide registered for the applicant which shall be credited by the general treasurer to the pesticide relief fund. Annually, on November 1, the general treasurer shall notify the director of the amount of funds contained in the pesticide relief fund. If the pesticide relief fund shall exceed one million dollars ($1,000,000) on that date, the annual registration fee for the next following year commencing December 1 shall be twenty-five dollars ($25.00), which shall become part of the general fund. All registrations shall expire on November 30, of any one year, unless sooner cancelled; provided, that a registration for a special local need pursuant to this section that is disapproved by the administrator, EPA, shall expire on the effective date of the administrator's disapproval.
(g) Any registration approved by the director and in effect on the 31st day of January, for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until any time that the director notifies the applicant that the registration has been renewed, or denied, in accord with the provisions of § 23-25-8. Forms for re-registration shall be mailed to registrants at least thirty (30) days prior to the due date.
(h)(1) Provided the state of Rhode Island is certified by the administrator of EPA to register pesticides pursuant to § 24(c) of FIFRA, 7 U.S.C. § 136v(c), the director shall require the information set forth under

subsections (b), (c), (d), and (e) and shall, subject to the terms and conditions of the EPA certification, register the pesticide if he or she determines that:
(i) Its composition is such as to warrant the proposed claims for it;
(ii) Its labeling and other material required to be submitted comply with the requirements of this chapter;
(iii) It will perform its intended function without unreasonable adverse effects on the environment;
(iv) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and
(v) A special local need for the pesticide exists.
(2) Prior to registering a pesticide for a special local need, the director shall classify the use of the pesticide for general or restricted use in conformity with § 3(d), 7 U.S.C. § 136a(d), of FIFRA; provided, that the director shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two (2) pesticides meet the requirements of this subdivision, one should not be registered in preference to the other.
(3) The director may develop and promulgate any other requirements by regulation that are necessary for the state plan to receive certification from EPA.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-6; P.L. 1979, ch. 39, § 1; P.L. 1985, ch. 260, § 2; P.L. 1998, ch. 147, § 2; P.L. 2001, ch. 86, § 11; P.L. 2017, ch. 218, § 1; P.L. 2017, ch. 335, § 1.)

§ 23-25-6.1 Registration fee – Surcharge. – In addition to the annual registration fee of fifty dollars ($50.00) as required by § 23-25-6, an additional one hundred fifty dollar ($150) registration surcharge fee shall be imposed upon each pesticide to be sold or used within the state, unless the director has determined the subject product is a "statewide minor use" product pursuant to § 23-25-6(b)(3). The registration surcharge fee shall be deposited as general revenues.

History of Section.
(P.L. 1992, ch. 419, § 2; P.L. 1993, ch. 439, § 1; P.L. 1995, ch. 370, art. 40, § 71; P.L. 2001, ch. 139, § 2; P.L. 2004, ch. 595, art. 33, § 6; P.L. 2007, ch. 73, art. 38, § 1; P.L. 2017, ch. 218, § 1; P.L. 2017, ch. 335, § 1.)

§ 23-25-7 Experimental use permits. – (a) Provided the state is authorized by the administrator of EPA to issue experimental use permits, the director may:
(1) Issue an experimental use permit to any person applying for an experimental use permit, if he or she determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide under § 23-25-6(h). An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.
(2) Refuse to issue an experimental use permit, if he or she determines that issuance of the permit is not warranted or that the pesticide applications to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.
(3) Prescribe terms, conditions, and period of time for the experimental use permit, which shall be under the supervision of the director.
(4) Revoke or modify any experimental use permit, at any time, if he or she finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.
(b) The director may develop and promulgate any other requirements by regulation that are necessary for the state plan to receive that authorization from EPA.
(c) The director may limit or prohibit the use of any pesticide for which an experimental use permit has been issued by EPA, pursuant to § 5(a) of FIFRA, 7 U.S.C. § 136c(a), and which the director finds may cause unreasonable adverse effects on the environment.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-7; P.L. 1979, ch. 39, § 1.)

§ 23-25-8 Refusal to register – Cancellation – Suspension – Legal recourse. – (a) Provided the state is certified by the administrator of EPA to register pesticides formulated to meet special local needs, the director shall consider the following for refusal to register, for cancellation, for suspension, or for legal recourse for those pesticides:

(1) If it appears to the director that an application for registration cannot be granted pursuant to § 23-25-6(h) and any regulations issued under this section, he or she shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this chapter or any regulations under this section so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of the notice, the applicant does not make the required changes, the director may refuse to register the pesticide. The applicant may request a hearing as provided for in the Administrative Procedures Act, chapter 35 of title 42.

(2) When the director determines that a pesticide or its labeling does not comply with the provisions of this chapter or the regulations adopted under this chapter or when necessary to prevent unreasonable adverse effects on the environment, he or she may cancel the registration of a pesticide or change the classification of a pesticide after a hearing in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

(3) When the director determines that there is an imminent hazard, he or she may, on his or her own motion, suspend the registration of a pesticide in conformance with the provisions of the Administrative Procedures Act, chapter 35 of title 42. Hearings shall be held with the utmost possible expedition.

(4) Any person who will be adversely affected by the order in this section may obtain judicial review of this order by filing in the superior court, within sixty (60) days after entry of the order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be immediately transmitted by the clerk of the court to the director and then the director shall file in the court the record of the proceedings on which he or she based his or her order. The court shall have jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the director with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the director to take further testimony if there are reasonable grounds for the failure to adduce that evidence in the prior hearing. The director may modify his or her findings and his or her order by reason of the additional evidence taken and shall file the additional record and any modification of the findings or order with the clerk of the court.

(b) If the director determines that any federally registered pesticide with respect to the use of the pesticide within the state:

(1) Does not warrant the claims for it; or

(2) Might cause unreasonable adverse effects on the environment; he or she may refuse to register the pesticide as required in § 23-25-6, or if the pesticide is registered under § 23-25-6, the registration may be cancelled or suspended as provided in subsection (a) of this section. If the director believes the pesticide does not comply with the provisions of FIFRA or the regulations adopted under it, he or she shall advise EPA of the manner in which the pesticide labeling or other material required to be submitted fails to comply with the provisions of FIFRA and suggest necessary corrections.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-8; P.L. 1979, ch. 39, § 1.)

§ 23-25-9 Authority of director – Determinations – Rules and regulations – Restricted use and limited use of pesticides and uniformity. – (a) The director is authorized after due notice and an opportunity for a hearing:

(1) To declare as a pest any form of plant or animal life (other than humans and other than bacteria, viruses, and other micro-organisms on or in living humans or other living animals) which is injurious to health or the environment;

(2) To determine whether pesticides registered under the authority of § 24(c) of FIFRA, 7 U.S.C. § 136v(c), are highly toxic to humans. The definition of highly toxic, as defined in title 40, Code of Federal Regulations 162.8, as issued or amended, shall govern the director's determination; and

(3) To determine pesticides and quantities of substances contained in pesticides which are injurious to the environment. The director shall be guided by EPA regulations in this determination.

(b) The director is authorized after due notice and a public hearing as provided for in the Administrative Procedures Act, chapter 35 of title 42, to make appropriate regulations where those regulations are necessary for the enforcement and administration of this chapter, including but not limited to regulations providing for:

(1) The collection, examination, and reporting of samples of pesticides or devices pursuant to § 23-25-19;

(2) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(3) Labeling requirements of all pesticides required to be registered under provisions of this chapter; provided, that the regulations shall not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA;

(4) Specifying classes of devices which shall be subject to the provisions of § 23-25-5(1);

(5) Prescribing methods to be used in the application of pesticides where the director finds that these regulations are necessary to carry out the purpose and intent of this chapter. The regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations in connection with the application of the pesticide, may restrict or prohibit use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors which the director deems necessary to prevent damage or injury by drift or misapplication to: plants, including forage plants, on adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals, or beneficial insects.

(6) In issuing the regulations referred to in subdivision (5) of this subsection, the director shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The director may by regulation require that notice of a proposed application of a pesticide be given to the public, if he or she finds that the notice is necessary to carry out the purpose of this chapter.

(7) Prescribing regulations requiring any pesticide registered for special local needs to be colored or discolored if he or she determines that the requirement is feasible and is necessary for the protection of health and the environment. The regulations promulgated by EPA pursuant to § 25(c)(5) of FIFRA, 7 U.S.C. § 136w(c)(5), shall govern this determination.

(8) Prescribing regulations establishing standards for the packages, containers, and wrappings of pesticides registered for local needs. The regulations shall be consistent with the regulations promulgated by EPA pursuant to § 25(c)(3) of FIFRA, 7 U.S.C. § 136w(c)(3).

(c) For the purpose of uniformity and in order to enter into cooperative agreements, the director may:

(1) In addition to those "restricted use pesticides" classified by the administrator of EPA, the director may also, by regulation, after a public hearing following due notice, classify a pesticide as a "state limited use pesticide" for the state of Rhode Island. If the director determines that the pesticide (when applied in accordance with its directions for use, warnings, and cautions, and for uses for which it is registered) may cause without additional restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticide, the pesticide shall be applied only by or under the direct supervision of a certified applicator, or be subject to any other restrictions as the director may determine. These other restrictions may include, but are not limited to, the conditions of use as provided in subdivision (b)(5) of this section for "state limited use pesticides", may require a permit for the purchase, possession, and application of pesticides labeled as "state limited use pesticides", and may further require that application of that pesticide be only under the direct supervision of the director.

(2) Adopt regulations in conformity with the primary pesticide standards, particularly as to labeling and registration requirements, as established by EPA or other federal or state agencies.

(d) Regulations adopted under this chapter shall not permit any pesticide use which is prohibited by FIFRA and regulations or orders issued under it.

(e) Regulations adopted under this chapter as to certified applicators of "restricted use pesticides" as designated under FIFRA and regulations adopted as to experimental use permits as authorized by FIFRA shall not be inconsistent with the requirements of FIFRA and regulations promulgated under it.

(f) In order to comply with § 4 of FIFRA, 7 U.S.C. § 136b, the director is authorized to make any reports to the EPA in any form and containing any information that the agency may from time to time require.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-9; P.L. 1979, ch. 39, § 1.)

§ 23-25-10 Applicator categories for certification – Standards. – (a) The director shall adopt applicator categories established by EPA by regulation and may establish additional categories and subcategories for certification necessary for the administration and enforcement of this chapter. Separate subcategories may be specified as to ground, aerial, or manual methods used to apply pesticides or to the use of pesticides to control insects, plant diseases, rodents, or weeds. Each category or subcategory shall be subject to separate testing procedures and requirements; provided, that no person shall be required to pay an additional fee if that person desires to be certified in more than one category or subcategory.

(b) The director, in promulgating regulations under this chapter, shall adopt or prescribe standards of competency for the certification of applicators which are at least equal to those established by EPA. Those standards may relate to the use and handling of pesticides or to the use and handling of the pesticide or class of pesticides covered by the individual's certification and shall be relative to the hazards involved. In determining standards, the director shall consider the characteristics of the pesticide formulation such as: the acute dermal and inhalation toxicity; the persistence, mobility, and susceptibility to biological concentration; the use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information; the relative hazards of patterns of use such as granular soil applications, ultra low volume of dust aerial applications, or air blast sprayer applications; and the extent of the intended use.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-10; P.L. 1979, ch. 39, § 1; P.L. 2001, ch. 86, § 11.)

§ 23-25-11 Prohibitions for applicators. – (a) No person shall use or supervise the use of any "restricted use pesticide" which is restricted to use by certified applicators pursuant to § 23-25-9 without first complying with the certification requirements pursuant to § 23-25-13 and any other restrictions as determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use; provided, that a competent person may make an application under the direct supervision of a certified applicator.

(b) No person shall use or supervise the use of any "state limited use pesticide" which is restricted to use by certified applicators pursuant to § 23-25-9 without first complying with the certification requirements pursuant to § 23-25-13 or 23-25-14 and any other restrictions as determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use; provided, that a competent person may make an application under the direct supervision of a certified applicator.

(c) No commercial applicator shall use or supervise the use of any pesticide on land without first becoming a licensed commercial applicator under § 23-25-12 or a certified applicator under § 23-25-13 and regulations adopted under these sections, unless he or she is making the application under the direct supervision of a licensed commercial applicator or a certified commercial applicator; provided, that a commercial applicator applying or supervising the application of a pesticide, not classified as a restricted use pesticide or state limited use pesticide, on land owned or rented by him or her or his or her employer need not comply with the requirements under § 23-25-12 or 23-25-13.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-11; P.L. 1979, ch. 39, § 1.)

§ 23-25-12 Licenses for commercial applicators – Rules and regulations. – (a) No commercial applicator shall apply any pesticide classified for general use by EPA or the director unless that application is by or under the direct supervision of a person certified under § 23-25-13 or licensed under this section; provided, that the application may be made without compliance with § 23-25-13 or this section on land owned or rented by the applicator or his or her employer.

(b) The director is authorized to adopt rules and regulations, including but not limited to regulations:

(1) Establishing procedures for filing a license application, applicant qualifications, license classifications if necessary, standards, and the scope and types of examinations necessary to carry out the intent of this chapter;

(2) Establishing license fees not to exceed thirty dollars ($30.00);

(3) Establishing the term during which a license remains valid (unless suspended or revoked for cause), expiration dates, credentials, and requirements for renewal (which may include reexamination if deemed necessary);

(4) Enabling the transfer of existing licenses to classifications established under this section with or without re-examination;

(5) Establishing limits of liability covering the applicant's spraying operations;

(6) Requiring the display of a decal, indicating that the applicant has met the requirements of this chapter, in a prominent place on any vehicle used in the applicant's spraying operations;

(7) Prescribing exceptions for utility and other employees who are not normally involved in pesticide applications but who may find it necessary when performing their normal tasks to use a general use pesticide to protect themselves from attacks by wasps, hornets, or other biting or stinging insects.

(c) If the director does not qualify an applicant for a license or renewal or suspends or revokes a license for any violation under this chapter, the director shall inform the applicant in writing of the reasons for revocation and, if requested, provide opportunity for a hearing before the director.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-12; P.L. 1979, ch. 39, § 1; P.L. 1992, ch. 133, art. 22, § 3.)

§ 23-25-13 Certification of commercial applicators – Renewal – Regulations. – (a) No commercial applicator shall purchase, acquire, possess, apply, or supervise the application of any pesticide classified for use only by or under the direct supervision of a certified applicator by EPA or by the director without first becoming certified under this section and regulations adopted under this section, except that the pesticide purchase, acquisition, possession, or application may be made without certification if done under the direct supervision of a certified applicator.

(b) The director is authorized to adopt regulations, including but not limited to regulations:

(1) Establishing procedures for filing an application for certification and determining prior experience and qualifications of applicants, their proposed operations, categories, and subcategories, or special pesticide uses for which the applicant wishes to qualify for certification, and setting annual expiration dates and type of documentation verifying certification if qualified;

(2) Requiring written examinations and, as necessary, other types of examinations designed to enable the applicant to demonstrate his or her knowledge, in accordance with the standards established under § 23-25-10, of pesticides and their effects, and his or her competency to handle and use the restricted use and/or limited use pesticides he or she may apply under the categories, subcategories, or special uses for which he or she is being examined;

(3) Establishing an annual certification fee not to exceed forty-five dollars ($45.00) and requiring certified commercial applicators to keep records of their purchase and use of restricted use and/or limited use pesticides;

(4) Establishing limits of liability covering the applicant's spraying operations;

(5) Requiring the display of a decal, indicating that the applicant has met the requirements of this chapter, in a prominent place on any vehicle used in the applicant's spraying operations.

(c) If the director finds the applicant qualified to apply pesticides in the categories, subcategories, or special uses he or she has applied for, the director shall issue a certified commercial applicator's certificate limited to the categories for which he or she is qualified which shall expire on an annual expiration date as determined by regulation unless it has been revoked or suspended prior to the expiration by the director for cause. The director may limit the certificate to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a certificate or renewal is not granted as applied for, the director shall inform the applicant in writing of the reasons for not granting it and, if requested, provide opportunity for a hearing before the director.

(d) The director shall send a renewal application to each certified commercial applicator at least thirty (30) days prior to the expiration date, and the director may renew any applicant's certification under the classification(s) for which the applicant is certified subject to reexamination or other requirements imposed

by the director by regulation to ensure that the applicator continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(e) Certified commercial applicators who in any year fail to file a renewal application, even though they did not receive a mailed renewal application, prior to an expiration date established by regulation shall lose their certification as of sixty (60) days later and prior to that date shall be notified in writing. Those applicators may regain certification under this section by reexamination.

(f) Any commercial applicator certified under this section shall not be required to obtain a commercial applicator's license under § 23-25-12 as long as his or her certification remains in effect.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-13; P.L. 1979, ch. 39, § 1; P.L. 1992, ch. 133, art. 22, § 3.)

§ 23-25-14 Certification of private applicators – Renewal – Regulations. – (a) No private applicator shall purchase, acquire, possess, apply, or supervise the application of any pesticide classified for use only by or under the direct supervision of a certified applicator by EPA or by the director without first becoming certified under this section and regulations adopted under this section, except that the pesticide purchase, acquisition, possession, or application may be made without certification if done under the direct supervision of a certified applicator.

(b) The director is authorized to adopt regulations, including but not limited to regulations:

(1) Establishing procedures for filing an application for certification and determining prior experience and qualifications of applicants, the location and nature of their operations, and setting annual expiration dates and type of credentials verifying certification;

(2) Requiring written or oral and, as necessary, other types of examinations designed to enable the applicant to demonstrate his or her knowledge, in accordance with the standards established under § 23-25-10, of pesticides and their effects and his or her competency to handle and use the restricted use and/or limited use pesticides he or she may apply in his or her normal operations or for any special uses for which he or she is being examined;

(3) Establishing an annual certification fee not to exceed twenty-five dollars ($25.00) and requiring certified private applicators to keep records of their purchase and use of restricted use and/or limited use pesticides.

(c) If the director finds the applicant qualified, the director shall issue to him or her a certified private applicator's certificate limited to the types of operations or special uses for which he or she was examined, which shall expire one year from the date of issue or otherwise as determined by regulation, unless it has been suspended or revoked prior to the expiration by the director for cause. The director may limit the applicant to the use of certain pesticides or certain uses if deemed necessary to protect the applicant, other persons, or the environment. If a certificate or renewal is not granted as applied for, the director shall inform the applicant, in writing, of the reason for not granting it and, if requested, provide opportunity for a hearing before the director.

(d) The director shall send a renewal application to each certified private applicator at least thirty (30) days prior to the expiration date, and the director may renew any applicant's certification under the classification(s) for which the applicant is certified subject to re-examination or other requirements imposed by the director by regulation to ensure that the applicator continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(e) Certified private applicators who, in any year, fail to file a renewal application even though they did not receive a mailed renewal application prior to an expiration date established by regulation shall lose their certification as of sixty (60) days later and prior to that date shall be notified in writing. Those applicators may regain certification under this section by re-examination.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-14; P.L. 1979, ch. 39, § 1; P.L. 1992, ch. 133, art. 22, § 3.)

§ 23-25-15 Licenses for dealers of restricted and limited use pesticides – Renewal – Regulations authorized – Responsibility for acts of employees. – (a) It shall be unlawful for any person to act as a

pesticide dealer, or advertise as, or assume or act as a pesticide dealer at any time without first becoming licensed under this section and regulations adopted under this section. A license shall be required for each location or outlet located within the state from which the pesticides are distributed; provided, that any out-of-state manufacturer, registrant, or distributor who distributes the pesticides only through or to a licensed pesticide dealer is not required to obtain a license.

(b) Credentials verifying licensing shall be plainly exhibited at each location or distribution center situated within the state from which "restricted use" or "state limited use" pesticides are distributed. A manufacturer, registrant, or distributor of those pesticides who has no fixed distribution center within the state but who distributes those pesticides directly to certified applicators within the state shall obtain a license for his or her principal out-of-state location or distribution center and for each of his or her representatives who distribute those pesticides within the state.

(c) The director is authorized to adopt regulations, including but not limited to regulations:

(1) Establishing procedures for filing applications for licensing which shall provide names and full addresses of individuals who are distributors, members of principals, officers of firms, partnerships, associations, corporations or organized groups who are distributors, and the full address of each distribution center or outlet, and the name and full address of a person domiciled within the state authorized to receive and accept service of summons or legal notices of all kinds for the applicant, and other information found necessary by the director;

(2) Establishing license expiration dates and procedures for maintaining and submitting records of restricted use pesticide distribution as required under § 23-25-23;

(3) Requiring, if deemed necessary, any out-of-state distributor to obtain a permit to ship any "restricted use" or "state limited use" pesticide to any location within the state. Information required to obtain the permit shall include the full name and address of the shipper, the expected delivery date, the brand name, EPA registration number, the quantity of pesticide, the full name and address of the person receiving the shipment, and any other information found necessary by the director. No fee shall be required for the permit;

(4) Requiring a written examination designed to enable the applicant to demonstrate his or her knowledge of the types of information to be found on a pesticide label and that he or she is familiar with state and federal laws governing his or her sale, storage, and distribution of "state limited use" and "restricted use" pesticides;

(5) Establishing annual license fees of not more than thirty dollars ($30.00) for each license issued.

(d) Provisions of this section shall not apply to a certified commercial applicator who sells pesticides only as an integral part of his or her pesticide application service when the pesticides are dispensed only through equipment used for the pesticide application or any federal, state, county, or municipal agency which provides pesticides only for its own programs.

(e) The director shall send a renewal application to each licensed pesticide dealer at least thirty (30) days prior to the expiration date and the director may renew any applicant's license subject to further examination by the director if necessary to show additional knowledge that may be required to distribute pesticides classified for "restricted use" or "state limited use".

(f) Licensed pesticide dealers who, in any year, fail to file a renewal application even though they did not receive a mailed renewal application prior to an expiration date established by regulation shall lose their dealer's license as of sixty (60) days later and prior to that date shall be notified in writing. Those dealers may regain licensing under this section by re-examination.

(g) Each licensed pesticide dealer shall be responsible for the acts of each person employed by him or her in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing before the director for any violation of this chapter whether committed by the dealer or by the dealer's officer, agent, or employee.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-15; P.L. 1979, ch. 39, § 1; P.L. 1992, ch. 133, art. 22, § 3.)

§ 23-25-16 Monitoring of environment. – (a) As part of his or her responsibility in administering this chapter, the director will carry out a program of monitoring the amounts of pesticides throughout the environment in the state. Portions of the environment to be monitored will include but will not be limited to: fresh and salt waters of the state; soils; crops intended for human or animal consumption; places where

food is served commercially or in institutions and where food for human or animal consumption is handled, stored, transported, prepared, or processed; and wildlife.

(b) Results of the monitoring program will be reviewed at least annually by the pesticide relief advisory board.

(c) In carrying out the provisions of this section, the director may enter into agreements with public or private agencies to secure any technical assistance it deems necessary.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-16; P.L. 1979, ch. 39, § 1.)

§ 23-25-17 Repealed. –

§ 23-25-18 Unlawful acts and/or grounds for denial, suspension, or revocation of a license, permit, or certification. – (a) The director may suspend pending inquiry for not longer than ten (10) days, and after opportunity for a hearing, deny, further suspend, revoke, or modify any provision on any license, permit, or certificate issued under this chapter if he or she finds that the applicant or holder of a license, permit, or certificate has committed any of the following acts, each of which except subdivision (15) of this subsection, is declared to be a violation of this chapter; provided, that this person shall also be subject to the penalties provided by § 23-25-28:

(1) Made false or fraudulent claims through any medium misrepresenting the effect of pesticides or methods to be utilized;

(2) Made a pesticide recommendation or use inconsistent with the labeling (except as allowed by rulings, interpretations, regulations, or guidelines published by EPA or, in the case of a pesticide registered under § 23-25-6(h) by the director), with the EPA or state registration for that pesticide, or in violation of the EPA or state restrictions on the use of that pesticide;

(3) Applied known ineffective or improper pesticides;

(4) Operated faulty or unsafe equipment;

(5) Operated in a faulty, careless, or negligent manner;

(6) Neglected or, after notice, refused to comply with the provisions of this chapter, the rules and regulations adopted under this chapter, or of any lawful order of the director;

(7) Refused or neglected to keep and maintain the records required by this chapter or to make reports when and as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Used or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator or without having been under the direct supervision of a certified applicator;

(10) Used fraud or misrepresentation in making an application for or renewal of, a license, permit, or certification;

(11) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, or certification;

(12) Aided or abetted a licensed or certified or an unlicensed or non-certified, person to evade the provisions of this chapter, conspired with that person to evade the provisions of this chapter, or allowed one's license, permit, or certification to be used by another person;

(13) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) Impersonated any federal, state, county, or city inspector or official; or

(15) Has been subject to the final imposition of civil or criminal penalties under § 14(a) or (b) of FIFRA, 7 U.S.C. § 136l(a) or (b).

(b) It is unlawful for any person to distribute in the state any of the following:

(1) Any pesticide which is not registered pursuant to the provisions of this chapter;

(2) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; provided, that a change in the labeling or formulation of a pesticide may be made within a registration period without requiring

reregistration of the product if the registration is amended to reflect the change and if that change will not violate any provision of FIFRA or this chapter;

(3) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to that container and to the outside container or wrapper of the retail package if there is one through which the required information on the immediate container cannot be clearly read a label bearing the information required in this chapter and the regulations adopted under this chapter;

(4) Any pesticide which has not been colored or discolored pursuant to the provisions of § 23-25-9(b)(7) or of § 25(c)(5) of FIFRA, 7 U.S.C. § 136w(c)(5);

(5) Any pesticide which is adulterated or misbranded or any device which is misbranded;

(6) Any pesticide in containers which are unsafe due to damage.

(c) It shall be unlawful:

(1) To distribute any pesticide labeled for "restricted use" by EPA or for "state limited use" by the director to any person who is required by this chapter or regulations promulgated under this chapter to be certified to acquire, purchase, possess, or use this pesticide unless the person has a valid permit or is certified to acquire, purchase, possess, or use the kind and quantity of this pesticide or unless distribution is made to his or her agent; provided, that subject to conditions established by the director, the permit may be obtained immediately prior to distribution from any agent designated by the director;

(2) For any person to detach, alter, deface, or destroy, wholly or in part, any label or labeling provided for in this chapter or regulations adopted under this chapter, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter or the regulations adopted under this chapter;

(3) For any person to use for his or her own advantage or to reveal, other than to the director or properly designated state or federal officials, or employees of the state or federal executive agencies, or to the courts of the state or of the United States in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of § 23-25-6 or any information judged by the director as containing or relating to trade secrets or commercial or financial information obtained by authority of this chapter and marked as privileged or confidential by the registrant;

(4) For any person to handle, transport, store, display, or distribute pesticides in such a manner as to endanger humans and the environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with those pesticides;

(5) For any person to dispose of, discard, or store any pesticide or pesticide containers in such manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any water supply, waterway, or water body;

(6) For any person to refuse or otherwise fail to comply with the provisions of this chapter, the regulations adopted under this chapter, or of any lawful order of the director.

(d) The penalties provided for violations of subdivisions (1) to (5) of subsection (b) of this section shall not apply to:

(1) Any carrier while lawfully engaged in transporting a pesticide within the state if the carrier shall, upon request, permit the director to copy all records showing the transactions in and movement of the pesticides or devices;

(2) Employees of the state or the federal government while engaged in the performance of their official duties in administering Rhode Island or federal pesticide laws or regulations;

(3) The manufacturer, shipper, or other distributor of a pesticide for experimental use only; provided, that the person holds or is covered by a valid experimental use permit as provided for by § 23-25-7 or issued by EPA; provided further, that the permit covers the conduct in question.

(4) Any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

(e) No pesticide or device shall be deemed in violation of this chapter when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not exported, all provisions of this chapter shall apply.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-18; P.L. 1979, ch. 39, § 1.)

§ 23-25-19 Storing and disposal of pesticides and pesticide containers. – No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway or water body in a way harmful to any wildlife in the waterway or waterbody. The director shall promulgate rules and regulations governing the storing and disposal of those pesticides or pesticide containers. These standards shall be consistent with any regulations promulgated pursuant to § 19 of FIFRA, 7 U.S.C. § 136q, or any acts cited therein.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-19; P.L. 1979, ch. 39, § 1.)

§ 23-25-20 Enforcement. – (a) The sampling and examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether they comply with the requirements of this chapter. The director, or his or her designated agent, is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to pesticides or devices packaged and labeled for distribution and to samples of any containers or labeling for those pesticides and devices. If the director or his or her agent obtains any samples, prior to leaving the premises, he or she shall give to the owner or person in charge a receipt describing the samples obtained and, if requested, a portion of each sample equal in volume or weight to the portion retained. If an analysis is made of those samples, a copy of the results of the analysis shall be furnished promptly to the owner or person in charge. If it appears from the examinations that a pesticide or device fails to comply with the provisions of this chapter or regulations adopted under this chapter and the director contemplates instituting criminal proceedings against any person, the director shall cause appropriate notice to be given to that person. Any person notified shall be given an opportunity within a reasonable time to present his or her views, either orally or in writing, with regard to the contemplated proceedings. If after this, in the opinion of the director, it appears that the provisions of the chapter or regulations adopted under this chapter have been violated by that person, the director shall refer a copy of the results of the analysis or the examination of the pesticide or device to the prosecuting attorney for the county in which the violation occurred.

(b) For the purpose of carrying out the provisions of this chapter, the director or his or her designated agent may enter upon any public or private premises at reasonable times in order to:

(1) Have access for the purpose of inspecting any equipment used in applying pesticides;

(2) Inspect and take samples from lands actually or reported to be exposed to pesticides;

(3) Inspect storage or disposal areas;

(4) Inspect or investigate complaints of injury to humans or land;

(5) Sample pesticides being applied or to be applied;

(6) Observe the use and application of any pesticide; and

(7) Administer to or take from any person an oath, affirmation, or affidavit whenever that oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of this chapter. That document, when certified by the party taking the statement, shall then be admissible in any administrative proceeding without further proof of the identity or authority of the agent.

(c) Should the director be denied access to any land where the access was sought for the purposes set forth in this chapter, he or she may apply to any court of competent jurisdiction for a search warrant authorizing access to the land for those purposes. The court may, upon application, issue the search warrant for the purpose requested.

(d) The director, with or without the aid and advice of the county or district attorney, is charged with the duty of enforcing the requirements of this chapter and any rules or regulations issued under this chapter. In the event a county or district attorney refuses to act on behalf of the director, the attorney general may act.

(e) The director may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any regulations made pursuant to this chapter in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

(f) Nothing in this chapter shall be construed as requiring the director to report minor violations of this chapter for prosecution or for the institution of condemnation proceedings when the director believes that the public interest will be served best by a suitable notice of warning in writing.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-20; P.L. 1979, ch. 39, § 1; P.L. 1981, ch. 248, § 1.)

§ 23-25-21 "Stop sale, use, or removal" order. – When the director has reasonable cause to believe a pesticide or device is being distributed, stored, transported, or used in violation of any of the provisions of this chapter, or of any prescribed regulations under this chapter, the director may issue and serve a written "stop sale, use, or removal" order upon the owner or custodian of this pesticide or device. If the owner or custodian is not available for service of the order upon him or her, the director may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device shall not be sold, used, or removed until the provisions of this chapter have been complied with and the pesticide or device has been released in writing under conditions specified by the director or the violation has been otherwise disposed of as provided in this chapter by a court of competent jurisdiction.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-21; P.L. 1979, ch. 39, § 1.)

§ 23-25-22 Judicial action after "stop sale, use, or removal" order. – (a) After service of a "stop sale, use, or removal" order is made upon any person, either that person, the registrant, or the director may file an action in a superior court in the county in which a violation of this chapter or regulations adopted under this chapter is alleged to have occurred for an adjudication of the alleged violation. The court in that action may issue temporary or permanent injunctions, mandatory or restraining, and any intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this chapter or regulations adopted under this chapter.

(b) If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs and if the pesticide or device is sold, the proceeds, less costs including legal cost, shall be paid to the general treasury as provided in § 23-25-32; provided, that the pesticide or device shall not be sold contrary to the provisions of this chapter or regulations adopted under this chapter. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may direct that the pesticide or device be delivered to the its owner for relabeling, reprocessing, removal from the state, or otherwise bringing the product into compliance.

(c) When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-22; P.L. 1979, ch. 39, § 1.)

§ 23-25-23 Records. – (a) Any person issued a pesticide dealer's license under the provisions of this chapter shall be required by the director to keep accurate records containing the following information:

(1) The delivery, movement, or holding of any restricted use or state limited use pesticide, including the quantity;

(2) The date of shipment and receipt;

(3) The name of consignor and name and certification number of the consignee; and

(4) Any other information necessary for the enforcement of this chapter as prescribed in regulations adopted by the director.

(b) The director or his or her agent shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of this chapter. Unless required for the enforcement of this chapter, that information shall be confidential and, if summarized, shall not identify an individual person.

(c) The director shall require certified applicators to maintain records with respect to applications of "restricted use" and "state limited use" pesticides and may require those records on all pesticides. Any

relevant information that the director may deem necessary may be specified by regulation. The records shall be kept for a period of at least two (2) years from the date of the application to which the records refer, and the director shall, upon a request in writing, immediately be furnished with a copy of the records by the certified applicator.

(d) The director may require licensed commercial applicators to maintain records with respect to applications of all pesticides. Any relevant information that the director may deem necessary may be specified by regulation. The records shall be kept for a period of two (2) years from the date of the application to which the records refer, and the director shall, upon a request in writing, immediately be furnished with a copy of the records by the licensed commercial applicator.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-23; P.L. 1979, ch. 39, § 1.)

§ 23-25-24 Cooperation with other agencies. – The director may cooperate, receive grants-in-aid, and enter into cooperative agreements or contracts with any agency of the federal government, of this state and its subdivisions, or with any agency of another state, in order to:

(1) Secure uniformity of regulations;

(2) Enter into cooperative agreements with the EPA to register pesticides under the authority of this chapter and FIFRA;

(3) Cooperate in the enforcement of the federal pesticide control laws through the use of state and/or federal personnel and facilities to implement cooperative enforcement programs, including, but not limited to, the registration and inspection of establishments;

(4) Develop and administer state plans for training and for certification of applicators consistent with federal standards;

(5) Contract for training with other agencies for the purpose of training applicators to be certified or licensed;

(6) Contract for monitoring pesticides for the national plan;

(7) Prepare, submit, and maintain state plans to meet federal certification standards, as provided for in § 4 of FIFRA, 7 U.S.C. § 136i(a) to (c); and

(8) Regulate certified and licensed applicators.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-24; P.L. 1979, ch. 39, § 1.)

§ 23-25-25 Publication of information. – The director may publish, at least annually, and in any form that he or she may deem proper, results of analyses based on official samples as compared with the analyses guaranteed and information concerning the distribution of pesticides; provided, that individual distribution information shall not be a public record. The director, in cooperation with the land grant universities or other educational institutions, may publish information and conduct short courses of instruction in the areas of knowledge required in this chapter.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-25; P.L. 1979, ch. 39, § 1.)

§ 23-25-26 Reports of pesticide accidents or incidents. – The director may by regulation require the reporting of significant accidents or incidents to a designated state agency and/or the EPA.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-26; P.L. 1979, ch. 39, § 1.)

§ 23-25-27 Subpoenas. – The director may issue subpoenas to compel the attendance of witnesses and/or production of books, documents, and records in the state in any hearing affecting the authority or privilege

granted by license, registration, certification, or permit issued under the provisions of this chapter.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-27; P.L. 1979, ch. 39, § 1.)

§ 23-25-28 Penalties. – *(a) Civil penalties.* (1) Any person who violates any provision of this chapter may be assessed a civil penalty of not more than ten thousand dollars ($10,000) for each offense. In addition to any civil penalty assessed in this subsection, the director may ban businesses or commercial applicators from providing pest control services to the state for a period of up to five (5) years when the director finds the business or commercial applicator has violated a provision of this chapter or the rules or regulations promulgated under this chapter with regard to the mixing or application of pesticides.

(2) No penalty shall be assessed unless the person charged shall have been notified and given opportunity for a hearing before the director on the charge. In making the assessment, the director shall consider the size of the business, the ability of the person charged to continue in business, and the gravity of the violation.

(b) Criminal penalties. (1) Any person who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall, on conviction, be fined not more than twenty-five thousand dollars ($25,000) or imprisoned for not more than sixty (60) days, or both.

(2) Any person who, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of § 23-25-6 shall be fined not more than ten thousand dollars ($10,000), or imprisoned for not more than three (3) years, or both.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-28; P.L. 1979, ch. 39, § 1; P.L. 1986, ch. 321, § 1.)

§ 23-25-29 Protection of trade secrets and other information. – (a) In submitting data required by this chapter, the applicant may:

(1) Clearly mark any portion of it which in his or her opinion are trade secrets or commercial or financial information; and

(2) Submit that marked material separately from other material required to be submitted under this chapter.

(b) Notwithstanding any other provision of this chapter, the director shall not make public information which in his or her judgment contains or relates to trade secrets or commercial or financial information obtained from a person as privileged or confidential, except that, when necessary to carry out the provisions of this chapter, information relating to formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted, or as required by law, and may be revealed at a public hearing or in findings of fact issued by the director.

(c) If the director proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, he or she shall notify the applicant or registrant in writing by certified mail. The director shall not after this make available for inspection that data until thirty (30) days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under subsection (b) of this section.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-29; P.L. 1979, ch. 39, § 1.)

§ 23-25-30 Delegation of director's duties. – The functions vested in the director may be delegated by the director to any employees of the department of environmental management as may be found desirable or necessary from time to time to carry out the responsibilities of this chapter.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-30; P.L. 1979, ch. 39, § 1.)

§ 23-25-31 Reciprocal agreements. – (a) The director may waive all or part of the examination requirements prescribed in §§ 23-25-12, 23-25-13 and 23-25-14 on a reciprocal basis with any other state which has substantially the same examination requirements and standards of competency, and for federal employees qualified under substantially the same examination requirements and standards of competency.

(b) The director is authorized to adopt regulations, including, but not limited to, regulations establishing procedures for establishing and implementing reciprocal agreements, providing verifying credentials to out-of-state applicators, and assuring compliance.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-31; P.L. 1979, ch. 39, § 1.)

§ 23-25-32 Budget – Receipt and disposition of funds. – (a) The director shall include in the annual budget sums of money necessary: to carry out the pesticide control program as required by this chapter and the EPA approved plan for certifying applicators, for the registration of pesticides, for office and other expenses including travel necessary for inspection and enforcement, and to employ sufficient employees to effectively carry out the provisions of this chapter.

(b) All money received by the director under the provisions of this chapter, 23-25-12(b)(2), 23-25-13(b)(3), 23-25-14(b)(3), and 23-25-15(c)(5) shall be deposited into the general treasury as general revenues.

(c) All money received by the director as federal grants-in-aid, contracts, and the like, to assist the state in carrying out a certification program shall be deposited into the general treasury to the credit of a special fund to be used only for carrying out the provisions of this chapter.

(d) All money appropriated for the pesticide enforcement and certification program shall be made available immediately and are specifically appropriated to the director for the following purposes:

(1) To support the pesticide enforcement and certification program;

(2) For payment of ancillary services, personnel, and equipment incurred to carry out the purposes of pesticide enforcement and certification.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-32; P.L. 1979, ch. 39, § 1; P.L. 1992, ch. 133, art. 22, § 3; P.L. 1995, ch. 370, art. 40, § 71.)

§ 23-25-33 Severability. – If any provisions of this chapter are declared unconstitutional or the applicability of these provisions to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and applicability of this chapter to other persons and circumstances shall not be affected by this invalidity.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-33; P.L. 1979, ch. 39, § 1.)

§ 23-25-34 Prior liability. – The enactment of this chapter shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on May 28, 1976.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-34; P.L. 1979, ch. 39, § 1.)

§ 23-25-35 Repeal of inconsistent acts. – Jurisdiction in all matters pertaining to the registration, sale, distribution, transportation, storage, use and application, disposal of pesticides and devices, and licensing and certification of applicators is, by this chapter, vested exclusively in the director, and all acts and parts of acts inconsistent with this chapter are expressly repealed.

History of Section.
(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-35; P.L. 1979, ch. 39, § 1.)

§ 23-25-36 Protective clothing and equipment. – The director may promulgate rules and regulations requiring the use of protective clothing and equipment by any person operating equipment for the application of any pesticide, insecticide, fungicide, herbicide, and rodenticide.

History of Section.
(P.L. 1986, ch. 339, § 1.)

§ 23-25-37 Pesticide applications and notification of pesticide applications at schools. – (a) The department of environmental management and the department of health shall develop regulations as follows: (1) to restrict the use of hazardous pesticides in schools, pre-schools and child care centers in Rhode Island; (2) for the promotion and implementation of integrated pest management (IPM) as defined in § 23-25.2-2; (3) to cover situations where an emergency application of pesticide must be conducted to eliminate an immediate threat to human health, and establish reporting requirements for these emergency applications.

(b) On and after July 1, 2001, no person other than a licensed or certified commercial applicator as defined in § 23-25-4, shall apply pesticide within any building or on the grounds of any school. This section shall not apply in the case of an emergency application of pesticide to eliminate an immediate threat to human health, where it is impractical to obtain the services of any such applicator; provided the emergency application does not involve a restricted use or state limited use pesticide. For purposes of this section, "emergency" means a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member.

(c) On and after July 1, 2002, at the beginning of each school year, each local school authority shall provide the staff of each school and the parents or guardians of each child enrolled in each school with a written statement of the committee's policy on pesticide application on school property and a description of any pesticide applications made at the school during the previous school year.

(2) The statement and description shall be provided to the parents or guardians of any child who transfers to a school during the school year. The statement shall: (i) indicate that the staff, parents, or guardians may register for prior notice of pesticide applications at the school; and (ii) describe the emergency notification procedures provided for in this section. Notice of any modification to the pesticide application policy shall be sent to any person who registers for notice under this section.

(d) On and after July 1, 2002, parents or guardians of children in any school and school staff may register for prior notice of pesticide application at their school. Each school shall maintain a registry of persons requesting the notice. Prior to providing for any application of pesticide within any building or on the grounds of any school, the local school authority shall provide for the distribution of notice to parents and guardians who have registered for prior notice under this section, such that the notice is received no later than twenty-four (24) hours prior to the application. Notice shall be given by any means practicable to school staff who have registered for the notice. Notice under this subsection shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the school property; (5) the date of the application; and (6) the name of the school administrator, or a designee, who may be contacted for further information.

(e) On and after July 1, 2003, no application of pesticide may be made in any building or on the grounds of any school during regular school hours or during planned activities at any school. No child shall enter an area where the application has been made until it is safe to do so according to the provisions on the pesticide label. This section shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobal agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants or the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR 152.25.

(f) On and after July 1, 2002, a local school authority may make an emergency application of pesticide without prior notice under this section in the event of an immediate threat to human health, provided the

board provides for notice, by any means practicable, on or before the day that the application is to take place, to any person who has requested prior notice under this section.

(g) On and after July 1, 2002, notice of any pesticide application at a school shall be given, by any means practicable, to the parents or guardians of any child enrolled at the school and to the staff of the school not later than one week after the application. The notice shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the school property; (5) the date of the application; and (6) the name of the school administrator, or a designee, who may be contacted for further information. A copy of the record of each pesticide application at a school shall be maintained at the school for a period of five (5) years.

(h) Not later than July 1, 2002, the department of environmental management and the department of health shall jointly establish a task force which shall specifically address methods to promote public education and professional training about pesticides, their potential health effects and IPM least toxic alternatives, and for evaluation and analysis of current pest control practices at school and child care facilities.

History of Section.
(P.L. 2001, ch. 293, § 1; P.L. 2002, ch. 418, § 1; P.L. 2008, ch. 475, § 69.)

§ 23-25-38 Pesticide applications and notification of pesticide applications at pre-schools and child care centers. – (a) On and after July 1, 2003, no application of pesticide may be made by any person other than a certified or licensed commercial applicator as defined in § 23-25-4 in any building or on the grounds of any pre-school, child day care center, group amily day care home or family day care home, during regular business hours. No child enrolled at such center or home may enter an area where pesticides have been applied until it is safe to do so according to the provisions on the pesticide label. For purposes of this section, emergency shall mean a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member. This section shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobal agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants, insecticidal disks, or the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR part 152.25.

(b) On and after July 1, 2002, notice of any pesticide application at any such center or home shall be given, by any means practicable, to the parents or guardians of any child enrolled at the center or home not later than twenty-four (24) hours before the application. The notice shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the property; (5) the date of the application; and (6) the name of the pre-school or child care center owner/operator or their designee.

History of Section.
(P.L. 2001, ch. 293, § 1; P.L. 2002, ch. 418, § 1.)

§ 23-25-39 Report on lawn care pesticide use. – (a) The department of environmental management shall report to the governor, the speaker of the house and the president of the senate on or before November 1, 2007, with regard to:

(1) Health risks, especially in children, associated with lawn care pesticides, as such risks have been established in the literature, based on the best available scientific information and health data studies;

(2) Currently recognized best practices for the use and/or control of lawn care pesticides at schools and child daycare facilities;

(3) How other jurisdictions have managed lawn care pesticides used at school facilities, including school facilities that have two (2) or more of the following functions at the same location, child daycare facilities, preschools, elementary and secondary schools;

(4) What Rhode Island schools are currently doing to manage, decrease or eliminate the use of lawn care pesticides on school grounds and to implement alternative methods of pest management in lawn care;

(5) A recommended lawn care pesticide use and control program for public and private child daycare centers, preschools and elementary schools located in Rhode Island; and

(6) The enforcement activities required to implement the lawn care use and control program and the fiscal impact this program may have on state agencies and school departments.

(b) The department of environmental management shall establish a working group, including, but not limited to: the department of health, the department of elementary and secondary education and the association of school committees, to assist with the report required in subsection (a). The department of health and the department of elementary and secondary education are hereby authorized and directed to cooperate with the department of environmental management in the preparation of the report required by this section.

History of Section.
(P.L. 2007, ch. 421, § 1.)

TITLE 31 – MOTOR and OTHER VEHICLES

CHAPTER 31-1
Definitions and General Code Provisions

§ 31-1-8 Farm vehicle. – "Farm vehicle" means every vehicle which is designed for and used for agricultural purposes and used by the owner of the vehicle or family member(s) or employee(s) or designees of the owner, in the conduct of the owner's agricultural operations, which use shall include the delivery of agricultural products produced by the farmer but shall not include commercial hire for nonagricultural uses, including, but not limited to, hauling of sand and gravel, snow plowing, land clearing for other than agricultural purposes or directly on the vehicle owner's farm, and landscaping. For an owner to qualify as having agricultural purposes, the owner shall provide evidence that he or she meets the requirements of § 44-18-30.

History of Section.
(P.L. 1950, ch. 2595, art. 1, § 7; G.L. 1956, § 31-1-8; P.L. 2002, ch. 404, § 1.)

CHAPTER 31-3
Registration of Vehicles

§ 31-3-31 Registration of farm vehicles. – (a) Farm vehicles, as defined in § 31-1-8, equipped with rubber tires while being used in farming and operated on highways shall be registered on a form furnished by the administrator of the division of motor vehicles and shall be assigned a special number plate with a suitable symbol or letter indicating the usage of the farm vehicle.

(b) The director of the department of revenue shall promulgate rules and regulations for the inspection of farm vehicles.

(c) Farm plates may not be utilized on: (1) Vehicles eligible for registration as private passenger automobiles; provided, however, that any vehicle eligible for registration as a private passenger and registered with farm plates prior to July 1, 2002, may continue to be registered with farm plates by the owner to whom the farm plates were issued; or (2) On any vehicle that is not a farm vehicle as defined in § 31-1-8.

(d) Farm plates may be displayed on vehicles used in the delivery of agricultural products produced by the farmer; however, farm plates shall not be displayed on vehicles used for deliveries by persons, as defined in § 31-1-17(g), that do not raise agricultural products.

(e) Any farm vehicle, as defined in § 31-1-8, that is not required to be registered and that is covered by an insurance policy applicable to farm property and operations and that includes liability coverage, shall be deemed to have liability insurance as required by § 31-3-3(c) and to meet liability insurance requirements set forth in this title as long as such a policy is in effect. Documentation of such insurance, including the name of the carrier, policy, number, and effective date, may be required by the division for the registration of said vehicle and for the renewal of such registration.

History of Section.
(P.L. 1950, ch. 2595, art. 11, § 1; G.L. 1956, § 31-3-31; P.L. 1984, ch. 287, § 1; P.L. 2002, ch. 404, § 2; P.L. 2008, ch. 98, § 4; P.L. 2008, ch. 145, § 4; P.L. 2014, ch. 66, § 1; P.L. 2014, ch. 72, § 1; P.L. 2016, ch. 387, § 1; P.L. 2016, ch. 399, § 1.)

CHAPTER 31-6
Registration Fees
SECTION 31-6-1

§ 31-6-1 Amount of registration and miscellaneous fees. – (a) The following registration fees shall be paid to the division of motor vehicles for the registration of motor vehicles, trailers, semi-trailers, and school buses subject to registration for each year of registration:
* * * *
(16) For the registration of every farm vehicle, used in farming as provided in § 31-3-31, ten dollars ($10.00).

CHAPTER 31-10
Operators' and Chauffeurs' Licenses

§ 31-10-2 Persons exempt from licensing requirements. – The following persons are exempt from the licensing requirements of this chapter:
* * * *
(5) Any operator of any traction engine, road roller, farm tractor, crane, power shovel, well-borer, and any other road and building construction machinery and equipment, other than a truck used for the transportation of materials.

History of Section.
(P.L. 1950, ch. 2595, art. 15, § 2; P.L. 1954, ch. 3323, § 1; G.L. 1956, § 31-10-2; P.L. 1962, ch. 204, § 1; P.L. 2000, ch. 273, § 1.)

TITLE 34 – PARKS and RECREATION

CHAPTER 32-4
Green Acres Land Acquisition

§ 32-4-3 Definitions. – As used in this chapter, unless the context shall otherwise require:

(1) "Director" means the director of administration or his or her designated representative;

(2) "Land" or "lands" means and includes real property, and improvements thereon, rights of way, water, riparian and other rights and easements, conservation easements, scenic easements, privileges, present and future estates, and interests of every kind and description in real property;

(3) "Local unit" means a city or town or any agency thereof; and

(4) "Recreation and conservation purposes" means and includes use of lands for agriculture, parks, natural areas, forests, camping, fishing, wetlands and marsh lands preservation, wildlife habitat, hunting, golfing, boating, winter sports, scenic preservation, and similar uses for public outdoor recreation and conservation of natural resources.

History of Section.
(G.L. 1956, § 32-4-3; P.L. 1964, ch. 174, § 1.)

TILIE 42 – STATE AFFAIRS and GOVERNMENT

CHAPTER 42-11
Department of Administration
SECTION 42-11-10

§ 42-11-10 Statewide planning program. –

.

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

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

History of Section.
(P.L. 1978, ch. 228, § 1; P.L. 1985, ch. 181, art. 29, § 1; P.L. 1988, ch. 129, art. 19, § 2; P.L. 1989, ch. 126, art. 49, § 1; P.L. 1990, ch. 235, § 1; P.L. 1990, ch. 309, § 1; P.L. 1990, ch. 361, § 1; P.L. 2000, ch. 326, § 1; P.L. 2000, ch. 374, § 1; P.L. 2000, ch. 453, § 1; P.L. 2001, ch. 142, § 4; P.L. 2001, ch. 180, § 96; P.L. 2004, ch. 286, § 1; P.L. 2004, ch. 324, § 1; P.L. 2006, ch. 236, § 9; P.L. 2006, ch. 237, § 9; P.L. 2011, ch. 151, art. 9, § 8; P.L. 2011, ch. 215, § 4; P.L. 2011, ch. 313, § 4.)

CHAPTER 42-17.1
Department of Environmental Management
SECTION 42-17.1-1

§ 42-17.1-1 Department established. – There is hereby established within the executive branch of the state government a department of environmental management. The head of the department shall be the director of environmental management, who shall be in the unclassified service and who shall be appointed by the governor, with the advice and consent of the senate, and shall serve at the pleasure of the governor.

History of Section.
(P.L. 1965, ch. 137, § 1; P.L. 1977, ch. 182, § 2.)

CHAPTER 42-17.1
Department of Environmental Management
SECTION 42-17.1-2

§ 42-17.1-2 Powers and duties. – The director of environmental management shall have the following powers and duties:

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

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

* * * *

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

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

* * * *

History of Section.
(P.L. 1939, ch. 660, § 161; impl. am. P.L. 1951, ch. 2686, § 1; G.L. 1956, § 42-17-2; P.L. 1962, ch. 80, § 6;

G.L. 1956, § 42-17.1-2; P.L. 1965, ch. 137, § 1; P.L. 1977, ch. 182, § 2; P.L. 1978, ch. 131, § 6; P.L. 1978, ch. 229, § 5; P.L. 1982, ch. 78, § 1; P.L. 1982, ch. 278, § 1; P.L. 1985, ch. 216, § 1; P.L. 1985, ch. 304, § 1; P.L. 1986, ch. 198, § 32; P.L. 1986, ch. 287, art. 20, § 1; P.L. 1986, ch. 343, § 1; P.L. 1987, ch. 243, § 1; P.L. 1987, ch. 529, § 1; P.L. 1988, ch. 84, § 27; P.L. 1988, ch. 111, § 1; P.L. 1988, ch. 588, § 1; P.L. 1988, ch. 615, § 1; P.L. 1989, ch. 399, § 1; P.L. 1989, ch. 508, § 3; P.L. 1990, ch. 65, art. 72, § 1; P.L. 1990, ch. 320, § 4; P.L. 1993, ch. 138, art. 18, § 1; P.L. 1995, ch. 370, art. 40, § 131; P.L. 1996, ch. 271, § 6; P.L. 1996, ch. 281, § 6; P.L. 2001, ch. 144, § 2; P.L. 2001, ch. 163, § 2; P.L. 2002, ch. 143, § 1; P.L. 2002, ch. 179, § 1; P.L. 2003, ch. 376, art. 14, § 1; P.L. 2004, ch. 595, art. 33, § 8; P.L. 2005, ch. 266, § 3; P.L. 2005, ch. 268, § 3; P.L. 2006, ch. 246, art. 27, § 1; P.L. 2006, ch. 321, § 1; P.L. 2006, ch. 465, § 1; P.L. 2007, ch. 340, § 19; P.L. 2011, ch. 166, § 2; P.L. 2011, ch. 182, § 2.)

§ 42-17.1-4 Divisions within department. – Within the department of environmental management there are established the following divisions:

* * * *

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

History of Section.
(G.L. 1956, § 42-17.1-4; P.L. 1965, ch. 137, § 1; P.L. 1970, ch. 216, §§ 1, 2; P.L. 1971, ch. 279, § 2; P.L. 1973, ch. 197, § 1; P.L. 1974, ch. 163, § 1; P.L. 1976, ch. 327, § 1; P.L. 1976, ch. 329, § 3; P.L. 2011, ch. 368, § 1.)

CHAPTER 42-64
Rhode Island Economic Development Corporation

§ 42-64-3 Definitions. – As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates another or different meaning or intent:

* * *

(10) "Industrial facility" means any real or personal property, the demolition, removal, relocation, acquisition, expansion, modification, alteration, or improvement of existing buildings, structures, or facilities, the construction of new buildings, structures, or facilities, the replacement, acquisition, modification, or renovation of existing machinery and equipment, or the acquisition of new machinery and equipment, or any combination of the United States, which shall be suitable for manufacturing, research, production, processing, agriculture, and marine commerce, or warehousing; or convention centers, trade centers, exhibition centers, or offices (including offices for the government of the United States or any agency, department, board, bureau, corporation, or other instrumentality of the United States, or for the state or any state agency, or for any municipality); or facilities for other industrial, commercial or business purposes of every type and description; and facilities appurtenant or incidental to the foregoing, including headquarters or office facilities, whether or not at the location of the remainder of the facility, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking, and similar facilities,

parking areas, waterways, dockage, wharfage, and other improvements necessary or convenient for the construction, development, maintenance, and operation of those facilities.

* * *

(20) "Project" or "port project" means the acquisition, ownership, operation, construction, reconstruction, rehabilitation, improvement, development, sale, lease, or other disposition of, or the provision of financing for, any real or personal property (by whomever owned) or any interests in real or personal property, including without limiting the generality of the foregoing, any port facility, recreational facility, industrial facility, airport facility, pollution control facility, utility facility, solid waste disposal facility, civic facility, residential facility, water supply facility, energy facility or renewable energy facility, or any other facility, or any combination of two (2) or more of the foregoing, or any other activity undertaken by the corporation.

(21) "Project cost" means the sum total of all costs incurred by the Rhode Island economic development corporation in carrying out all works and undertakings, which the corporation deems reasonable and necessary for the development of a project. These shall include, but are not necessarily limited to, the costs of all necessary studies, surveys, plans, and specifications, architectural, engineering, or other special services, acquisition of land and any buildings on the land, site preparation and development, construction, reconstruction, rehabilitation, improvement, and the acquisition of any machinery and equipment or other personal property as may be deemed necessary in connection with the project (other than raw materials, work in process, or stock in trade); the necessary expenses incurred in connection with the initial occupancy of the project; an allocable portion of the administrative and operating expenses of the corporation; the cost of financing the project, including interest on all bonds and notes issued by the corporation to finance the project from the date thereof to one year from the date when the corporation shall deem the project substantially occupied; and the cost of those other items, including any indemnity or surety bonds and premiums on insurance, legal fees, real estate brokers and agent fees, fees and expenses of trustees, depositories, and paying agent for bonds and notes issued by the Rhode Island economic development corporation, including reimbursement to any project user for any expenditures as may be allowed by the corporation (as would be costs of the project under this section had they been made directly by the corporation), and relocation costs, all as the corporation shall deem necessary.

(22) "Project user" means the person, company, corporation, partnership, or commercial entity, municipality, state, or United States of America who shall be the user of, or beneficiary of, a port project.

History of Section.
(P.L. 1974, ch. 100, § 14; P.L. 1975, ch. 171, § 1; P.L. 1976, ch. 277, § 1; P.L. 1992, ch. 133, art. 85, § 3; P.L. 1995, ch. 370, art. 12, § 8; P.L. 1997, ch. 39, § 1; P.L. 1997, ch. 62, § 1; P.L. 2006, ch. 236, § 10; P.L. 2006, ch. 237, § 10.)

* * *

§ 42-64-5 Purposes. – The Rhode Island economic development corporation is authorized, created, and established as the state's lead agency for economic development throughout Rhode Island for the following purposes:

(1) To promote and encourage the preservation, expansion, and sound development of new and existing industry, business, commerce, agriculture, tourism, and recreational facilities in the state, which will promote the economic development of the state and the general welfare of its citizens; and

(2) With respect to real property other than federal land or land related to federal land, to undertake any project, except a residential facility; and

(3) With respect to federal land or land related to federal land, to undertake any project, except as those responsibilities are assigned to the Quonset Development Corporation.

History of Section.

(P.L. 1974, ch. 100, § 14; P.L. 1976, ch. 277, § 2; P.L. 1995, ch. 370, art. 12, § 8; P.L. 2004, ch. 351, § 1; P.L. 2004, ch. 360, § 1.)]

§ 42-64-7 Additional general powers. – In addition to the powers enumerated in § 42-64-6, except to the extent inconsistent with any specific provision of this chapter, the Rhode Island economic development corporation shall have power:

(1) To undertake the planning, development, construction, financing, management, operation of any project, and all activities in relation thereto.

* * *

History of Section.
(P.L. 1974, ch. 100, § 14; 1975, ch. 171, § 2; P.L. 1983 (S.S.), ch. 332, art. III, § 1; P.L. 1995, ch. 370, art. 12, § 8; P.L. 1995, ch. 400, § 4; P.L. 1997, ch. 39, § 1; P.L. 1997, ch. 62, § 1; P.L. 1998, ch. 392, § 1; P.L. 2003, ch. 376, art. 36, § 10; P.L. 2008, ch. 100, art. 30, § 1.)

CHAPTER 42-82
Farmland Preservation Act

§ 42-82-1 Statement of legislative purpose. – (a) The general assembly recognizes that land suitable for food production in the state has become an extremely scarce and valuable resource. The amount of good farmland has declined so dramatically that unless a comprehensive program is initiated by the state to preserve what remains it will be lost forever. It is in the best interest of the people that the state identify and acquire the development rights to the remaining land most endangered by development so as to maintain farming, productive open spaces, and ground water recharge areas.

(b) The general assembly finds that productive farmland is being converted to other uses because its development value at present far exceeds its value for agricultural purposes; that agriculture is an important part of the state's economy, environment, and quality of life; and that local food production will become increasingly important to the people of the state. It also finds that agricultural preservation will allow more orderly development and permit the cities and towns to plan for and provide services more adequately and at lower cost. Therefore, the general assembly establishes an agricultural lands preservation commission to conduct the inventory and acquisition of development rights to farmland in this state.

History of Section.
(P.L. 1981, ch. 299, § 1.)

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

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

(2) "Agricultural lands preservation commission" or "commission" means the commission established pursuant to § 42-82-3;

(3) "Agricultural operation" means any individual, partnership or corporation that complies with §§ 44-27-3 and 2-1-22(j) and produces and distributes a commercial food, feed, fiber or horticultural product.

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

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

History of Section.
(P.L. 1981, ch. 229, § 1; P.L. 1994, ch. 132, § 1.)

§ 42-82-3 Agricultural lands preservation commission. – (a) There is established the agricultural lands preservation commission consisting of the directors of the department of environmental management and the department of administration, or their respective designees, both ex officio with the power to vote; and seven (7) public members to be appointed by the governor with the advice and consent of the senate. The public appointees shall include at least two (2) members with knowledge or experience in agriculture, one member familiar with land use and community planning issues, one member active in land preservation. All gubernatorial appointments made under this section after January 1, 2005 shall be subjected to the advice and consent of the senate. No person shall be eligible for appointment pursuant to this section after the effective date of this act [April 20, 2006] unless he or she is a resident of this state.

(2) The members appointed by the governor shall serve for terms of five (5) years each; provided, however, that of the members first appointed, one shall serve for one year, one shall serve for two (2) years, one shall serve for three (3) years, one shall serve for four (4) years, and two (2) shall serve for five (5) years, from January first next succeeding their appointment, as the governor shall designate; provided, however, that those members of the commission as of the effective date of this act [April 20, 2006] who were appointed upon the recommendation of members of the general assembly shall cease to be members of the commission on the effective date of this act [April 20, 2006].

(3) Any vacancy occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment.

(4) Upon expiration of a member's term, that member shall continue as a member until that member's successor is appointed and qualified. Any person serving a term shall be eligible for appointment.

(5) No member, including ex-officio members, shall receive compensation for the performance of his or her duties as a member; provided, however, that each appointed member may be reimbursed if funds are appropriated for his or her actual and necessary expenses incurred during the performance of his or her official duties.

(6) [Deleted by P.L. 2006, ch. 22, § 5 and P.L. 2006, ch. 27, § 5].

§ 42-82-4 Powers of commission. – The commission has the power to:

(1) Retain by contract or employ counsel, auditors, engineers, appraisers, private consultants and advisors, or other personnel needed to provide necessary services;

(2) Conduct hearings, examinations, and investigations as may be necessary and appropriate to the conduct of its operations and the fulfillment of its responsibilities;

(3) Obtain access to public records and apply for the process of subpoena, if necessary, to produce books, papers, records, and other data;

(4) Purchase, receive by gift, or otherwise acquire development rights;

(5) Accept gifts, grants or loans of funds, property, or services from any source, public or private, and comply, subject to the provisions of this chapter, with the terms and conditions thereof;

(6) Accept from a federal agency loans or grants for use in carrying out its purposes and enter into agreement with an agency respecting those loans or grants; and

(7) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligations and the conduct of its business.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-5 Duties of the commission. – (a) The commission shall:
(1) Develop the criteria necessary for defining agricultural land under this chapter;
(2) Make a reasonably accurate inventory of all land in the state that meets the definition of agricultural land;
(3) Prepare and adopt rules for administration of the purchase of development rights and criteria for the selection of parcels for which the development rights may be purchased, and the conditions under which they will be purchased;
(4) Draw up and publish the covenant and enumerate the specific development rights to be purchased by the state;
(5) Inform the owners, public officials, and other citizens and interested persons of the provisions of this chapter;
(6) Approve and submit, within ninety (90) days after the end of each fiscal year, an annual report to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state of its activities during that fiscal year. The report shall provide: an operating statement summarizing meetings or hearings held, including meeting minutes, subjects addressed, decisions rendered, petitions granted, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a consolidated financial statement of all funds received and expended, including the source of the funds, a listing of any staff supported by these funds, and a summary of any clerical, administrative, or technical support received; a summary of performance during the previous fiscal year, including accomplishments, shortcomings, and remedies; a synopsis of hearings, examinations, and investigations or any legal matters related to the authority of the commission; a summary of any training courses held pursuant to subdivision (a)(7); a summary of land acquired and conserved during the fiscal year; an annually updated inventory of all land in the state that meets the definition of agricultural land; a briefing on anticipated activities in the upcoming fiscal year; findings and recommendation for improvements. The report shall be posted electronically, as prescribed in § 42-20-8.2. The director of the department of administration shall be responsible for the enforcement of this provision; and
(7) Conduct a training course for newly appointed and qualified members and new designees of ex officio members within six (6) months of their qualification or designation. The course shall be developed by the chair, approved by the commission, and conducted by the commission. The commission may approve the use of any commission or staff members or other individuals to assist with training. The course shall include instruction in the following areas: the provisions of chapters 82 and 46 of this title, chapter 14 of title 36, and chapter 2 of title 38; and the commission's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act [May 3, 2006], prepare and disseminate training materials relating to the provisions of chapter 46 of this title, chapter 14 of title 36, and chapter 2 of title 38.
(b) At any time after fulfilling the requirements of subsection (a), the commission, on behalf of the state, may acquire any development rights that may, from time to time, be offered by the owners of agricultural land. The commission may accept or negotiate at a price not in excess of the value established by an independent appraisal prepared for the commission, or for one of the commission's partners, for the respective property. Additionally, said appraisal shall be reviewed in a manner consistent with the rules and regulations of the commission. The value of the development rights for all of the purposes of this section shall be the difference between the value of the property for its highest and best use and its value for agricultural purposes as defined in this chapter. In determining the value of the property for its highest and best use, consideration shall be given to sales of comparable properties in the general area, use of which is unrestricted at the time of sale. The seller of the development rights shall have the option of accepting payment in full at the time of transfer or accepting payment on an installment basis in cash or with the principal paid by tax exempt financial instruments of the state with interest on the unpaid balance equal to the interest paid by the state on bonds sold during the preceding twelve-month (12) period. Any matter

pending in the superior court may be settled by the parties subject to approval by a referee. At any time after a matter has been referred to a referee, even after an award is made by the referee, but before payment thereof, the petitioner may withdraw his or her petition upon payment of appraisal fees incurred by the state, together with all court costs, and the award shall become null and void.
(c) Any land acquired by purchase, devise, or as a gift may be resold by the commission with the development rights retained by the state and so noted by covenant in the deed. Any such resale by the commission shall not be subject to the right to purchase by the municipality in which the land is situated as provided by § 37-7-5. The proceeds from that sale shall be returned to the agricultural land preservation fund.
(d) Any land received as a gift and not resold by the commission may be leased for agricultural uses or other uses the commission determines are not detrimental to its agricultural productivity. Any funds thus obtained shall be returned to the agricultural land preservation fund.
(e) The commission may consider petitions by the owner of land, from which or whom the state has purchased the development rights, to repurchase those development rights from the state. The petition must be accompanied by a certificate from the municipalities in which the land lies stating that two-thirds ($^2/_3$) of the city or town council has approved the proposed development. The petition shall set forth the facts and circumstances upon which the commission shall consider approval, and the commission shall deny approval unless at least seven (7) of its members determine by vote that there is an overriding necessity to relinquish control of the development rights. The commission shall hold at least one public hearing in a city or town from which a certificate has been received, prior to its consideration of the petition, that shall be announced in one newspaper of local circulation. The expenses, if any, of the hearing shall be borne by the petitioner. If the commission approves the sale of the development rights, it shall receive the value of the development rights at the time of this sale, to be determined in the same manner as provided for by subsection (d). Proceeds of the sale shall be returned to the agricultural land preservation fund.

History of Section.
(P.L. 1981, ch. 299, § 1; P.L. 2006, ch. 22, § 5; P.L. 2006, ch. 27, § 5; P.L. 2008, ch. 25, § 1; P.L. 2008, ch. 30, § 1; P.L. 2016, ch. 445, § 1; P.L. 2016, ch. 446, § 1.)

§ 42-82-6 Use of eminent domain against designated land. – Any state or local agency must demonstrate extreme need and the lack of any viable alternative before exercising a right of eminent domain over any farmland to which the development rights have been purchased by the commission on behalf of the state, or which has been designated as agricultural land in the agricultural land preservation program by the commission. The agency will file a separate report with the commission showing the necessity of condemning this land. The report must be endorsed by the governor after public hearings. If the commission feels that cause has not been adequately demonstrated, it shall have recourse to the superior court for a decision on the matter.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-7 Bonds authorized – Maturity – Certification and execution. – (a) The general treasurer is hereby authorized and empowered, with the approval of the governor and in accordance with the provisions of this chapter, to issue from time to time bonds in the name and behalf of the state and in amounts that may be specified in an amount not to exceed two million dollars ($2,000,000) from time to time by the governor to be designated as "agricultural lands preservation commission loan of 1981." Bonds shall be in denominations of one thousand dollars ($1,000) each or multiples thereof, and shall be payable in any coin or currency of the United States which at the time of payment shall be legal tender for public or private debts. Bonds shall bear a date or dates, mature at a time or times not exceeding twenty (20) years from their respective date of issue, bear interest payable semiannually at a rate or different varying rates, be payable at a time or times, at a place or places, be subject to terms of recall or redemption, with or without premium, be in a form with or without interest coupons attached carrying a registration, conversion, re-conversion, transfer, debt requirement, acceleration and other provisions that may be fixed by the general treasurer, with the approval of the governor, upon each issue of the bonds at the time of each issue.

(b) Whenever the governor shall approve the issuance of bonds he or she shall certify the approval to the secretary of state; the general treasurer shall countersign the bonds and affix the seal of the state. The approval of the governor shall be endorsed on each bond so approved with a facsimile of his or her signature.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-8 Agricultural lands preservation fund. – The general treasurer is directed to deposit the proceeds of the sale of the bonds including any premium or premiums and any accrued interest which may be received from the sale of the bonds, in one or more of the depositories in which the funds of the state may be lawfully kept, in the amount to be known as "agricultural lands preservation fund" to be used as follows:

(1) For the purposes of § 42-82-5;

(2) As prescribed in § 42-82-12 in the case of premiums or accrued interest; and

(3) In the event that the amount received from the sale of the bonds exceeds the amount necessary for the planning for or purchase of development rights to farmland, the surplus shall be used to the extent possible to retire the bonds as they may become due.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-9 Temporary notes. – (a) The general treasurer is authorized and empowered, with the approval of the governor, and in accordance with provisions of this chapter, to borrow upon temporary notes issued in anticipation of the issuance of the bonds, from time to time, in the name and behalf of the state, sums of money for the purposes set forth in §§ 42-82-4 and 42-82-5.

(b) The notes shall be signed by the general treasurer and countersigned by the secretary of state and shall be issued at a time or times in any amounts, at any rates of interest, with any provisions of prepayment, with or without premium, acceleration, and other terms that may be fixed by the general treasurer, with the approval of the governor.

(c) The notes may be issued from time to time for periods not exceeding two (2) years and may be refunded or renewed from time to time by the issue of other notes for periods not exceeding two (2) years, but the notes, including all refundings and renewals, shall bear maturity dates not later than five (5) years from the date of each original issue. The total sum of the terms of the notes plus the term of the bonds, which the issuance of the notes anticipate, shall not exceed twenty-five (25) years in duration.

(d) The proceeds of the sale of the notes, inclusive of any premiums and any accrued interest which may be received from the sale of the notes, shall be applied to the purposes for which the notes are issued and shall be deposited by the general treasurer in the account described in § 42-82-8.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-10 Advances from general fund in anticipation of the issue of notes or bonds. – The general treasurer is authorized from time to time, with the approval of the governor, in the anticipation of the issue of notes or bonds under the authority of this chapter, to advance to the fund to be used for the purposes specified in § 42-82-8, any funds of the state not specifically held for any purpose; provided, however, that all of the advances shall be returned to the general fund upon the receipt by the fund of proceeds from the issue of notes or bonds.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-11 Bonds and notes tax exempt general obligation of state. – All bonds and notes issued under the authority of this chapter shall be exempt from taxation in the state and shall be general obligations of the state, and the full faith and credit of the state are hereby pledged for the due payment of the principal and the interest on each bond and note as the principal and interest shall become due.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-12 Terms and conditions of sales – Applications of premiums and accrued interest – Validity not affected by change in office. – (a) Any bond or note issued under the authority of this chapter shall be sold from time to time at not less than the principal amount of the bond or note on any terms and conditions as the general treasurer, with the approval of the governor, shall deem to be for the best interest of the state. The purchaser of any bond or note shall pay accrued interest to the date of delivery of the bond or note.

(b) Any premium or accrued interest which may be received as the result of the sale of the bonds or notes shall be applied to the payment of debt service costs.

(c) Any bonds or notes issued under the provisions of this chapter and coupons on any bonds, if properly executed by the manual or facsimile signature, as the case may be, of officers of the state in office on the date of execution shall be valid and binding according to their tenor, notwithstanding that before the delivery of bonds, notes or coupons and payment for these, any or all officers shall for any reason have ceased to hold office.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-13 Investment of receipt pending expenditures. – All moneys in the fund not immediately required for payment pursuant to the provisions of this chapter may be invested by the state investment commission, as established by chapter 10 of title 35, pursuant to the provisions of that chapter; provided, however, that the securities in which the fund is invested shall remain a part of the funds as shall other securities for which the investment may from time to time, pursuant to that chapter, be exchanged; and provided, further, that the income from that investment shall become part of the fund, and shall be used to the extent possible to pay debt service costs.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-14 Amortization. – For the purpose of paying any expenses incurred by the general treasurer in the issuance of the bonds or notes under the authority of this chapter, and any interest and any principal becoming payable from time to time on the bonds or notes issued under the authority of this chapter and then outstanding, the state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of the expenses, interest, and principal out of the fund. In the event that the amount available in the fund is not sufficient for this purpose, a sum sufficient is hereby annually appropriated out of any money in the treasury not otherwise appropriated for the payment of the expenses, interest, and principal.

History of Section.
(P.L. 1981, ch. 299, § 1.)

§ 42-82-15 Repealed. –

§ 42-82-16 Charges for utility extension. – (a) No city, town, quasi-municipal corporation or public corporation may assess the owner of an agricultural operation having frontage on a public roadway for the extension of water and sewer utilities past the property.

(b) The owner of the agricultural operation may only be charged if the owner has requested the utility extension. The agricultural operation may tie into any utility extension made past that property for the normal cost of tie-in and no cost for the infrastructure improvement except for its base usable charge. The protection afforded by this section shall be null and void and the assessments made if the owner of the agricultural operation develops or sells to other than a qualifying agricultural operation the property or farmland within twenty (20) years of the date the utility extensions were operational.

History of Section.
(P.L. 1994, ch. 132, § 2; G.L. 1956, § 42-82-17.)

§ 42-82-17 Severability. – If any provisions of this chapter or of any rule, regulation or order made under this chapter, or the application of this chapter to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this chapter, rule, regulation or order, and the application of that provision to other persons or circumstances shall not be affected. The invalidity of any section or sections or parts of any section or sections of this chapter shall not affect the validity of the remainder of this chapter, and it is declared to be the legislative intent that this chapter would have been enacted if those invalid parts had not been included in this chapter.

History of Section.
(P.L. 1981, ch. 299, § 1; G.L. 1956, § 42-82-16.)

TITLE 45 – TAXATION

CHAPTER 44-5
Levy and Assessment of Local Taxes

§ 44-5-12 Assessment at full and fair cash value. – (a) All real property subject to taxation shall be assessed at its full and fair cash value, or at a uniform percentage of its value, not to exceed one hundred percent (100%), to be determined by the assessors in each town or city; provided, that:

(2) In assessing real estate which is classified as farm land, forest, or open space land in accordance with chapter 27 of this title the assessors shall consider no factors in determining the full and fair cash value of the real estate other than those which relate to that use without regard to neighborhood land use of a more intensive nature;

§ 44-5-39 Land use change tax. – (a) After May 15, 1980, when land classified as farm, forest, or open space land and assessed and taxed under the provisions of § 44-5-12 is applied to a use other than as farm, forest, or open space, or when the land owner voluntarily withdraws that classification, it shall be subject to additional taxes, subsequently referred to as a land use change tax. The tax is at the following rate:

(1) Ten percent (10%) of the then fair market value of the land if the use is changed or classification is withdrawn during the first six (6) years of classification.

(2) Nine percent (9%) of the then fair market value of the land if the use is changed or classification is withdrawn during the seventh (7th) year of classification.

(3) Eight percent (8%) of the then fair market value of the land if the use is changed or classification is withdrawn during the eighth (8th) year of classification.

(4) Seven percent (7%) of the then fair market value of the land if the use is changed or classification is withdrawn during the ninth (9th) year of classification.

(5) Six percent (6%) of the then fair market value of the land if the use is changed or classification is withdrawn during the tenth (10th) year of classification.

(6) Five percent (5%) of the then fair market value of the land if the use is changed or classification is withdrawn during the eleventh (11th) year of classification.

(7) Four percent (4%) of the then fair market value of the land if the use is changed or classification is withdrawn during the twelfth (12th) year of classification.

(8) Three percent (3%) of the then fair market value of the land if the use is changed or classification is withdrawn during the thirteenth (13th) year of classification.

(9) Two percent (2%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fourteenth (14th) year of classification.

(10) One percent (1%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fifteenth (15th) year of classification. No tax shall be imposed by the provisions of this section following the end of the fifteenth (15th) year of classification.

(b) Owners of land classified as farmland who have held title to the land, and where the land has been farmed for five (5) years previous to classification, are liable for a land use change tax of:

(1) Ten percent (10%) of the then fair market value of the land if the use is changed or classification is withdrawn during the first (1st) year of classification.

(2) Nine percent (9%) of the then fair market value of the land if the use is changed or classification is withdrawn during the second (2nd) year of classification.

(3) Eight percent (8%) of the then fair market value of the land if the use is changed or classification is withdrawn during the third (3rd) year of classification.

(4) Seven percent (7%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fourth (4th) year of classification.

(5) Six percent (6%) of the then fair market value of the land if the use is changed or classification is withdrawn during the fifth (5th) year of classification.

(6) Five percent (5%) of the then fair market value of the land if the use is changed or classification is withdrawn during the sixth (6th) year of classification.

(7) Four percent (4%) of the then fair market value of the land if the use is changed or classification is withdrawn during the seventh (7th) year of classification.

(8) Three percent (3%) of the then fair market value of the land if the use is changed or classification is withdrawn during the eighth (8th) year of classification.

(9) Two percent (2%) of the then fair market value of the land if the use is changed or classification is withdrawn during the ninth (9th) year of classification.

(10) One percent (1%) of the then fair market value of the land if the use is changed or classification is withdrawn during the tenth (10th) year of classification. No tax shall be imposed by the provisions of this section following the end of the tenth year of classification.

History of Section.
(P.L. 1968, ch. 288, § 4; P.L. 1980, ch. 252, § 3.)

§ 44-5-39.1 Recording required. – No tax provided for in § 44-5-39 constitutes a valid lien upon any parcel of real estate classified as farm, forest, or open space unless notice of the classification of the real estate has been filed by the tax assessor with the recorder of deeds of the city or town in which the real estate is located. There is no recording fee collected for the recording of the notice.

History of Section.
(P.L. 1986, ch. 41, § 1.)

§ 44-5-40 Procedures for collecting land use change tax. – (a) When a change in the use of the land occurs the assessor shall record in the land evidence records a notice of the change in use, stipulating on the land evidence records, a description of the property, its plat and lot number (if any), the fair market value, and the amount of taxes due. Similar notices shall be mailed to the present owner of the property and the director of environmental management by registered or certified mail within twenty-four (24) hours of the recording. The tax constitutes a lien on the property at the time of recording the notice of land use change

and the tax becomes due and payable in full within ninety (90) days of the date of recording. The lien continues in effect until the taxes are paid in full. Every city and town shall make provisions for the payment in installments of any land use change tax, permitting persons to pay the tax in equal quarterly installments, with the final quarter to be paid in full within one year of the date when the change of use notice is recorded, as prescribed in this subsection. Failure by the owner to pay the taxes in a timely manner as prescribed in this subsection allows the tax collector to advertise and sell the property in the same manner as prescribed in chapter 9 of this title.

(b) The board of assessment review of any city or town, or the city or town council if there is no board of review in any city or town, has the authority to hear and consider the appeal of any property owner concerning the fair market value placed on his or her land by the assessor, and if it appears that the land has been appraised in excess of its fair market value at the time of the change in use, the board or council has the power to change the value of the land and adjust the land use change tax applied to the land according to the schedule prescribed in § 44-5-39.

History of Section.
(P.L. 1968, ch. 288, § 4; P.L. 1980, ch. 252, § 3.)

§ 44-5-41 Condemnation not to result in land use change tax. – The taking of land which is being valued, assessed, and taxed as farm, forest, or open space land pursuant to the provisions in § 44-5-12 by right of eminent domain does not subject the land so taken to the land use change tax imposed by § 44-5-39.

History of Section.
(P.L. 1968, ch. 288, § 4; P.L. 1980, ch. 252, § 3.)

§ 44-5-42 Exemption of certain farm property. – (a) All farm machinery, including motor vehicles with farm registration plates, is exempt from taxation; provided, that any town or city is entitled to reimbursement by the state in an amount equal to the amount levied on the value of the farm machinery in excess of the value of ten thousand dollars ($10,000.00) based upon assessments on December 31, 1982.

(b) Livestock and poultry which are actually and exclusively used in farming, when owned and kept in this state by any farmer or group of farmers operating as a unit, a partnership, or a corporation, a majority of the stock of which corporation is held by members of a family actively engaged in farm operations, are exempt from local property taxation; provided, that the principal means of livelihood of each farmer whether operating individually or as one of a group, partnership or corporation is derived from the farming operation. Only one exemption is allowed to each farmer, group of farmers, partnership, or corporation.

(c) Richmond. All real property including all real estate, buildings and improvements on the property which is not used for a personal residence and is actually and exclusively used in farming by a qualified farmer may be exempted from taxation by the town of Richmond. For purposes of this section, a "qualified farmer" is an individual, partnership or corporation who operates a farm and has filed a 1040F U.S. Internal Revenue form or similar document with the Internal Revenue Service, has a state of Rhode Island farm tax number, and has earned at least ten thousand dollars ($10,000) gross income on farm products in each of the preceding three (3) years, property defined as either farm, forest or open space land, pursuant to chapter 27 of this title. Any sale of exempted land, or portion of the land, incurs at the time of sale a penalty of twice the total amount of taxes exempted. The assessed penalty is due and payable to the town of Richmond, which would grant the exemption at the time of sale of the property. A sale of land to another qualified farmer or use according to this section is exempted from the penalty.

(d) Any taxpayer or owner which allows its real property to be used by a qualified owner in a manner consistent with use defined in subsection (c) may be eligible for the exemption established by this section for the duration of use by a qualified farmer. The tax assessor may prorate the exemption according to actual use. The tax assessor may require evidence of actual use, including, but not limited to, a lease, to substantiate the exemption.

(e) Cities and towns may tax farm buildings at a rate that reflects the actual costs incurred by the city or town in services to those buildings.

(f) All greenhouses constructed after January 1, 2006, or altered or repaired after January 1, 2006, where the cost of the alterations or repairs is equal to or greater than fifty percent (50%) of the physical value of the greenhouse, are exempt from taxation, provided that the greenhouse is used solely as an agriculture growing structure and provided further that the owner of the greenhouse operates a farm, has filed a 1040F, and has a current, valid Level II certificate of exemption as provided for in § 44-18-30.

History of Section.
(P.L. 1972, ch. 189, § 1; P.L. 1984, ch. 245, art. X, § 1; P.L. 1984, ch. 348, § 1; P.L. 1988, ch. 84, § 95; P.L. 1996, ch. 207, § 1; P.L. 2001, ch. 81, § 1; P.L. 2001, ch. 255, § 1; P.L. 2006, ch. 535, § 1; P.L. 2006, ch. 536, § 1.)

CHAPTER 44-18
Sales and Use Taxes – Liability and Computation

§ 44-18-30 Gross receipts exempt from sales and use taxes. – There are exempted from the taxes imposed by this chapter the following gross receipts:
* * * *
(32) Farm equipment. From the sale and from the storage or use of machinery and equipment used directly for commercial farming and agricultural production; including, but not limited to: tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors, balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment, greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and other farming equipment, including replacement parts appurtenant to or used in connection with commercial farming and tools and supplies used in the repair and maintenance of farming equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or the production within this state of agricultural products, including, but not limited to, field or orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or production provides at least two thousand five hundred dollars ($2,500) in annual gross sales to the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued prior to July 1, 2002. For exemptions issued or renewed after July 1, 2002, there shall be two (2) levels. Level I shall be based on proof of annual, gross sales from commercial farming of at least twenty-five hundred dollars ($2,500) and shall be valid for purchases subject to the exemption provided in this subdivision except for motor vehicles with an excise tax value of five thousand dollars ($5,000) or greater. Level II shall be based on proof of annual gross sales from commercial farming of at least ten thousand dollars ($10,000) or greater and shall be valid for purchases subject to the exemption provided in this subdivision including motor vehicles with an excise tax value of five thousand dollars ($5,000) or greater. For the initial issuance of the exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be required for the prior year; for any renewal of an exemption granted in accordance with this subdivision at either level I or level II, proof of gross annual sales from commercial farming at the requisite amount shall be required for each of the prior two (2) years. Certificates of exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption and be valid for four (4) years after the date of issue. This exemption applies even if the same equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the vehicle is a farm vehicle as defined pursuant to § 31-1-8 and is eligible for registration displaying farm plates as provided for in § 31-3-31.

(44) Farm structure construction materials. Lumber, hardware and other materials used in the new construction of farm structures, including production facilities such as, but not limited to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns, laying houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and trench silos, feed storage sheds, and any other structures used in connection with commercial farming.

(52) Tangible personal property and supplies used in the processing or preparation of floral products and floral arrangements. From the sale, storage, use, or other consumption in this state of tangible personal property or supplies purchased by florists, garden centers, or other like producers or vendors of flowers, plants, floral products, and natural and artificial floral arrangements that are ultimately sold with flowers, plants, floral products, and natural and artificial floral arrangements or are otherwise used in the decoration, fabrication, creation, processing, or preparation of flowers, plants, floral products, or natural and artificial floral arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral product, or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower food, insecticide and fertilizers..

(53) Horse food products. From the sale and from the storage, use, or other consumption in this state of horse food products purchased by a person engaged in the business of the boarding of horses.

(61) Agricultural products for human consumption. From the sale and from the storage, use or other consumption of livestock and poultry of the kinds of products of which ordinarily constitute food for human consumption and of livestock of the kind the products of which ordinarily constitute fibers for human use.

(63) Feed for certain animals used in commercial farming. From the sale of feed for animals as described in subsection 44-18-30(61).

History of Section.
(P.L. 1947, ch. 1887, art. 2, § 31; P.L. 1948, ch. 2004, § 1; P.L. 1952, ch. 2902, § 1; G.L. 1956, § 44-18-30; P.L. 1956, ch. 3792, § 1; P.L. 1958, ch. 175, § 3; P.L. 1959, ch. 49, § 1; P.L. 1959, ch. 77, § 1; P.L. 1961, ch. 130, § 1; P.L. 1964, ch. 117, § 1; P.L. 1965, ch. 91, § 1; P.L. 1966, ch. 262, § 4; P.L. 1967, ch. 79, § 1; P.L. 1967, ch. 179, art. 2, § 8; P.L. 1968, ch. 263, art. 8, § 15; P.L. 1969, ch. 124, § 1; P.L. 1970, ch. 60, §§ 4, 5; P.L. 1972, ch. 132, art. 4, § 1; P.L. 1974, ch. 200, art. 3, § 1; P.L. 1974, ch. 286, § 2; P.L. 1975, ch. 8, § 1; P.L. 1975, ch. 75, § 2; P.L. 1975, ch. 218, § 1; P.L. 1976, ch. 133, § 1; P.L. 1976, ch. 268, § 1; P.L. 1977, ch. 182, § 16; P.L. 1977, ch. 200, art. 4, § 1; P.L. 1978, ch. 225, § 1; P.L. 1979, ch. 385, § 1; P.L. 1980, ch. 171, § 1; P.L. 1982, ch. 200, § 1; P.L. 1982, ch. 265, § 1; P.L. 1982, ch. 320, § 1; P.L. 1982, ch. 348, § 1; P.L. 1983, ch. 106, § 1; P.L. 1984, ch. 166, § 1; P.L. 1984, ch. 190, § 1; P.L. 1984, ch. 195, § 1; P.L. 1984, ch. 198, § 1; P.L. 1984, ch. 206, art. III, § 2; P.L. 1984, ch. 433, § 1; P.L. 1984 (s.s.), ch. 450, § 2; P.L. 1985, ch. 150, § 47; P.L. 1985, ch. 251, § 1; P.L. 1985, ch. 272, § 1; P.L. 1985, ch. 363, § 1; P.L. 1985, ch. 404, § 1; P.L. 1985, ch. 477, § 1; P.L. 1986, ch. 116, § 1; P.L. 1986, ch. 353, § 1; P.L. 1986, ch. 400, § 1; P.L. 1986, ch. 441, § 1; P.L. 1986, ch. 450, § 1; P.L. 1986, ch. 476, § 1; P.L. 1986, ch. 480, § 1; P.L. 1987, ch. 118, art. 26, § 1; P.L. 1987, ch. 183, § 1; P.L. 1987, ch. 210, § 1; P.L. 1987, ch. 253, § 1; P.L. 1987, ch. 324, § 1; P.L. 1987, ch. 337, § 1; P.L. 1987, ch. 384, § 1; P.L. 1988, ch. 84, § 96; P.L. 1988, ch. 424, § 2; P.L. 1988, ch. 495, § 1; P.L. 1988, ch. 557, § 1; P.L. 1988, ch. 626, § 1; P.L. 1989, ch. 41, § 1; P.L. 1989, ch. 126, art. 44, § 1; P.L. 1989, ch. 434, § 1; P.L. 1990, ch. 65, art. 14, § 1; P.L. 1990, ch. 65, art. 15, § 1; P.L. 1990, ch. 213, § 1; P.L. 1991, c. 367, § 1; P.L. 1992, ch. 133, art. 51, § 1; P.L. 1993, ch. 69, § 1; P.L. 1993, ch. 138, art. 90, § 1; P.L. 1993, ch. 186, § 1; P.L. 1993, ch. 444, § 1; P.L. 1995, ch. 397, § 1; P.L. 1996, ch. 147 § 1; P.L. 1996, ch. 205 § 1; P.L. 1996, ch. 253, §§ 1, 2; P.L. 1996, ch. 254, § 1; P.L. 1996, ch. 259, § 1; P.L. 1996, ch. 319, § 2; P.L. 1997, ch. 168, § 4; P.L. 1998, ch. 54, § 2; P.L. 1998, ch. 109, § 1; P.L. 1998, ch. 111, § 2; P.L. 1998, ch. 407, § 1; P.L. 1999, ch. 163, § 1; P.L. 1999, ch. 489, § 1; P.L. 2000, ch. 109, § 48; P.L. 2000, ch. 316, § 1; P.L. 2000, ch. 488, § 1; P.L. 2002, ch. 337, § 1; P.L. 2002, ch. 404, § 4; P.L. 2002, ch. 406, § 1; P.L. 2003, ch. 389, § 1; P.L. 2003, ch. 397, § 1; P.L. 2003, ch. 421, § 1; P.L. 2004, ch. 165, § 1; P.L. 2004, ch. 239, § 1; P.L. 2004, ch. 339, § 1; P.L. 2004, ch. 394, § 1; P.L. 2005, ch. 281, § 2; P.L. 2005, ch. 305, § 2; P.L. 2006, ch. 246, art. 30, § 9; P.L. 2007, ch. 6, § 4; P.L. 2007, ch. 163, § 3; P.L. 2007, ch. 266, § 3; P.L. 2007, ch. 321, § 2; P.L. 2007, ch. 408, § 2; P.L. 2010, ch. 171, § 3; P.L. 2010, ch. 184, § 3; P.L. 2011, ch. 151, art. 19, § 24; P.L. 2012, ch. 241, art. 21, § 3; P.L. 2012, ch. 407, § 1; P.L. 2012, ch. 418, § 1; P.L. 2013, ch. 144, art. 9, § 3; P.L. 2014, ch. 145, art. 12, § 9; P.L. 2014, ch. 528, § 63; P.L. 2015, ch. 141, art. 11, § 7; P.L. 2015, ch. 255, § 1; P.L. 2015, ch. 276, § 1; P.L. 2017, ch. 302, art. 8, § 10.)

CHAPTER 44-27
Taxation of Farm, Forest, and Open Space Land

§ 44-27-1 Legislative declaration. – It is declared:

(1) That it is in the public interest to encourage the preservation of farm, forest, and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources, and to provide for the welfare and happiness of the inhabitants of the state.

(2) That it is in the public interest to prevent the forced conversion of farm, forest, and open space land to more intensive uses as the result of economic pressures caused by the assessment for purposes of property taxation at values incompatible with their preservation as farm, forest, and open space land.

(3) That the necessity in the public interest of the enactment of the provisions of this chapter is a matter of legislative determination.

History of Section.
(P.L. 1980, ch. 252, § 2.)

§ 44-27-2 Definitions. – When used in this chapter:

(1) "Farmland" means:

(i) Any tract or tracts of land, including woodland and wasteland constituting a farm unit;

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

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

(2) "Forest land" means any tract or contiguous tracts of land, ten (10) acres or larger bearing a dense growth of trees, including any underbrush, and having either the quality of self perpetuation, or being dependent upon its development by the planting and replanting of trees in stands of closely growing timber, actively managed under a forest management plan approved by the director of environmental management.

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

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

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

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

History of Section.
(P.L. 1980, ch. 252, § 2; P.L. 2001, ch. 350, § 1.)

§ 44-27-3 Classification of farmland. – (a) An owner of land may file a written application with the director of environmental management, for its designation by the director as farmland. When the application is made and after a filing fee of ten dollars ($10.00) is paid, the director shall examine the land and, if the director determines that it is farmland, the director shall issue a certificate in his or her office,

furnish a copy to the owner of the land, and file one copy in the office of the assessor of the city or town in which the land is located.
(b) When requested to do so by the assessor or whenever the director deems it necessary, the director of environmental management shall re-examine land designated by the director as farmland. If the director finds that this land is no longer farmland, the director shall send a notice to the landowner that the landowner has thirty (30) days either to bring the land into compliance or to request a formal hearing before the director. If after the thirty (30) days or after the hearing, the director confirms that the land is no longer farmland, the director shall issue a certificate canceling his or her designation of the land as farmland, and shall furnish one copy to the owner and file one in the office of the assessor. Loss of designation by action of the director of environmental management makes the land subject to the land use change tax provided for in § 44-5-39.
(c)(1) An owner of land designated as farmland by the director of environmental management may apply for its classification as farmland on any assessment list of the city or town where it is located by filing a written application for that classification with the assessor of the city or town not earlier than thirty (30) days before nor later than thirty (30) days after the date of assessment, except that in years of revaluation not later than thirty (30) days after written notice of revaluation or in its absence after receipt of the tax bill, and if the director has not cancelled his or her designation of that land as farmland as of a date at or prior to the date of the assessment, the assessor shall classify the land as farmland and include it as farmland on the assessment list.
(2) In order to maintain this classification, each year thereafter, the property owner shall submit to the assessor a certificate on a form prescribed by the assessor confirming that the land is still used in farming. The assessor shall in the first notification mail the forms by first class mail not later than the thirtieth of November and if a second notification is needed, it shall be mailed certified. Failure to submit the certificate by thirty (30) days after the date of assessment is construed as voluntary withdrawal of the classification, except that the assessor may waive this requirement for good cause.
(3) Notwithstanding the preceding subsections, whenever the owner of land designated and classified as farmland is a municipal land trust, municipal conservation commission, or private nonprofit land trust, annual certification is not required, and the classification continues until the voluntary withdrawal of the classification by the owner, or the transfer of the land by the owner in fee simple.
(d) Application to the director of environmental management for designation as farmland shall be made upon a form prescribed by the director and shall present a description of the land and any other information that he or she may require to aid the director in determining whether the land qualifies for that designation. An application to an assessor for classification of land as farmland shall be made upon a form prescribed by the assessor and shall present a description of the land and the date of issuance by the director of environmental management of his or her certificate designating it as farmland.
(e) Failure to file an application for classification of farmland within the time limit prescribed in subsection (c) of this section and in the manner and form prescribed in subsection (d) of this section shall be construed as a waiver of the right to that classification on the assessment list.
(f) Any landowner aggrieved by: (1) the cancellation of a designation under subsection (b) of this section or the denial of an application, filed in accordance with the provisions of subsections (c) and (d) of this section, by the assessor of a city or town for a classification of land as farmland; or (2) the use value assessment placed on land classified as farmland by the assessor; has the right to file an appeal within ninety (90) days of receiving notice, in writing, of the denial or the use value assessment with the board of assessment review of the city or town. Should the city or town not have a board of assessment review, the city or town council reviews the appeal. The assessor shall be given the opportunity to explain either his or her refusal to classify the land or the assessment placed on the classified land. The board of review, or city or town council, shall also consider the testimony of the landowner and the city or town's planning board and conservation commission, if they exist. They shall also seek and consider the advice of the office of state planning, the department of environmental management, the dean of the college of resource development, and the conservation district in which the city or town is located.
(g)(1) The board of assessment review, or city or town council, shall not disturb the designation of the director issued pursuant to subsection (a) of this section, unless the tax assessor has shown by a preponderance of the evidence that that designation was erroneous.
(2) The board of assessment review, or city or town council, shall render a decision within forty-five (45) days of the date of filing the appeal. Decisions of the board of assessment review, or city or town council, may be appealed to the superior court pursuant to § 44-27-6.

History of Section.
(P.L. 1980, ch. 252, § 2; P.L. 1986, ch. 73, § 1; P.L. 1990, ch. 339, § 1; P.L. 2013, ch. 303, § 1; P.L. 2013, ch. 430, § 1.)

§ 44-27-4 Classification of forest land.- (a) An owner of not less than ten (10) acres of forest land may file a written application with the director of environmental management for its designation by the director as forest land. When the application is made and a filing fee of ten dollars ($10.00) is paid, the director shall examine the land and, if the director determines that it is forest land, the director shall issue a certificate in his or her office, furnish a copy to the owner of the land, and file a copy in the office of the assessor of the city or town where the land is located.
(b)(1) When requested to do so by the assessor or whenever the director deems it necessary, the director of environmental management shall re-examine land designated by him or her as forest land. If the director finds that the land is no longer forest land or if the director finds that the land is not being managed in accordance with the forest management plan approved by the director, he or she shall send a notice to the landowner that the landowner has thirty (30) days either to bring the land into compliance or to request a formal hearing before the director. If after the thirty (30) days or after the hearing, the director confirms that the land is no longer forest land, the director shall issue a certificate canceling his or her designation of the land as forest land and shall furnish one copy to the owner and shall file one copy in the office of the assessor.
(2) Loss of designation by action of the director of environmental management makes the land subject to the land use change tax provided for in § 44-5-39.
(c)(1) An owner of land designated as forest land by the director of environmental management may apply for its classification as forest land on any assessment list of the city or town where it is located by filing a written application for the classification with the assessor of the city or town not earlier than thirty (30) days before nor later than thirty (30) days after the date of assessment, except that in years of revaluation not later than thirty (30) days after written notice of revaluation or in its absence after receipt of the tax bill. If the director has not cancelled his or her designation of the land as forest land as of a date at or prior to the date of the assessment, the assessor shall classify the land as forest land and include the land as forest land on the assessment list.
(2) In order to maintain this classification, each year thereafter, the property owner shall submit to the assessor a certificate on a form prescribed by the assessor confirming that the land is still managed as forest land. The assessor shall in the first notification mail these forms by first class mail not later than November thirtieth and if a second notification is needed, it shall be mailed certified. Failure to submit the certificate by thirty (30) days after the date of assessment is construed as voluntary withdrawal of the classification; except that the assessor may waive this requirement for good cause.
(3) Notwithstanding the preceding subsections, whenever the owner of land designated and classified as forest land is a municipal land trust, municipal conservation commission, or private non-profit land trust, annual certification is not required, and the classification continues until the voluntary withdrawal of the classification by the owner or transfer of the land by the owner in fee simple.
(d) Application to the director of environmental management for designation of land as forest land shall be made upon a form prescribed by the director and shall present a description of the land and any other information that he or she may require to aid the director in determining whether the land qualifies for that designation, including a written forest management plan prepared by a professionally qualified forester on the director's staff or another professionally qualified forester in consultation with the landowner, with recommended management practices to be followed. An application to an assessor for classification of land as forest land shall be made on a form prescribed by the assessor and shall present a description of the land and the date of the issuance by the director of his or her certificate designating it as forest land.
(e) Failure to file an application for classification of land as forest land within the time limit prescribed in subsection (c) of this section and in the manner and form prescribed in subsection (d) of this section is considered a waiver of the right to that classification on the assessment lists.
(f) Any landowner aggrieved by: (1) the cancellation of a designation under subsection (b) of this section or the denial of an application, filed in accordance with the provisions of subsections (c) and (d) of this section, by the assessor of a city or town for a classification of land as forest land; or (2) the use value

assessment placed on land classified as forest land by the assessor; has the right to file an appeal within ninety (90) days of receiving notice, in writing, of the denial or the use value assessment with the board of assessment review of the city or town. Should the city or town not have a board of assessment review, the city or town council shall review the appeal. The assessor is given the opportunity to explain either his or her refusal to classify the land or the assessment placed on the classified land. The board of review, or city or town council, shall also consider the testimony of the landowner and the city or town's planning board and conservation commission, if they exist. They shall also seek and consider the advice of the office of state planning, the department of environmental management, the dean of the college of resource development and the conservation district in which the city or town is located.
(g)(1) The board of assessment review, or city or town council, shall not disturb the designation of the director issued pursuant to subsection (a) of this section, unless the tax assessor has shown by a preponderance of the evidence that that designation was erroneous.
(2) The board of assessment review, or city or town council, shall render a decision within forty-five (45) days of the date of filing the appeal. Decisions of the board of assessment review, or city or town council, may be appealed to the superior court pursuant to the provisions of § 44-27-6.

History of Section.
(P.L. 1980, ch. 252, § 2; P.L. 1986, ch. 73, § 1; P.L. 1990, ch. 339, § 2; P.L. 2013, ch. 303, § 1; P.L. 2013, ch. 430, § 1.)

§ 44-27-5 Classification of open space land. – (a)(1) An owner of land may apply for its classification as open space land on any assessment list of a city or town by filing a written application for that classification with the assessor of the city or town, not later than thirty (30) days before nor later than thirty (30) days after the date of assessment, except in years of revaluation when the landowner may file not later than thirty (30) days after receiving written notice of revaluation or in its absence after receipt of the tax bill. The assessor shall determine whether the land is open space and, if the assessor determines that the land is open space, the assessor shall classify the land as open space land and include the land as open space on the assessment list.
(2) In order to maintain this classification, each year thereafter, the landowner shall submit to the assessor a certificate, on a form prescribed by the assessor, confirming that the land is still open space. The assessor shall in the first notification mail the forms by first class mail not later than the thirtieth of November and if a second notification is needed, it shall be mailed certified. Failure to submit the certificate by thirty (30) days after the date of assessment is construed as voluntary withdrawal of the classification; except that the assessor may waive this requirement for good cause.
(3) Notwithstanding the preceding subdivision, whenever the owner of land designated and classified as open space land is a municipal land trust, municipal conservation commission, or private nonprofit land trust, annual certification is not required, and the classification continues until the voluntary withdrawal of the classification by the owner, or the transfer of the land by the owner is fee simple.
(b) An application for classification of land as open space land shall be made upon a form prescribed by the assessor and shall present a description of the land, a general description of the use to which it is being put, and any other information that the assessor may require to aid him or her in determining whether the land qualifies for that classification.
(c) Failure to file an application for classification of land as open space land within the time limit prescribed in subsection (a) of this section and in the manner and form prescribed in subsection (b) of this section is considered a waiver of the right to that classification on the assessment list.
(d) Any landowner aggrieved by: (1) the denial of an application filed in accordance with the provisions of subsections (a) and (b) of this section by the assessor of a city or town for classification of land as open space land; or (2) the use value assessment placed on land classified as open space land by the assessor; has the right to file an appeal within ninety (90) days of receiving notice, in writing, of the denial or the use value assessment with the board of assessment of review of the city or town. Should the city or town not have a board of assessment review, the city or town council shall review the appeal. The assessor shall be given the opportunity to explain either his or her refusal to classify the land or the assessment placed on the classified land. The board of review or city or town council shall also consider the testimony of the landowner and the city or town's planning board and conservation commission, if they exist. They shall also seek and consider the advice of the office of state planning, the department of environmental

management, the dean of the college of resource development and the conservation district in which the city or town is located.
(e)(1) The board of assessment review, or city or town council, shall not disturb the designation of the director issued pursuant to subsection (a) of this section, unless the tax assessor has shown by a preponderance of the evidence that that designation was erroneous.
(2) The board of assessment review or city or town council shall render a decision within forty-five (45) days of the date of filing the appeal. Decisions of the board of assessment review, or city or town council, may be appealed to the superior court pursuant to the provisions of § 44-27-6.

History of Section.
(P.L. 1980, ch. 252, § 2; P.L. 1986, ch. 73, § 1; P.L. 1986, ch. 247, § 1; P.L. 1990, ch. 339, § 3; P.L. 2013, ch. 303, § 1; P.L. 2013, ch. 430, § 1.)

§ 44-27-6 Appeals to superior court. – (a) Any person or persons jointly or severally aggrieved by a decision of the board of assessment review, or city or town council, may appeal to the superior court for the county in which the municipality is situated by filing a complaint stating the reasons of appeal within ninety (90) days after the decision has been filed in the office of the board of assessment review, or city or town council. The board of assessment review, or city or town council, shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies of the original documents, together with any other facts that may be pertinent with the clerk of the court within ten (10) days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, the original applicant or appellant and the members of the board of review, or city or town council, are made parties to the proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make other orders that it deems necessary for an equitable disposition of the appeal.

(b) If, before the date set for the hearing in the superior court, application is made to the court for leave to present additional evidence before the board of assessment review, or city or town council, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for the failure to present it at the hearing before the board of review, or city or town council, the court may order that the additional evidence be taken before the board of review, or city or town council, upon conditions determined by the court. The board of review, or city or town council, may modify its findings and decision by reason of that additional evidence and file that evidence and any modification, new findings, or decisions with the superior court.

(c) The review shall be conducted by the superior court without a jury. The court shall consider the record of the hearing before the board of assessment review, or city or town council, and if it appears to the court that additional evidence is necessary for the proper disposition of the matter, it may allow any party to the appeal to present that evidence in open court, which evidence along with the record constitutes the record upon which the determination of the court is made. The court shall not substitute its judgment for that of the board of assessment review, or city or town council, as to the weight of the evidence on question of fact. The court may affirm the decision of the board of assessment review, or city or town council, or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

(1) In violation of constitutional, statutory, or ordinance provisions;

(2) In excess of the authority granted to the board of assessment review, or city or town council, by statute or ordinance;

(3) Made upon unlawful procedure;

(4) Affected by other error of law;

(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(d) If the taxpayer's tax is paid, whether before or after the filing of the petition, then the court shall upon a finding in favor of the petitioner, give judgment for the petitioner for the sum by which he or she has been overtaxed, or illegally taxed, plus the amount of any penalty paid, with interest at the rate of twelve percent (12%) per annum from the date on which the tax and penalty were paid and costs. The judgment shall be paid to the petitioner by the city or town treasurer out of the treasury.

History of Section.
(P.L. 1980, ch. 252, § 2; P.L. 1990, ch. 442, § 1.)

§ 44-27-7 Rules and regulations. – The director of environmental management is authorized to promulgate those rules and regulations that the director deems necessary to carry out his or her responsibilities and fulfill the purposes of this chapter.

History of Section.
(P.L. 1980, ch. 252, § 2.)

§ 44-27-8 Availability of current values – Duties of the department of revenue. – The department of revenue shall annually publish all information, which it collects that relates to land values for different types of farm, forest, or open space lands. This information shall be made available to local assessors.

History of Section.
(P.L. 1980, ch. 252, § 2; P.L. 1985, ch. 181, art. 61, § 20; P.L. 2008, ch. 98, § 45; P.L. 2008, ch. 145, § 45.)

§ 44-27-9 Change of ownership – Procedure for continuance of classification – Effect on land use change tax. – (a) Upon the change of ownership of title, as recorded in the land evidence records of the city or town, of land previously classified as farm, forest, or open space land, the assessor of the city or town where the land is located shall notify the new owner that the land is classified as farm, forest, or open space and that land withdrawn from that classification is subject to the land use change tax provided for in § 44-5-39. The new owner may apply to the local assessor for continuance of classification and special assessment as provided in § 44-5-12. Upon certification by the new owner that the land continues its use as farmland, its management as forest land, or its preservation as open space land, the assessor shall continue it as that on the assessment list and notify the director of environmental management of the change in ownership.

(b) A change of ownership of land classified as farm, forest, or open space land, except for change in ownership through inheritance or interfamily transfer, where the new owner continues its classification as farm, forest, or open space land, commences anew the computation of the period the land has been so classified for the purposes of determining the land use change tax provided for in § 44-5-39.

(c) For the purposes of this section, transfer of ownership of land from an individual to a corporation wholly owned by that individual and/or his or her immediate family is not considered a change of ownership of the land. Where the owner of land classified under this chapter is a corporation, any change in ownership of ten percent (10%) or more of the outstanding common stock of the corporation is considered a change in ownership of the land, and shall be reported to the assessor of the town or city in which the land is located.

(d) New owners of land previously classified as farm, forest, or open space land who do not apply for continuance of classification as in subsection (a) of this section are considered to have voluntarily withdrawn the classification and become liable for the land use change tax in effect at the time of change of ownership. This tax is determined by the assessor within forty-five (45) days of the end of the recertification period provided for in subsection (a) of this section and falls due at the time the use of the land is changed. This tax constitutes a lien against the land and runs with the deed until the obligation is satisfied.

History of Section.
(P.L. 1980, ch. 252, § 2.)

§ 44-27-10 Reclassification of land withdrawn from classification – Effect on obligations and the land use change tax. – Land, previously classified as farm, forest, or open space land, which was withdrawn from that classification may be reclassified as that classification if it still meets the requirements

of this chapter. This reclassification of the land commences anew the computation of the period for purposes of the land use change tax. Any unpaid lien obligated by the previous withdrawal is voided. At no time shall an obligation incurred under the provisions of this chapter exceed ten percent (10%) of the then fair market value of the land.

History of Section.
(P.L. 1980, ch. 252, § 2.)

§ 44-27-10.1 Land withdrawn from classification for commercial renewable-energy production – Effect on obligation and the land use change tax. –(a) Farmlands classified in the farm, forest, or open-space program shall not be subject to a land use change tax if the landowner converts no more than twenty percent (20%) of the total acreage of land that is actively devoted to agricultural or horticultural use to install a renewable-energy system. Any acreage used for a renewable-energy system that is designated for dual use under subsection (c) of this section shall not be included in the calculation of the twenty percent (20%) restriction. For purposes of this section, land that is actively devoted to agricultural or horticultural use shall be defined by rules and regulations established by the department of environmental management in consultation with the office of energy resources and shall include, at a minimum, any land that is actively devoted to agricultural or horticultural use that was previously used to install a renewable-energy system. Those rules shall also define renewable-energy system to include, at a minimum, any buffers, access roads, and other supporting infrastructure associated with the generation of renewable energy.
(b) The tax assessor shall only withdraw from farmland classification the actual acreage of the farmland used for a renewable-energy system that is not concurrently used as farmland. The rest of the farmland shall remain eligible as long as it still meets the program qualification criteria. This reclassification of farmlands shall not be considered an exception to the tax treatment for renewable-energy systems prescribed by § 44-5-3(c).
(c) The dual purpose designation for installing a renewable-energy system and utilizing the land below and surrounding the system for agriculture purposes, shall be determined pursuant to rules and regulations that will be established by the department of environmental management in consultation with the office of energy resources. The regulations shall be adopted no later than December 30, 2017.

History of Section.
(P.L. 2017, ch. 126, § 1; P.L. 2017, ch. 149, § 1.)

§ 44-27-11 Powers of the board of assessment review or city or town council. – The board of assessment review, or city or town council, has the power to:

(1) Retain by contract or employ counsel, appraisers, private consultants, and other personnel for other service if funds are available.

(2) Conduct hearings, examinations, and investigations as may be necessary and appropriate for the conduct of its operations.

(3) Obtain access to public records and apply for the process of subpoena, if necessary, to produce books, papers, records, and other data.

(4) Require the tax assessor of a city or town to classify land as farmland, forest land, or open space land if in the board's judgment the land should be so classified.

(5) Change the use value assessment placed on land classified as farmland, forest land, or open space land if in the board's judgment land so classified has been incorrectly or inequitably assessed.

(6) Change the fair market value placed on land subject to the land use change tax in § 44-5-39 if, in the judgment of the board, the land has been appraised in excess of its fair market value at the time of the change of use or withdrawal of classification.

(7) Otherwise do all things necessary for the performance of its duties.

History of Section.
(P.L. 1980, ch. 252, § 2.)

§ 44-27-12 Duties of the board of assessment review or city or town council. – The board of assessment review, or city or town council, shall hear and render a judgment on all appeals of:

(1) Landowners denied certification as farmland or forest land by the director of the department of environmental management or when the certification has been cancelled;

(2) Tax assessors aggrieved by the certification of land as farmland or forest land by the director of the department of environmental management;

(3) Landowners denied classification as farm, forest, and open space land by the local assessor;

(4) Landowners aggrieved by the use value assessment set by the local assessor;

(5) Landowners appealing the fair market value set by the local assessor for use in determining the land use change tax payable under the provisions of §§ 44-5-39 – 44-5-41.

History of Section.
(P.L. 1980, ch. 252, § 2.)

TITLE 45 -- TOWNS and CITIES

CHAPTER 45-22.2
Rhode Island Comprehensive Planning and Land Use Act

§ 45-22.2-3 Legislative findings and intent – Statement of goals. – *(a) Findings.* The general assembly recognizes these findings, each with equal priority and numbered for reference only, as representing the need for effective planning, declares that:

(1) Comprehensive planning by municipal government is necessary to form a rational basis for the long-term physical development of a municipality and to avoid conflicting requirements and reactive land use regulations and decisions.

(2) Municipal government is responsible for land use, and requires accurate technical information and financial resources to plan for orderly growth and development, and the protection and management of our land and natural resources.

(3) Land, water, and air are finite natural resources. Comprehensive planning is needed to provide for protection, development, use, and management of our land and natural resources.

(4) Comprehensive planning and its implementation are needed to promote the appropriate use of land. The lack of comprehensive planning and its implementation could lead to the misuse, underuse, and overuse of our land and natural resources.

(5) Comprehensive planning is needed to provide for the coordination of growth and the intensity of development with provisions for services and facilities.

(6) Comprehensive planning is needed to provide a basis for municipal and state initiatives to ensure all citizens have access to a range of housing choices, including the availability of affordable housing for all income levels and age groups.

(7) Comprehensive planning is needed to recognize and address potentially conflicting land uses as well as shared resources in contiguous municipalities and encourage cooperative planning efforts by municipalities.

(8) Comprehensive planning is needed to provide a basis for improved coordination so that local plans reflect issues of local, regional, and statewide concern. Municipalities must have a role in the formulation of state goals and policies.

(9) Improved coordination is necessary between state and municipal governments to promote uniform standards and review procedures as well as consistency in land use regulations.

(b) Intent. The general assembly declares it is the intent of this chapter to:

(1) Establish, in each municipality, a program of comprehensive planning that is implemented according to the standards and schedule contained in this chapter; comprehensive plans shall be maintained and amended as necessary in order to achieve the goals established within this section.

(2) Provide financial assistance for the formulation and implementation of the comprehensive plan.

(3) Provide financial assistance to establish and maintain a uniform data and technical information base to be used by state and municipal governments and their agencies.

(4) Establish standards and a uniform procedure for the review and approval of municipal comprehensive plans and state guide plans and their consistency with overall state goals, objectives, standards, applicable performance measures, and policies.

(5) Establish and maintain a procedure for coordinating planning at state and municipal levels including addressing potentially conflicting land uses as well as shared resources in contiguous municipalities and encouraging cooperative planning efforts by municipalities.

(c) Goals. The general assembly hereby establishes a series of goals to provide overall direction and consistency for state and municipal agencies in the comprehensive planning process established by this chapter. The goals have equal priority and are numbered for reference only.

(1) To promote orderly growth and development that recognizes the natural characteristics of the land, its suitability for use, the availability of existing and proposed public and/or private services and facilities, and is consistent with available resources and the need to protect public health, including drinking water supply, drinking water safety, and environmental quality.

(2) To promote an economic climate which increases quality job opportunities and overall economic well being of each municipality and the state.

(3) To promote the production and rehabilitation of year-round housing and to preserve government subsidized housing for persons and families of low and moderate income in a manner that: considers local, regional, and statewide needs; housing that achieves a balance of housing choices, for all income levels and age groups; recognizes the affordability of housing as the responsibility of each municipality and the state; takes into account growth management and the need to phase and pace development in areas of rapid growth; and facilitates economic growth in the state.

(4) To promote the protection of the natural, historic and cultural resources of each municipality and the state.

(5) To promote the preservation of the open space and recreational resources of each municipality and the state.

(6) To provide for the use of performance-based standards for development and to encourage the use of innovative development regulations and techniques that promote the development of land suitable for development while protecting our natural, cultural, historical, and recreational resources, and achieving a balanced pattern of land uses.

(7) To promote consistency of state actions and programs with municipal comprehensive plans, and provide for review procedures to ensure that state goals and policies are reflected in municipal comprehensive plans and state guide plans.

(8) To ensure that adequate and uniform data are available to municipal and state government as the basis for comprehensive planning and land use regulation.

(9) To ensure that municipal land use regulations and decisions are consistent with the comprehensive plan of the municipality, and to ensure state land use regulations and decisions are consistent with state guide plans.

(10) To encourage the involvement of all citizens in the formulation, review, and adoption, or amendment of the comprehensive plan.

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

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 1990, ch. 431, § 2; P.L. 2004, ch. 286, § 7; P.L. 2004, ch. 324, § 7; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

§ 45-22.2-4 Definitions. – As used in this chapter the following words have the meanings stated herein:

(1) "Agricultural land" means land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes.

(2) "Capacity" or "land capacity" means the suitability of the land, as defined by geology, soil conditions, topography, and water resources, to support its development for uses such as residential, commercial, industrial, open space, or recreation. Land capacity may be modified by provision of facilities and services.

(3) "Capital improvements program" means a proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

(4) "Chief" means the highest-ranking administrative officer of the division of planning as established by subsection 42-11-10(g).

(5) "Coastal features" means any coastal beach, barrier island or spit, coastal wetland, coastal headland, bluff or cliff, rocky shore, manmade shoreline or dune as outlined and defined by the coastal resources management program, and as may be amended.

(6) "Comprehensive plan" or "comprehensive land use plan" means a document containing the components described in this chapter, including the implementation program which is consistent with the goals and guidelines established by this chapter.

(7) "Days" means calendar days.

(8) "Division of planning" means the office established as a division of the department of administration by subsection 42-11-10(g).

(9) "Floodplains" or "flood hazard area" means an area that is subject to a flood from a storm having a one percent (1%) chance of being equaled or exceeded in any given year, as delineated on a community's flood hazard map as approved by the federal emergency management agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448), 42 U.S.C. 4011 et seq.

(10) "Forecast" means a description of the conditions, quantities, or values anticipated to occur at a designated future time.

(11) "Goals" means those goals stated in § 45-22.2-3.

(12) "Historic or cultural resource" means any real property, structure, natural object, place, landmark, landscape, archaeological site or configuration or any portion or group of the preceding which has been listed on the federal or state register of historic places or that is considered by the Rhode Island Historical Preservation & Heritage Commission to meet the eligibility criteria for listing on the state register of historic places pursuant to § 42-45-5 or is located in a historic district established by a municipality in accordance with chapter 45-24.1, Historic Area Zoning.

(13) "Land" means real property including improvements and fixtures on, above, or below the surface.

(14) "Land use regulation" means a rule or statute of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for these uses.

(15) "Local government" means any governmental agency authorized by this chapter to exercise the power granted by this chapter.

(16) "Maintain" means to evaluate regularly and revise as needed or required in order to ensure that a comprehensive plan remains consistent with the goals and guidelines established by this chapter.

(17) "Municipal legislative body" means the town council in a town or the city council in a city; or that part of a municipal government that exercises legislative powers under a statute or charter.

(18) "Municipal reviewing authority" means the municipal planning board or commission.

(19) "Open space" means any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring the open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.

(20) "Planning board" or "commission" means the body established by a municipality under chapter 45-22 or combination of municipalities which has the responsibility to prepare a comprehensive plan and make recommendations concerning that plan to the municipal legislative body.

(21) "State guide plan" means goals, policies, and plans or plan elements for the physical, economic, and social development of the state, adopted by the state planning council in accordance with § 42-11-10.

(22) "State or regional agency" means, for the purposes of this chapter, any state agency, department, public authority, public corporation, organization, commission, or other governing body with regulatory or other authority affecting the goals established either in this chapter or the state guide plan. Pursuant to § 45-22.2-2, the definition of state and regional agency shall not be construed to supersede or diminish any regulatory authority granted by state or federal statute.

(23) "State agency program or project" State agency program means any non-regulatory, coordinated group of activities implemented for the purpose of achieving a specific goal or objective. State agency project means a specific initiative or development on an identifiable parcel(s) of land.

(24) "Voluntary association of local governments" means two (2) or more municipalities that have joined together pursuant to a written agreement and pursuant to the authority granted under this chapter for the purpose of drafting a comprehensive land use plan and implementation program.

(25) "Wetland" a marsh, swamp, bog, pond, river, river or stream flood plain or bank; an area subject to flooding or storm flowage; an emergent or submergent plant community in any body of fresh water; or an area within fifty feet (50') of the edge of a bog, marsh, swamp, or pond, as defined in § 2-1-20; or any salt marsh bordering on the tidal waters of this state, whether or not the tidal waters reach the littoral areas through natural or artificial watercourses, and those uplands directly associated and contiguous thereto which are necessary to preserve the integrity of that marsh, and as further defined by the RI coastal resources management program, as may be amended.

(26) "Zoning" means the reservation of certain specified areas within a community or city for building and structures, or use of land, for certain purposes with other limitations as height, lot coverage, and other stipulated requirements.

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 1990, ch. 431, § 2; P.L. 1994, ch. 92, § 4; P.L. 2002, ch. 407, § 1; P.L. 2004, ch. 286, § 7; P.L. 2004, ch. 324, § 7; P.L. 2009, ch. 310, § 51; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

§ 45-22.2-5 Formulation of comprehensive plans by cities and towns. – (a) The comprehensive plan is a statement (in text, maps, illustrations, or other media of communication) that is designed to provide a basis for rational decision making regarding the long-term physical development of the municipality. The definition of goals and policies relative to the distribution of future land uses, both public and private, forms the basis for land use decisions to guide the overall physical, economic, and social development of the municipality.

(b) There is established a program of local comprehensive planning to address the findings and intent and accomplish the goals of this chapter. Rhode Island's cities and towns, through the exercise of their power and responsibility pursuant to the general laws, applicable articles of the Rhode Island Constitution, and subject to the express limitations and requirements of this chapter, shall prepare, adopt, amend, and maintain comprehensive plans, including implementation programs, that relate development to land capacity, protect our natural resources, promote a balance of housing choices, encourage economic development, preserve and protect our open space, recreational, historic and cultural resources, provide for orderly provision of facilities and services and are consistent with the goals, findings, intent, and other provisions of this chapter and the laws of the state.

(c) Each municipality shall ensure that its zoning ordinance and map are consistent with its comprehensive plan.

(d) Each municipality shall submit to the chief, as provided for in §§ 45-22.2-9 and 45-22.2-12 and the rules promulgated by the state planning council:

(1) Its locally adopted comprehensive plan;

(2) Any amendment to its comprehensive plan;

(3) An informational report on the status of its implementation programs; and

(4) Its zoning ordinance text and generalized zoning map or maps.

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 1991, ch. 112, § 1; P.L. 1991, ch. 307, § 6; P.L. 1999, ch. 354, § 49; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

§ 45-22.2-6 Required content of a comprehensive plan. – (a) The comprehensive plan must utilize a minimum twenty (20) year planning timeframe in considering forecasts, goals, and policies.

(b) The comprehensive plan must be internally consistent in its policies, forecasts, and standards, and shall include the content described within this section. The content described in subdivisions (1) through (10) may be organized and presented as deemed suitable and appropriate by the municipality. The content described in subdivisions (11) and (12) must be included as individual sections of the plan.

(1) Goals and policies. The plan must identify the goals and policies of the municipality for its future growth and development and for the conservation of its natural and cultural resources. The goals and policies of the plan shall be consistent with the goals and intent of this chapter and embody the goals and policies of the state guide plan.

(2) Maps. The plan must contain maps illustrating the following as appropriate to the municipality:

(i) Existing conditions:

(A) Land use, including the range of residential housing densities;

(B) Zoning;

(C) Key infrastructure such as, but not limited to, roads, public water, and sewer;

(D) Service areas for public water and sewer;

(E) Historical and cultural resource areas and sites;

(F) Open space and conservation areas (public and private); and

(G) Natural resources such as, but not limited to, surface water, wetlands, floodplains, soils, and agricultural land;

(ii) Future land use illustrating the desired patterns of development, density, and conservation as defined by the comprehensive plan; and

(iii) Identification of discrepancies between future land uses and existing zoning use categories.

(3) Natural resource identification and conservation. The plan must be based on an inventory of significant natural resource areas such as, but not limited to, water, soils, prime agricultural lands, forests, wildlife, wetlands, aquifers, coastal features, and floodplains. The plan must include goals, policies, and implementation techniques for the protection and management of these areas.

(4) Open space and outdoor recreation identification and protection. The plan must be based on an inventory of outdoor recreational resources, open space areas, and recorded access to these resources and areas. The plan must contain an analysis of forecasted needs, policies for the management and protection of these resources and areas, and identification of areas for potential expansion. The plan must include goals, policies, and implementation techniques for the protection and management of existing resources and acquisition of additional resources if appropriate.

(5) Historical and cultural resources identification and protection. The plan must be based on an inventory of significant historical and cultural resources such as historical buildings, sites, landmarks, and scenic views. The plan must include goals, policies, and implementation techniques for the protection of these resources.

(6) Housing. The plan must include the identification of existing housing patterns, an analysis of existing and forecasted housing needs, and identification of areas suitable for future housing development or rehabilitation. The plan shall include an affordable housing program that meets the requirements of § 42-128-8.1, the "Comprehensive Housing Production and Rehabilitation Act of 2004" and chapter 45-53, the "Rhode Island Low and Moderate Income Housing Act". The plan must include goals and policies that further the goal of subdivision 45-22.2-3(c)(3) and implementation techniques that identify specific programs to promote the preservation, production, and rehabilitation of housing.

(7) Economic development. The plan must include the identification of existing types and patterns of economic activities including, but not limited to, business, commercial, industrial, agricultural, and tourism. The plan must also identify areas suitable for future economic expansion or revitalization. The plan must include goals, policies, and implementation techniques reflecting local, regional, and statewide concerns for the expansion and stabilization of the economic base and the promotion of quality employment opportunities and job growth.

(8) Services and facilities. The plan must be based on an inventory of existing physical infrastructure such as, but not limited to, educational facilities, public safety facilities, libraries, indoor recreation facilities, and community centers. The plan must describe services provided to the community such as, but not limited to, water supply and the management of wastewater, storm water, and solid waste. The plan must consider energy production and consumption. The plan must analyze the needs for future types and levels of services and facilities, including, in accordance with § 46-15.3-5.1, water supply system management planning, which includes demand management goals as well as plans for water conservation and efficient use of water concerning any water supplier providing service in the municipality, and contain goals, policies, and implementation techniques for meeting future demands.

(9) Circulation/Transportation. The plan must be based on an inventory and analysis of existing and proposed major circulation systems, including transit and bikeways; street patterns; and any other modes of transportation, including pedestrian, in coordination with the land use element. Goals, policies, and implementation techniques for the provision of fast, safe, efficient, and convenient transportation that promotes conservation and environmental stewardship must be identified.

(10) Natural hazards. The plan must include an identification of areas that could be vulnerable to the effects of sea-level rise, flooding, storm damage, drought, or other natural hazards. Goals, policies, and implementation techniques must be identified that would help to avoid or minimize the effects that natural hazards pose to lives, infrastructure, and property.

(11) Land use. In conjunction with the future land use map as required in subdivision 45-22.2-6(b)(2)(ii), the plan must contain a land use component that designates the proposed general distribution and general location and interrelationships of land uses including, but not limited to, residential, commercial, industrial, open space, agriculture, recreation facilities, and other categories of public and private uses of land. The land use component shall be based upon the required plan content as stated in this section. It shall relate the proposed standards of population density and building intensity to the capacity of the land and available or planned facilities and services. The land use component must contain an analysis of the inconsistency of existing zoning districts, if any, with planned future land use. The land use component shall specify the process and schedule by which the zoning ordinance and zoning map shall be amended to conform to the comprehensive plan and shall be included as part of the implementation program.

(12) Implementation program.

(i) A statement which defines and schedules the specific public actions to be undertaken in order to achieve the goals and objectives of each component of the comprehensive plan. Scheduled expansion or replacement of public facilities, and the anticipated costs and revenue sources proposed to meet those costs reflected in a municipality's capital improvement program, must be included in the implementation program.

(ii) The implementation program identifies the public actions necessary to implement the objectives and standards of each component of the comprehensive plan that require the adoption or amendment of codes and ordinances by the governing body of the municipality.

(iii) The implementation program identifies other public authorities or agencies owning water supply facilities or providing water supply services to the municipality, and coordinates the goals and objectives of the comprehensive plan with the actions of public authorities or agencies with regard to the protection of watersheds as provided in § 46-15.3-1, et seq.

(iv) The implementation program must detail the timing and schedule of municipal actions required to amend the zoning ordinance and map to conform to the comprehensive plan.

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 1989, ch. 519, § 1; P.L. 1990, ch. 431, § 2; P.L. 2004, ch. 286, § 7; P.L. 2004, ch. 324, § 7; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

§ 45-22.2-10 Coordination of state agencies. – (a) State agencies shall develop their respective programs and conduct their respective activities in a manner consistent with the findings, intent, and goals established under this chapter.

(b) The chief shall develop standards to assist municipalities in the incorporation of the state goals and policies into comprehensive plans, and to guide the chief's review of comprehensive plans and state agency activities.

(c) The state planning council shall adopt and maintain all rules and regulations necessary to implement the standards established by this chapter.

(d) The chief shall develop and make readily available to all municipalities statewide data and technical information for use in the preparation of comprehensive plans. Data specific to each municipality shall be provided by that municipality. The chief shall make maximum use of existing information available from other agencies.

(e) The chief may contract with any person, firm, or corporation to develop the necessary planning information and coordinate with other state agencies as necessary to provide support and technical assistance for local planning efforts.

(f) The chief shall notify appropriate state agencies of the approval of a comprehensive plan or amendment to a comprehensive plan.

(g) Once a municipality's comprehensive plan is approved, programs and projects of state agencies, excluding the state guide plan as provided for by § 42-11-10, shall conform to that plan. In the event that a state agency wishes to undertake a program, project, or to develop a facility which is not in conformance with the comprehensive plan, the state planning council shall hold a public hearing on the proposal at which the state agency must demonstrate:

(1) That the program, project, or facility conforms to the stated goals, findings, and intent of this chapter; and

(2) That the program, project, or facility is needed to promote or protect the health, safety, and welfare of the people of Rhode Island; and

(3) That the program, project, or facility is in conformance with the relevant sections of the state guide plan; and

(4) That the program implementation, project, or size, scope, and design of the facility will vary as little as possible from the comprehensive plan of the municipality.

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 1992, ch. 385, § 3; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

§ 45-22.2-12 Maintaining and re-adopting the plan. – (a) A municipality must maintain a single version of the comprehensive plan including all amendments, appendices, and supplements. One or more complete copies of the comprehensive plan including, all amendments, shall be made available for review by the public. Availability shall include print, digital formats, and placement on the internet.

(b) A municipality shall periodically review and amend its plan in a timely manner to account for changing conditions. At a minimum, a municipality shall fully update and re-adopt its entire comprehensive plan, including supplemental plans, such as, but not limited to, special area plans, that may be incorporated by reference, at least once every ten (10) years from the date of municipal adoption. A minimum twenty (20) year planning timeframe in considering forecasts, goals, and policies must be utilized for an update.

(c) A newly adopted plan shall supersede all previous versions.

(d) A municipality shall file an informational report on the status of the comprehensive plan implementation program with the chief not more than five (5) years from the date of municipal approval.

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

§ 45-22.2-13 Compliance and implementation. – (a) The municipality is responsible for the administration and enforcement of the plan.

(b) All municipal land use decisions shall be in conformance with the locally adopted municipal comprehensive plan.

(c) Each municipality shall amend its zoning ordinance and map to conform to the comprehensive plan in accordance with the implementation program as required by subdivision 45-22.2-6(b)(11) and paragraph 45-22.2-6(b)(12)(iv). The zoning ordinance and map in effect at the time of plan adoption shall remain in force until amended. In instances where the zoning ordinance is in conflict with an adopted comprehensive plan, the zoning ordinance in effect at the time of the comprehensive plan adoption shall direct municipal

land use decisions until such time as the zoning ordinance is amended to achieve consistency with the comprehensive plan and its implementation schedule. In instances of uncertainty in the internal construction or application of any section of the zoning ordinance or map, the ordinance or map shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable content of the adopted comprehensive plan.

(d) Limitations on land use approvals may be imposed according to the following provisions in addition to any other provision that may be required by law.

(1) Nothing in the chapter shall be deemed to preclude municipalities from imposing limitations on the number of building permits or other land use approvals to be issued at any time, provided such limitations are consistent with the municipality's comprehensive plan in accordance with this chapter and are based on a reasonable, rational assessment of the municipality's sustainable capacity for growth.

(2) In the event of a dire emergency not reasonably foreseeable as part of the comprehensive planning process, a municipality may impose a limitation on the number of building permits or other land use approvals to be issued at any time, provided that such limitation is reasonably necessary to alleviate the emergency and is limited to the time reasonably necessary to alleviate the emergency.

(e) A one-time moratorium, for the purpose of providing interim protection for a planned future land use or uses, may be imposed during the twelve (12) months subsequent to the adoption of the local comprehensive plan provided that a change to the zoning ordinance and map has been identified and scheduled for implementation within twelve (12) months of plan adoption. The moratorium shall be enacted as an ordinance and may regulate, restrict, or prohibit any use, development, or subdivisions under the following provisions:

(1) The moratorium is restricted to those areas identified on the map or maps as required by paragraph 45-22.2-6(b)(2)(iii).

(2) A notice of the moratorium must be provided by first class mail to property owners affected by said moratorium at least fourteen (14) days in advance of the public hearing.

(3) The ordinance shall specify:

(i) The purpose of the moratorium;

(ii) The date it shall take effect and the date it shall end;

(iii) The area covered by the moratorium, and;

(iv) The regulations, restrictions, or prohibitions established by the moratorium.

(4) The moratorium may be extended up to an additional ninety (90) days if necessary to complete a zoning ordinance and map change provided that: (i) The public hearing as required by § 45-24-53 has commenced; and (ii) The chief approves the extension based on a demonstration of good cause. Said extension shall not be deemed as non-conformance to the implementation schedule.

(f) A moratorium enacted under the provisions of subsection (e) shall not apply to state agencies until such time that the municipal comprehensive plan receives approval from the chief or superior court.

(g) In the event a municipality fails to amend its zoning ordinance and map to conform to the comprehensive plan within the implementation schedule, or by the expiration of the moratorium period, a municipality must amend either their implementation schedule or, if the future land use is no longer desirable or feasible, amend the future land use map.

(1) Failure to comply with this provision within one hundred twenty (120) days of the date of the implementation schedule or the expiration of the moratorium period shall result in the denial or rescission, in whole or in part, of state approval of the comprehensive plan and of all benefits and incentives conditioned on state approval.

(2) An implementation schedule amended under this provision shall not be eligible for an additional moratorium as provided for in subsection (e).

History of Section.
(P.L. 1988, ch. 601, § 1; P.L. 1995, ch. 247, § 1; P.L. 2001, ch. 179, § 1; P.L. 2011, ch. 215, § 1; P.L. 2011, ch. 313, § 1.)

CHAPTER 45-23
Subdivision of Land

§ 45-23-49.1 Farmland residential compounds. – (a) The general assembly finds and declares that multiple dwelling units were historically common on farms because farming was a multi-generational way of life and because farm workers needed to be close to the land they worked; that this historical development pattern is centuries old, and that it is in the interest of the state to provide for the continuation of this development pattern as a means of preserving and enhancing agriculture and promoting sound development in rural areas of the state.

(b) Farmland residential compounds may be provided for by municipal ordinance as a minor land development project, consistent with the special provisions of this subdivision, which ordinances may treat farmland residential projects as a specific form of cluster development for purposes of zoning.

(1) Such farmland residential compounds shall only be allowed on agricultural operations, as defined in subsection 42-82-2(3), that have a net annual income of twenty thousand dollars ($20,000) or more for the most recent three (3) consecutive years preceding the date of the application for the farmland residential compound, which income is directly attributable to said agricultural operations.

(2) Such farmland residential compounds shall be limited to one dwelling unit for the first twenty (20) acres and one dwelling unit for each additional twenty (20) acres to a maximum of five (5) dwelling units, which shall be allowable without subdivision of the farmland parcel into separate lots and without meeting frontage requirements.

(3) Any road necessary to provide access to the dwelling units shall be constructed in accordance with applicable standards for private roads and shall be owned and maintained by the agricultural operation.

(4) Water supply and waste water treatment (ISDS) for the farmland residential compound shall comply with standards for residential systems.

(c) The dwelling units of a farmland residential compound need not be located in a single area on the farm and may be constructed in phases consistent with the limitations and provisions set forth in subdivision (b) of this section.

(d) Approval of a farmland residential compound shall not affect eligibility to participate in programs for farmland preservation or for taxation of farm, forest and open space land.

(e) For any agricultural operation, farmland residential compounds shall be permitted only to the limits set forth in subdivision (b)(2) of this section; in the event that the agricultural operation is subsequently divided into two (2) or more agricultural operations, no additional farmland residential compound shall be permitted until ten (10) years after the date of the approval of the application for the prior farmland residential compound, and all of the requirements for a farmland residential compound shall apply to each farmland residential compound; in the event that the agricultural operation ceases and the farmland is subdivided, a parcel at least equal to the minimum residential lot size for the zone times the number of dwelling units in the farmland residential compound plus the road in which the farmland residential compound is located shall be dedicated to the farmland residential compound, which overall parcel shall include the water supply and waste water treatment systems for the farmland residential compound.

History of Section.
(P.L. 2006, ch. 406, § 1; P.L. 2006, ch. 452, § 1.)

CHAPTER 45-24
Zoning Ordinances

§ 45-24-37 General provisions – Permitted uses. – (a) The zoning ordinance provides a listing of all land uses and/or performance standards for uses that are permitted within the zoning use districts of the municipality.

(b) Notwithstanding any other provision of this chapter, the following uses are permitted uses within all residential zoning use districts of a municipality and all industrial and commercial zoning use districts except where residential use is prohibited for public health or safety reasons:
(1) Households;
(2) Community residences; and
(3) Family day care homes.
(c) Any time a building or other structure used for residential purposes, or a portion of a building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire or flood, the owner of the property is allowed to park, temporarily, mobile and manufactured home, or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated and otherwise made fit for occupancy. The property owner, or a properly designated agent of the owner, is only allowed to cause the mobile and manufactured home, or homes, to remain temporarily upon the land by making timely application to the local building official for the purposes of obtaining the necessary permits to repair or rebuild the structure.
(d) Notwithstanding any other provision of this chapter, appropriate access for people with disabilities to residential structures is allowed as a reasonable accommodation for any person(s) residing, or intending to reside, in the residential structure.
(e) Notwithstanding any other provision of this chapter, an accessory family dwelling unit in an owner-occupied, single-family residence shall be permitted as a reasonable accommodation for family members with disabilities or who are sixty-two (62) years of age or older. The appearance of the structure shall remain that of a single-family residence and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit. If possible, no additional exterior entrances should be added. Where additional entrance is required, placement should generally be in the rear or side of the structure. When the structure is serviced by an individual, sewage-disposal system, the applicant shall have the existing or any new system approved by the department of environmental management. The zoning-enforcement officer shall require that a declaration of the accessory family dwelling unit for the family member, or members, and its restrictions be recorded in the land-evidence records and filed with the zoning-enforcement officer and the building official. Once the family member, or members, with disabilities or who are sixty-two (62) years of age or older, no longer reside(s) in the premises on a permanent basis, or the title is transferred, the property owner shall notify the zoning official in writing, and the accessory family-dwelling unit shall no longer be permitted, unless there is a subsequent, valid application.
(f) When used in this section the terms "people with disabilities" or "member, or members, with disabilities" means a person(s) who has a physical or mental impairment that substantially limits one or more major life activities, as defined in § 42-87-1(7) of the general laws.
(g) Notwithstanding any other provisions of this chapter, plant agriculture is a permitted use within all zoning districts of a municipality, including all industrial and commercial zoning districts, except where prohibited for public health or safety reasons or the protection of wildlife habitat.

History of Section.
(P.L. 1991, ch. 307, § 1; P.L. 1996, ch. 213, § 1; P.L. 1998, ch. 360, § 1; P.L. 1999, ch. 83, § 128; P.L. 1999, ch. 130, § 128; P.L. 2008, ch. 172, § 1; P.L. 2008, ch. 176, § 1; P.L. 2011, ch. 282, § 1; P.L. 2011, ch. 401, § 1; P.L. 2012, ch. 342, § 1; P.L. 2016, ch. 503, § 1; P.L. 2016, ch. 520, § 1.)

TITLE 46 – WATERS and NAVIGATION

CHAPTER 46-15.1
Water Supply Facilities

§ 46-15.1-2 Board created – Appointment of members. – (a) There is hereby authorized, created and established a water resources board consisting of fifteen (15) members as follows:

(1) Eleven (11) members shall represent the public and shall be appointed by the governor with the advice and consent of the senate as herein provided;

(i) One of whom shall be a person who is actively engaged in the agricultural business, preferably an owner and/or operator of an agricultural business, with respect to which appointment the governor shall give due consideration to the recommendation of the Rhode Island Agricultural Council established pursuant to the provisions of chapter 3 of title 2;

(ii) One of whom shall be a representative of a conservation organization, with respect to which appointment the governor shall give due consideration to the recommendation of the Environment Council of Rhode Island;

(iii) One of whom shall be a professional with expertise in geology and/or hydrology;

(iv) One of whom shall be a professional with expertise in engineering with relevance to water supply;

(v) One of whom shall be a professional with expertise in financial planning and/or investment;

(vi) One of whom shall be a professional with expertise in land and/or watershed management;

(vii) One of whom shall be a representative of a public water system that withdraws more than one hundred thousand (100,000) gallons per day, primarily from a surface water supply;

(viii) One of whom shall be a representative of a public water system that withdraws more than one hundred thousand (100,000) gallons per day, primarily from a ground water supply;

(ix) One of whom shall be a representative of a water user that withdraws more than one hundred thousand (100,000) gallons per day; and

(x) Two (2) of whom shall be members of the general public.

(2) No person shall be eligible for appointment to the board unless he or she is a resident of this state. The remaining four (4) members are the director of environmental management, the director of the Rhode Island economic development corporation, the associate director of the division of planning within the department of administration, and the director of the department of health.

(3) Members shall serve until their successors are appointed and qualified and shall be eligible to succeed themselves. In the month of February in each year, the governor, with the advice and consent of the senate, shall appoint successors to the public members of the board whose terms shall expire in such year, to hold office commencing on the day they are qualified and until the first day of March in the third year after their respective appointments and until their respective successors are appointed and qualified.

(b) Those members of the board as of the effective date of this act shall continue to serve until their term expires or they resign, whether or not they meet the criteria set out in subsection (a);

(c) Any vacancy which may occur in the board for a public member shall be filled by the governor, with the advice and consent of the senate, for the remainder of the unexpired term in the manner as prescribed in (a) of this subsection. Each ex officio member of the board may designate a subordinate within his or her department to represent him or her at all meetings of the board.

(d) Members of the board shall be removable by the governor pursuant to § 36-1-7 of the general laws and for cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.

(e) The water resources board is designated to carry out the provisions of this chapter. In exercising its powers under this chapter, the board constitutes a body politic and corporate and a public instrumentality of the state having a distinct legal existence from the state and not constituting a department of the state government. The board may take action under this chapter at any meeting of the board. A member of the board who is affiliated with a public water system in Rhode Island, as provided in § 46-15-2, shall not thereby be disqualified from acting as a member of the board on a transaction under this chapter with a public water system. Upon the enactment of this chapter, and annually in the month of March thereafter, the board shall choose a treasurer to act as such under this chapter. The treasurer need not be a member of the board or of its staff and shall serve until his or her successor is chosen and takes office, unless sooner removed by the board with or without cause. In the event of a vacancy in the office of treasurer, the board shall fill the vacancy for the unexpired term.

(f) Nothing contained herein shall be construed as terminating or discontinuing the existence of the water resources board as it exists prior to July 1, 1993 for purposes of chapters 15.1, 15.2, and 15.3 of this title, and the water resources board created hereby shall be and shall be deemed to be a continuation of the water resources board as it existed prior to July 1, 1993 for the purposes enumerated in chapters 15.1, 15.2, and 15.3 of this title. Nothing contained herein shall affect the bonding or financing authority of the water

resources board as it exists prior to July 1, 1993 nor shall anything contained herein be construed as terminating, altering, discontinuing, or in any way impairing the bonding or financing power of the water resources board as it exists under chapters 15.1, 15.2, and 15.3 of this title prior to July 1, 1993.

History of Section.
(P.L. 1970, ch. 304, § 1; P.L. 1990, ch. 461, § 5; P.L. 1991, ch. 44, art. 19, § 1; P.L. 1999, ch. 461, § 2; P.L. 2001, ch. 180, § 154; P.L. 2001, ch. 216, § 1; P.L. 2006, ch. 104, § 2; P.L. 2006, ch. 126, § 2; P.L. 2007, ch. 340, § 49; P.L. 2009, ch. 288, § 7; P.L. 2009, ch. 341, § 7.)

CHAPTER 46-15.3
Public Drinking Water Supply System Protection

§ 46-15.3-4 Definitions. – As used in this chapter, the following words and phrases shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells, springs, or surface water.

(2) "Commercial agricultural producers" means purveyors of at least two thousand five hundred dollars ($2,500) of agricultural products during a calendar year.

(3) "Eligible expenditure" means the acquisition of a fee simple interest or of a conservation restriction, as that term is defined in § 34-39-2(a), or other interest in watershed lands, including, but not limited to, costs and expenses relating to the improvement of the lands or interests therein, maintenance of the lands or roads or interests therein, and taxes thereon, or the funding of the construction of physical improvements that directly protect the quality and safety of public drinking water supply. No funds under this section shall be used to extend service lines or expand system capacity.

(4) "Ground water" means water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt, and consolidated rock fractures. The zone of materials filled with groundwater is called the zone of saturation.

(5) "Ground water recharge" means the processes of addition of water to the zone of saturation, that zone beneath the water table.

(6) "Raw water" means water in its natural state prior to any treatment.

(7) "Recharge area" means an area in which water is absorbed that eventually reaches the zone of saturation.

(8) "Sale" means all retail sales of potable water to end users for any purpose in the ordinary course of business by a supplier, except for sales exempt pursuant to § 46-15.3-5(c), (d) and (e).

(9) "Source" means the raw water upon which a public water supply system abounds, and refers to both groundwater and surface water.

(10) "Supplier(s) of public drinking water" and "supplier(s)" mean any city, town, district, or other municipal, quasi municipal, or public or private corporation or company engaged in the sale of potable water and the water supply business in Rhode Island; provided, however, that only suppliers which withdraw water from wells, reservoirs, springs, or other original sources in potable quality shall be entitled to disbursements pursuant to § 46-15.3-11.

(11) "The fund" means the water quality protection funds as described in § 46-15.3-10.

(12) "Watersheds" means those land areas which, because of their topography, soil type, and drainage patterns, act as collectors of raw waters which replenish or regorge existing or planned public drinking water supplies.

(13) "Non-billed water" means the difference between water produced by a supplier and water sold by the same supplier.

(14) "Leakage" means the difference between non-billed water and the total of the estimated or measured allowances for fire fighting, meter inaccuracy, theft, system usage, main flushing, sewer cleaning, storm drain cleaning, and other allowances that may be developed by the water resources board.

History of Section.
(P.L. 1987, ch. 417, § 1; P.L. 1988, ch. 411, § 1; P.L. 1989, ch. 336, § 1; P.L. 1990, ch. 472, § 2; P.L. 1991,

ch. 40, § 1; P.L. 1992, ch. 468, § 2; P.L. 1993, ch. 25, § 1; P.L. 1996, ch. 404, § 38; P.L. 2009, ch. 288, § 8; P.L. 2009, ch. 341, § 8.)

§ 46-15.3-5 Water quality protection charge. – (a) There is hereby imposed on each supplier of water, for the purpose of protecting the quality and safety of the public supply of water, a charge to be known as a "water quality protection charge" based upon billings for sales of every supplier of public drinking water at the rate of two and ninety two hundredth cents ($.0292) per one hundred (100) gallons of each sale, whether the water is used for drinking or other purposes. No supplier shall impose a water quality protection charge upon sales to other suppliers of drinking water. Except as provided in subsections (c), (d) and (e) hereof, the supplier shall add any water quality protection charge imposed hereunder to the sale price, and, when added, the water quality protection charge shall constitute a part of the price and shall also be a debt from the purchaser to the supplier and be collectible in the same manner and have the benefit of any lien provided for the amounts due for water charges from the purchaser to the supplier. Provided, however, the water quality protection charge shall not be subject to the sales and use tax. Subject to the provisions of § 39-1.1-1 for those suppliers which are public utilities, all suppliers may terminate service for failure of purchasers to pay the water quality protection charge.

(b) Any water quality protection charge imposed hereunder shall not take effect earlier than January 1, 1989; provided, however, the increase in water quality protection charge by one and one-third cents ($0.01333) established by P.L. 1990, Ch. 65, Art. 39, § 1 shall take effect and be chargeable on all billings for water sales made by a supplier on and after July 1, 1991.

(c) Each supplier shall provide for the exemption from the water quality protection charge, for any sale to a purchaser sixty-five (65) years of age and over purchasing water for the personal consumption of that person and other members of the person's household under reasonable rules and regulations.

(d) All commercial agricultural producers, including those who provide food and fiber, shall be exempt for that amount of water used to irrigate commercial crops either in fields or greenhouses, provided, that the producers have a conservation plan on file with their respective soil conservation districts.

(e) No water quality protection charge shall be imposed on that portion of such supplier's retail billing representing potable water furnished to customers by purchase of water in its finished, potable form from sources outside the state. The water quality protection charge imposed by a supplier purchasing potable water from outside the state shall be pro rata imposed on such supplier's retail billings for that portion of potable water supplied from within the state in accordance with rules and regulations to be finally promulgated by the water resources board on or before September 1, 1992.

(f) If any supplier of water fails to pay the water quality protection charge imposed upon it, upon determination by the water resources board of failure to pay and the amount unpaid, there shall be withheld from any state aid or grants of any nature due such supplier an equivalent amount and such monies shall be transferred to the appropriate water quality protection fund created under § 46-15.3-10.

History of Section.
(P.L. 1987, ch. 417, § 1; P.L. 1988, ch. 411, § 1; P.L. 1989, ch. 323, § 1; P.L. 1989, ch. 336, § 1; P.L. 1990, ch. 65, art. 39, § 1; P.L. 1992, ch. 468, § 2; P.L. 1997, ch. 30, art. 24, § 1; P.L. 2002, ch. 65, art. 13, § 13.)

CHAPTER 46-15.7
Management of the Withdrawal and Use of the Waters of the State

§ 46-15.7-1 Legislative findings and declaration. – (a) The general assembly finds that:

(1) The constitution of the state of Rhode Island charges the general assembly with responsibility for the conservation of all natural resources, including water.

(2) The supply of fresh water available to the people of Rhode Island for use in their daily lives and to support agriculture, hydropower, indigenous wildlife and plant species, navigation, water-based recreation, wetlands, and other uses is finite and is not equally available or accessible throughout the state.

(3) A significant portion of the fresh water resource of the state is already being used to serve a variety of needs and purposes and the total volume and quality of the remaining fresh water resource of the state is subject to quantitative, qualitative, or geographic constraints on its availability or use.

(4) Allocation of the water resource of Rhode Island has thus far been accomplished on a random, first come, first served, or ad hoc basis with minimal or no consideration given to overall allocation of the resource so as to meet all present and foreseeable future needs.

(5) All of the data needed to properly manage the allocation and use of the water resource of the state are not available. The responsibility to provide essential data rests primarily upon those who withdraw and use the waters of the state.

(b) Therefore, the general assembly declares that:

(1) Management of the amounts, purposes, timing, locations, rates, and other characteristics of fresh water withdrawals from ground or surface waters is essential in order to protect the health, safety, and general welfare of the people of the state of Rhode Island, to promote the continued existence, diversity, and health of the state's native wildlife and plant species and communities, and the fair and equitable allocation of the water resource among users and uses, and to insure that long-range rather than short-range considerations remain uppermost.

(2) To support these objectives adequate data is essential to determine the capabilities of the state's water resources to support various uses and users and the quantities of water needed for these uses.

(3) This requirement shall be carried out by management of fresh water resources of the state based on long-range planning for and conservation of these resources; fairness, equitable distribution, and consideration for all human uses; matching the use of water with the quality of water necessary for each use, giving priority to those uses that require the highest quality water; maintenance of native aquatic and terrestrial animal and plant species, populations, and communities and statewide diversity; continued upholding of and improvement in the quality of the environment and especially of the water resources itself; and careful integration with all other social, economic, and environmental objectives, programs, and plans of the state.

(4) The water resources board is the state agency which manages the withdrawal and use of the waters of the state of Rhode Island.

(5) With regard to agriculture, it is a priority of the state to preserve agriculture; securing this state priority involves allocation of water resources in a manner that provides for agricultural sustainability while recognizing the importance of other water uses, and accordingly, in any program by which water withdrawals may be allocated by the board pursuant to its powers, including, but not limited to, powers set forth in chapters 15, 15.1, 15.3 and 15.7 of this title, the board shall give priority to commercial agricultural producers, as defined in § 46-15.3-4(2), that have adopted and implemented an agricultural water withdrawal management plan which has been approved by the department of environmental management, division of agriculture, consistent with duly adopted plans and estimates regarding the aggregated supply available from the affected water resource. In putting into effect the purposes of this subdivision, the board shall consider the reduction in water withdrawal that has resulted from the implementation of an agricultural water withdrawal management plan as a credit against any reduction in water withdrawal which would otherwise be required; and to the extent not inconsistent:

(i) With the board's obligations to assure drinking water supplies under chapter 15.3 of this title and water supplies for fire protection; and

(ii) With federal and state law, the board shall allow commercial agricultural producers to continue to irrigate commercial crops either in fields or greenhouses, notwithstanding a critical dry period.

History of Section.
(P.L. 1998, ch. 285, § 1; P.L. 1999, ch. 461, § 4; P.L. 2000, ch. 336, § 2.)

§ 46-15.7-2 Definitions. – The following words and phrases shall have the meanings stated herein when used in this chapter:

(1) "Board" means the Rhode Island water resources board created by chapter 15 of this title.

(2) "Person" means and is defined by § 46-13-2(2).

(3) "Safe yield" means a sustainable withdrawal that can be continuously supplied from a water source without adverse effects throughout a critical dry period with a one percent (1%) chance of occurrence, or one that is equivalent to the drought of record, whichever is worse.

(4) "Water source" means any location at which ground or surface water may be withdrawn for any purpose, including tidal waters, harbors, estuaries, rivers, brooks, watercourses, waterways, wells, springs, lakes, ponds, impoundments, diversion structures, wetlands, aquifers, recharge areas, and any others that are contained within, flow through, or border on this state or any portion thereof.

(5) "Water Supply System Management Plan" means a plan, which may be an element of a local comprehensive plan, adopted and approved in accordance with chapter 15.3 of this title.

(6) "Withdrawal" means taking of water from a water source for any purpose, regardless of the quantity or quality of the water taken or its eventual disposition including return to the same water source.

History of Section.
(P.L. 1998, ch. 285, § 1.)

§ 46-15.7-3 Functions of the water resources board. – Actions authorized or directed by this section must be taken in accordance with the Administrative Procedures Act, chapter 35 of title 42.

(1) The board shall adopt by rule standards and procedures for implementation of the requirements of this chapter that are consistent with applicable statutes.

(2) The board shall conduct a comprehensive and detailed inventory of the water resources of this state, and shall maintain the inventory on a current and valid basis.

(i) The purpose of this inventory shall be to establish the quantity of water existing in every water source, the quantity that is being used or is needed for every significant purpose, as listed in § 46-15.7-1(a)(2) preceding, and the quantity that is available to support other uses.

(ii) The board shall use data available from state and federal agencies, local governments, elements of the state guide plan, water supply system management plans, persons who withdraw water, and any other valid information that contributes to accomplishing the purpose of this chapter. It is the responsibility of each water user to provide data, or the best available estimates, on their water withdrawals.

(iii) The board shall gather any other information that will assist it in determining the capability of the state's water resource to support various uses and users, and the quantities of water being used to support these. All of the uses and users listed in § 46-15.7-1(a)(2) and any others that are relevant shall be included.

(3) The board shall identify any water source where existing uses and users are shown to have reached or threaten to approach or exceed the safe yield of that source.

History of Section.
(P.L. 1998, ch. 285, § 1.)

CHAPTER 46-15.8
Water Use and Efficiency Act

§ 46-15.8-1 Short title. – This act shall be known and may be cited as the "Water Use and Efficiency Act."

History of Section.
(P.L. 2009, ch. 288, § 3; P.L. 2009, ch. 341, § 3.)

§ 46-15.8-2 Legislative findings. – (a) The general assembly finds and declares that:

(1) Rhode Island is fortunate to have sufficient precipitation to meet Rhode Island's water needs, if that water is not wasted and if it is well and fairly managed. With scarcity of water a growing concern for many southern and western states, Rhode Island's adequate water supply can and should be an economic advantage for our state;

(2) Water is a renewable but a limited resource essential to the survival of all living things. The mission of the water supply profession is to provide a reliable supply of high quality water for the protection of public health, safety and welfare, and to ensure a sustainable balance between human and ecological water needs. Environmental stewardship and integrated water resource management, including land conservation, wetlands protection, and protecting the ecological integrity of water resources, are core values of the water supply profession and are essential to sustaining this mission;

(3) Efficient and equitable management of our shared water resources allows us to make water available to new economic development as well as meet existing water needs, both of which support our state's economic vitality and the quality of life of our communities;

(4) Good management allows us to provide water for necessary residential use as well as economic growth, at the same time that we preserve and protect the natural resources that make Rhode Island such an attractive place to live, and that support important economic activity that depends upon a healthy environment, such as fisheries, farming and tourism;

(5) Rhode Island is currently consuming large amounts of water for inefficient outdoor non-agricultural summer landscape irrigation.

(6) More efficient use of our shared water supply, especially by residential users, makes more water available for economic activity and for replenishment of stream flow, and is usually the most cost-effective and quickest way to maximize available water supply. Conservation must be a priority for successful water management.

(7) Rhode Island's water supply infrastructure must be maintained if it is to continue to supply the state with clean water sufficient to meet our needs; it is far cheaper to "pay as you go" than to defer infrastructure maintenance, which will result in it being far more expensive in the future.

(8) Municipalities should consider the water available for human use and likely water needs at build out in making planning decisions.

(9) The Rhode Island Water Resources Board, as an independent water supply agency, is vital to the success of this legislation and will provide necessary balance in working toward the sustainability of Rhode Island's water resources.

History of Section.
(P.L. 2009, ch. 288, § 3; P.L. 2009, ch. 341, § 3.)

§ 46-15.8-3 Purposes. – The purposes of this act are:

(a) To help assure reasonable, needed and adequate future water supplies by:

(1) Managing demand;

(2) Reinvesting in water supply infrastructure and water supply resources; and

(3) Protecting and preserving the health and ecological functioning of the water resources of the state.

(b) To strengthen water resources and supply planning by implementing, effectively and efficiently, water rates and water supply system management plans that are designed to achieve appropriate infrastructure reinvestment and demand management.

(c) To increase the efficient and effective administration of government responsibilities by establishing municipal water departments, boards, and authorities as self-sustaining enterprise funds.

History of Section.
(P.L. 2009, ch. 288, § 3; P.L. 2009, ch. 341, § 3.)

§ 46-15.8-4 Duties of water suppliers. – All public drinking water supply systems that are subject to the requirements of section 46-15.3-5.1 shall have a duty:

(1) To manage demand to assure the long-term viability of water resources and water supply, to provide for strategic, prudent, reasonable and necessary use of water supplies, to control and/or curtail water use during periods of diminished water supply availability including droughts; to take such actions as may be necessary to achieve compliance by wholesale and retail customers with requirements for demand management; and

(2) To maintain fiscal integrity and adequate capacity by establishing and maintaining such revenue stabilization funds, operating reserves, debt service reserves, and infrastructure replacement and capital improvement program funds as are necessary; and to institute by December 31, 2013 billing at least as frequently as quarterly.

History of Section.
(P.L. 2009, ch. 288, § 3; P.L. 2009, ch. 341, § 3.)

§ 46-15.8-5 Duties of state agencies. – In order to accomplish the purposes of this chapter:

(1) The water resources board shall establish and maintain no later than July 31, 2010 targets for non-agricultural demand management and water use, and for non-billed water which shall include the goal of reducing leakage to no more than ten percent (10%) of water supplies in public water supplies subject to the provisions of section 46-15.3-5.1;

(2) The statewide planning program shall incorporate, by July 1, 2011, such amendments as may be necessary into state guide plan elements to require:

(i) The use of water availability estimates developed by the water resources board and the department of environmental management and other relevant information sources in local comprehensive plan elements and the review of major land development and subdivision reviews;

(ii) The incorporation of the executive summaries of the water supply system management plans, as appropriate, into the services and facilities element and the land use element of local comprehensive plans;

(3) The public utilities commission shall assure, in accordance with provisions of chapter 39-15.1, that the rates of water suppliers subject to its jurisdiction are adequate to implement capital improvement plans, water supply system management plans, and demand management plans and to cover system costs when revenues decline as a result of decreased demand.

(4) State agencies need to become advocates for positive solutions by removing overlapping and burdensome planning and regulatory requirements.

History of Section.
(P.L. 2009, ch. 288, § 3; P.L. 2009, ch. 341, § 3.)

TITLE 45 – WEIGHTS and MEASURES

CHAPTER 47-4
Standard Measures

§ 47-4-1 Dimensions of bushel and half bushel boxes – Marking. – *(a) Dimensions.* A box which shall measure on the inside thereof seventeen and one-half inches (17 1/2") by seventeen and one-half inches (17 1/2") in length and width, and which on the inside thereof shall measure seven and one-sixteenth inches (7

1/16") in depth, measured from the highest part of the bottom thereof, is hereby declared to be a legal bushel box for the sale of farm produce. A box which shall measure on the inside thereof thirteen by thirteen inches (13" s 13") in length and width and which on the inside thereof shall measure six and one-sixteenth inches (6 1/16") in depth, measured from the highest part of the bottom thereof, is hereby declared to be a legal half bushel box for the sale of farm produce.

(b) Marking. All bushel boxes of the dimensions specified by this section shall be marked in letters not less than one inch in height with the words "standard bushel for farm produce" . All half bushel boxes of the dimensions specified by this section shall be marked in letters not less than one inch in height with the words "standard half bushel for farm produce" .

History of Section.
(G.L. 1909, ch. 194, § 27; P.L. 1916, ch. 1387, § 1; G.L. 1923, ch. 221, § 27; G.L. 1938, ch. 407, § 24; G.L. 1956, § 47-4-1; P.L. 2007, ch. 340, § 66.)

§ 47-4-2 Weights of bushels, barrels, and tons of specific commodities. – The legal weights of certain commodities in the state of Rhode Island shall be as follows:

(1) A bushel of apples shall weigh forty-eight pounds (48 lbs.).
(2) A bushel of apples, dried, shall weigh twenty-five pounds (25 lbs.).
(3) A bushel of apple seed shall weigh forty pounds (40 lbs.).
(4) A bushel of barley shall weigh forty-eight pounds (48 lbs.).
(5) A bushel of beans shall weigh sixty pounds (60 lbs.).
(6) A bushel of beans, castor, shall weigh forty-six pounds (46 lbs.).
(7) A bushel of beets shall weigh fifty pounds (50 lbs.).
(8) A bushel of bran shall weigh twenty pounds (20 lbs.).
(9) A bushel of buckwheat shall weigh forty-eight pounds (48 lbs.).
(10) A bushel of carrots shall weigh fifty pounds (50 lbs.).
(11) A bushel of charcoal shall weigh twenty pounds (20 lbs.).
(12) A bushel of clover seed shall weigh sixty pounds (60 lbs.).
(13) A bushel of coal shall weigh eighty pounds (80 lbs.).
(14) A bushel of coke shall weigh forty pounds (40 lbs.).
(15) A bushel of corn, shelled, shall weigh fifty-six pounds (56 lbs.).
(16) A bushel of corn, in the ear, shall weigh seventy pounds (70 lbs.).
(17) A bushel of corn meal shall weigh fifty pounds (50 lbs.).
(18) A bushel of cotton seed, upland, shall weigh thirty pounds (30 lbs.).
(19) A bushel of cotton seed, Sea Island, shall weigh forty-four pounds (44 lbs.).
(20) A bushel of flax seed shall weigh fifty-six pounds (56 lbs.).
(21) A bushel of hemp shall weigh forty-four pounds (44 lbs.).
(22) A bushel of Hungarian seed shall weigh fifty pounds (50 lbs.).
(23) A bushel of lime shall weigh seventy pounds (70 lbs.).
(24) A bushel of malt shall weigh thirty-eight pounds (38 lbs.).
(25) A bushel of millet seed shall weigh fifty pounds (50 lbs.).
(26) A bushel of oats shall weigh thirty-two pounds (32 lbs.).
(27) A bushel of onions shall weigh fifty pounds (50 lbs.).
(28) A bushel of parsnips shall weigh fifty pounds (50 lbs.).
(29) A bushel of peaches shall weigh forty-eight pounds (48 lbs.).
(30) A bushel of peaches, dried, shall weigh thirty-three pounds (33 lbs.).
(31) A bushel of peas shall weigh sixty pounds (60 lbs.).
(32) A bushel of peas, split, shall weigh sixty pounds (60 lbs.).
(33) A bushel of potatoes shall weigh sixty pounds (60 lbs.).
(34) A bushel of potatoes, sweet, shall weigh fifty-four pounds (54 lbs.).
(35) A bushel of rye shall weigh fifty-six pounds (56 lbs.).
(36) A bushel of rye meal shall weigh fifty pounds (50 lbs.).
(37) A bushel of salt, fine, shall weigh fifty pounds (50 lbs.).

(38) A bushel of salt, coarse, shall weigh seventy pounds (70 lbs.).
(39) A bushel of timothy seed shall weigh forty-five pounds (45 lbs.).
(40) A bushel of shorts shall weigh twenty pounds (20 lbs.).
(41) A bushel of tomatoes shall weigh fifty-six pounds (56 lbs.).
(42) A bushel of turnips shall weigh fifty pounds (50 lbs.).
(43) A bushel of wheat shall weigh sixty pounds (60 lbs.).
(44) A barrel of flour shall contain one hundred ninety-six pounds (196 lbs.).
(45) A ton of coal, net, shall weigh two thousand pounds (2,000 lbs.).
(46) A ton of coal, gross, shall weigh two thousand two hundred forty pounds (2,240 lbs.).

History of Section.
(P.L. 1900, ch. 758, § 1; G.L. 1909, ch. 194, § 25; G.L. 1923, ch. 221, § 25; G.L. 1938, ch. 407, § 22; G.L. 1956, § 47-4-2.)

CHAPTER 47-6
Hay Scales and Platform Balances

§ 47-6-1 Periodical testing and sealing. – Every person who shall keep hay scales or platform balances for public use shall cause the hay scales or platform balances to be tried and sealed at least once in six (6) months by a sworn sealer of weights and measures.

History of Section.
(G.L. 1896, ch. 167, § 18; G.L. 1909, ch. 194, § 18; G.L. 1923, ch. 221, § 18; G.L. 1938, ch. 407, § 17; G.L. 1956, § 47-6-1.)

§ 47-6-2 Use of unsealed scales. – Every person who shall keep hay scales or platform balances for public use, or shall weigh or suffer to be weighed in these scales or balances any article of merchandise, unless the scales or balances shall have been tried and sealed as provided in § 47-6-1, shall be fined one hundred dollars ($100).

History of Section.
(G.L. 1896, ch. 167, § 19; G.L. 1909, ch. 194, § 19; G.L. 1923, ch. 221, § 19; G.L. 1938, ch. 407, § 18; G.L. 1956, § 47-6-2.)

§ 47-6-3 Testing when office of sealer is vacant. – Whenever the owner or keeper of hay scales or balances shall apply to the mayor of the city or president of the town council, as the case may be, or to any person by him or her appointed for that purpose, in any town or city in which the office of sealer of weights and measures shall from any cause be vacant, to try the scales or balances, and to seal the scales or balances if found correct, the mayor, president, or person so appointed shall try the scales or balances and seal the scales or balances if found correct; and in case of his or her neglect to do so, the owner or keeper shall be exempt from the fine prescribed in § 47-6-2.

History of Section.
(G.L. 1896, ch. 167, § 20; G.L. 1909, ch. 194, § 20; G.L. 1923, ch. 221, § 20; G.L. 1938, ch. 407, § 19; G.L. 1956, § 47-6-3.)

CHAPTER 47-14
Hay and Straw

§ 47-14-1 Weighing and marking of bundles. – Before any hay or straw pressed into bundles shall be delivered to any purchaser within the state, the bundles shall be weighed by some town weigher, and the tare for wood and other bindings about the bundles, as nearly as they can be ascertained without unbinding

the same, shall be deducted therefrom, and the gross weight of the bundle with the tare ascertained as aforesaid, and the weight of the hay or straw therein shall, in legible figures with the initials of the weigher, be marked upon some board or wood attached to each bundle of hay or straw.

History of Section.
(G.L. 1896, ch. 153, § 1; G.L. 1909, ch. 179, § 1; G.L. 1923, ch. 209, § 1; G.L. 1938, ch. 413, § 1; G.L. 1956, § 47-14-1.)

§ 47-14-2 Concealment of wet, damaged, or inferior hay or straw. – Every person who shall put into or conceal in any bundle of hay or straw any wet or damaged hay or other material or hay of an inferior quality to that which plainly appears upon the outside of the bundle, or who knowingly offers for sale or sells any bundle as merchantable in which there is concealed any wet, damaged, or inferior hay or other materials shall be deemed guilty of a misdemeanor.

History of Section.
(G.L. 1896, ch. 153, § 2; G.L. 1909, ch. 179, § 2; G.L. 1923, ch. 209, § 2; G.L. 1938, ch. 413, § 2; G.L. 1956, § 47-14-2.)

§ 47-14-3 Penalty for violations – Sale for consumption or by weight. – Every person violating any of the provisions of this chapter shall be fined twenty dollars ($20.00) and forfeit one hundred dollars ($100), one-half (1/2) thereof to the use of the town and one-half (1/2) thereof to the use of the person who shall sue for the same. But nothing herein contained shall be so construed as to apply to the sale of hay and straw sold by the producer thereof for consumption and not to be resold, nor to prevent the purchase of commodities by a standard weight expressly agreed on by the parties.

History of Section.
(G.L. 1896, ch. 153, § 3; G.L. 1909, ch. 179, § 3; G.L. 1923, ch. 209, § 3; G.L. 1938, ch. 413, § 3; G.L. 1956, § 47-14-3.)

CHAPTER 47-15
Containers

§ 47-15-10 Statements of weight and measure. – (a) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches, quart, pint, and fluid ounce, and, with the exception of liquid petroleum products, shall express the volume at 68° Fahrenheit (20° Centigrade), provided, that refrigerated commodities shall express the volume at the temperature at which the product is kept or offered for sale. A statement of dry measure shall be in terms of the United States bushel of 2,150.42 cubic inches, peck, dry quart, and dry pint. A statement of linear measure shall be in terms of the standard yard, foot, and inch. In lieu thereof, a statement of weight or measure may be in terms of the metric system. A statement of numerical count shall be expressed either in English words or Arabic numerals.

(b) Nothing in this chapter shall prohibit expressing content statements in terms of the decimal system.

(c) In addition to the quantity statements permitted by this section, liquid commodities may also be sold in containers marked one-half (1/2) gallon, one-half (1/2) pint, or one-quarter (1/4) pint. Fluid dairy products may be tested by a weights and measures official on the basis of weight as prescribed by regulations of the director.

(d) In no case shall a declaration of quantity be qualified by the addition of the words, "when packed" or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term (such as jumbo, giant, full, or the like) that tends to exaggerate the amount of the commodity in the container.

History of Section.
(P.L. 1966, ch. 165, § 1.)