

Agriculture and Forestry



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SECTION 2-1-5

§ 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.)

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§ 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.

History of Section.

(G.L. 1896, ch. 99, § 7; G.L. 1909, ch. 120, § 7; G.L. 1923, ch. 241, § 7; G.L. 1938, ch. 201, § 5; impl. am. P.L. 1951, ch. 2686, § 1; impl. am. P.L. 1951, ch. 2727, art. 1, § 2; G.L. 1956, § 2-1-6.)

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SECTION 2-1-8

§ 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.)

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SECTION 2-1-9

§ 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.)

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SECTION 2-1-10

§ 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.)

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SECTION 2-1-11

§ 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.)

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SECTION 2-1-12

§ 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.

History of Section.

(G.L. 1923, ch. 241, § 39, as enacted by P.L. 1928, ch. 1181, § 2; G.L. 1938, ch. 209, § 6; G.L. 1956, § 2-1-12.)

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SECTION 2-1-18

§ 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.)

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SECTION 2-1-19

§ 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.)

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SECTION 2-1-20.1

§ 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.)

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SECTION 2-1-20.2

§ 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.)

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SECTION 2-1-20.3

§ 2-1-20.3. Inspection – Penalty.

(a) The director is authorized to enter, examine, or survey, at any reasonable time, any places that he or she considers necessary to carry out his or her responsibilities under §§ 2-1-18 – 2-1-24 without a warrant.

(b) Any person who willfully impedes or obstructs an inspection, examination, or survey by the director or the director's agents shall, upon conviction, be punished by a fine not exceeding one hundred dollars (\$100), or by imprisonment not exceeding thirty (30) days, or both.

History of Section.

(G.L. 1956, § 2-1-20.3; P.L. 1974, ch. 197, § 1.)

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SECTION 2-1-20

§ 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 (*Picea 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 (Sparganiaceae), pondweeds (Zosteraceae), frog's bits (Hydrocharitaceae), arums (Araceae), duckweeds (Lemnaceae), water lilies (Nymphaeaceae), water-milfoils (Haloragaceae), water-starworts (Callitricheae), 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 (*Fraxinus*), poison sumac (*Rhus vernix*), larch (*Larix laricina*), spice bush (*Lindera benzoin*), alders (*Alnus*), skunk cabbage (*Symplocarpus foetidus*), hellebore (*Veratrum viride*), hemlock (*Thuja canadensis*), sphagnum (*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 sylvatica*), laurels (*Kalmia*), swamp white oak (*Quercus bicolor*), 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.)

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SECTION 2-1-21

§ 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.)

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SECTION 2-1-22

§ 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 freshwater wetland, buffer, or floodplain 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 the borders of which the project lies that 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 or that 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 the investigations, 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 freshwater 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 ensure that adverse effects to the flow and circulation patterns and chemical and biological characteristics of freshwater wetlands are minimized and that any adverse effects on the aquatic environment are minimized and will not result in a significant alteration to the freshwater 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. In making such a determination, the division of agriculture shall consider the proposed activity on a case-by-case basis, relative to the characteristics of the particular jurisdictional area in which the activity is proposed, and shall consider whether the activity incorporates best farm management practices and ensures that adverse effects to the flow and circulation patterns and chemical and biological characteristics of freshwater wetlands, buffers, and floodplains are minimized and that any adverse effects on the aquatic environment are minimized in each instance.

(4) Except as otherwise provided for farm road construction, filling of freshwater 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.

(k) For the purposes of this section as applicable to normal farming and ranching activities specified in §§ 2-1-22(i)(1) and (i)(2) above, freshwater wetlands shall be defined as: freshwater wetlands, floodplains, areas subject to storm flowage, areas subject to flooding as defined in § 2-1-20 and the land area within two hundred feet (200') of a flowing body of water having a width of ten feet (10') or more during normal flow; the area of land within one hundred feet (100') of a flowing body of water having a width of less than ten feet (10') during normal flow; and the area of land within fifty feet (50') of a bog, marsh of one acre or greater, swamp of three (3) acres or greater and pond not less than

one quarter ($1/4$) acre in extent. These areas shall also serve as the jurisdictional area.

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; P.L. 2015, ch. 218, § 1.)

TITLE 2

Agriculture and Forestry

CHAPTER 2-1

Agricultural Functions of Department of Environmental Management

PART 2-1-18

Freshwater Wetlands

SECTION 2-1-23

§ 2-1-23. Violations.

In the event of a violation of § 2-1-21, the director of environmental management has the power to order complete restoration of the freshwater wetland, buffer, floodplain, or other jurisdictional area involved by the person or agent responsible for the violation. If the responsible person or agent does not complete the restoration within a reasonable time following the order of the director of the department of environmental management, the director has the authority to order the work done by an agent of the director's choosing and the person or agent responsible for the original violation is liable for the cost of the restoration. The violator is liable for a fine not exceeding five thousand dollars (\$5,000) for each violation, except that if the violator knowingly or recklessly alters a freshwater wetland, buffer, floodplain or other jurisdictional area without a permit or approval from the director; knowingly or recklessly alters a freshwater wetland, buffer, floodplain or other jurisdictional area in violation of the rules or regulations promulgated by the director; or alters a freshwater wetland, buffer, floodplain or other jurisdictional area in violation of a permit issued by the director, then the violator is liable for a fine not exceeding ten thousand dollars (\$10,000) for each violation.

History of Section.

(G.L. 1956, § 2-1-23; P.L. 1974, ch. 197, § 2; P.L. 2004, ch. 429, § 1; P.L. 2015, ch. 218, § 1.)

TITLE 2

Agriculture and Forestry

CHAPTER 2-1

Agricultural Functions of Department of Environmental Management

PART 2-1-18

Freshwater Wetlands

SECTION 2-1-24

§ 2-1-24. Notice to cease operation and relief in equity – Penalty.

(a) Whenever any person, firm, industry, company, corporation, city, town, municipal or state agency, fire, district, club, or other individual or group commences any activity set forth in § 2-1-21 without first having obtained the approval of the director, or violates any rule or regulation of the director, the director has the power by written notice to order the violator to cease and desist immediately and/or restore the freshwater wetlands, buffers, floodplains, or other jurisdictional areas to their original state insofar as possible. Any order or notice to restore freshwater wetlands, buffers, floodplains, or other jurisdictional areas is eligible for recordation under chapter 13 of title 34 and shall be recorded in the land evidence records in the city or town where the property subject to the notice is located and any subsequent transferee of the property is responsible for complying with the requirements of the order or notice. If the violator and/or subsequent transferee is ordered to restore the freshwater wetlands, buffer, floodplain, or other jurisdictional area to the original state, and the violator and/or subsequent transferee does not complete the restoration within a reasonable time following the order of the director, the director has the authority to order the work done by an agent of the director's choosing, and the person, agent, or subsequent transferee is liable for the cost of the restoration. If the violator and/or subsequent transferee does not conform to the director's order, the director may bring prosecution by complaint and warrant and the prosecution shall be made in the district court of the state. The director, without being required to enter into any recognizance or to give surety for cost, may institute the proceedings in the name of the state. It is the duty of the attorney general to conduct the prosecution of all proceedings brought by the director.

(b) The director may obtain relief in equity or by prerogative writ whenever relief is necessary for the proper performance of duties under §§ 2-1-18 – 2-1-27.

(c) Any person who violates an order of the director shall be punished by a fine not exceeding five hundred dollars (\$500), or by imprisonment not exceeding thirty (30) days, or by both, and every person is deemed guilty of a separate and distinct offense for each day during which the violation is repeated or continued.

(d) [Deleted by P.L. 2015, ch. 218, § 1].

History of Section.

(P.L. 1971, ch. 213, § 1; P.L. 1974, ch. 197, § 2; P.L. 1976, ch. 89, § 1; P.L. 1977, ch. 116, § 1; P.L. 1980, ch. 406, § 10; P.L. 1988, ch. 231, § 1; P.L. 2015, ch. 218, § 1.)

TITLE 2

Agriculture and Forestry

CHAPTER 2-1

Agricultural Functions of Department of Environmental Management

PART 2-1-25

Severability

SECTION 2-1-25

§ 2-1-25. Severability.

If any provision of §§ 2-1-20 – 2-1-28, or of any rule, regulation, or determination made under these sections, or the application of these sections to any person, agency, or circumstances, is held invalid by a court of competent jurisdiction, the remainder of §§ 2-1-20 – 2-1-28, or the rule, regulation, or determination, and the application of those provisions to other persons, agencies, or circumstances, shall not be affected. The invalidity of any section or sections or parts of any section or sections of §§ 2-1-20 – 2-1-28 shall not affect the validity of the remainder of §§ 2-1-20 – 2-1-28.

History of Section.

(G.L. 1956, § 2-1-25; P.L. 1974, ch. 197, § 5; P.L. 2015, ch. 218, § 1.)

TITLE 2

Agriculture and Forestry

CHAPTER 2-1

Agricultural Functions of Department of Environmental Management

PART 2-1-25

Severability

SECTION 2-1-27

§ 2-1-27. Access to information on freshwater wetland applications.

The directors of the department and the coastal resources management council shall establish procedures that will provide municipalities and the public with access to information concerning freshwater wetland permit applications filed with the state. Procedures shall be designed to facilitate municipal input during the permit application review process and shall, to the extent feasible, utilize information technology to automate making information available in a timely manner. Procedures to facilitate local input shall be established and implemented in a manner that avoids introducing delay in issuance of permit decisions.

History of Section.
(P.L. 2015, ch. 218, § 2.)

Agriculture and Forestry

CHAPTER 2-1 Agricultural Functions of Department of Environmental Management

PART 2-1-25 Severability

SECTION 2-1-28

§ 2-1-28. Effect on zoning ordinances.

Local zoning ordinances and regulations that are inconsistent with this chapter shall be amended to conform to the requirements of § 45-24-30.

History of Section.
(P.L. 2015, ch. 218, § 2.)