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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO WATERS AND NAVIGATION

Introduced By: Representatives Ucci, Corvese, Winfield, Costantino, and Lally

Date Introduced: May 07, 2014

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 46-12-3 of the General Laws in Chapter 46-12 entitled "Water
2 Pollution" is hereby amended to read as follows:

3 **46-12-3. Powers and duties of the director.** -- In addition to the other powers granted
4 the director of the department of environmental management herein, the director shall have and
5 may exercise the following powers and duties:

6 (1) To exercise general supervision of the administration and enforcement of this
7 chapter, and all rules and regulations and orders promulgated hereunder;

8 (2) To develop comprehensive programs for the prevention, control, and abatement of
9 new or existing pollution of the waters of this state;

10 (3) To advise, consult, and cooperate with other agencies of the state, the federal
11 government, other states, and interstate agencies and with affected groups, political subdivisions,
12 and industries in the furtherance of the purposes of this chapter;

13 (4) To accept and administer loans and grants from the federal government and from
14 other sources, public or private, for the carrying out of any of its functions, which loans and
15 grants shall not be expended for other than the purposes for which provided;

16 (5) To encourage, participate in, or conduct studies, investigations, research, and
17 demonstrations relating to water pollution and its causes, prevention, control, and abatement
18 thereof, as he or she may deem advisable and necessary for the discharge of his or her duties
19 under this chapter;

- 1 (6) To collect and disseminate information relating to water pollution and the prevention,
2 control, and abatement thereof;
- 3 (7) Except as otherwise provided in subdivision (24) below, to promulgate standards of
4 water quality and to classify the waters of the state accordingly;
- 5 (8) To administer state grants to municipalities and political subdivisions for the
6 construction of sewage treatment works;
- 7 (9) To hold hearings, to issue notices of hearings and subpoenas requiring the attendance
8 of witnesses and the production of evidence, and to administer oaths and to take testimony, that
9 he or she may deem necessary;
- 10 (10) To approve, pursuant to standards adopted by the environmental standards board,
11 the construction, modification, and operation of discharge systems or any parts thereof, and to
12 require the prior submission of plans, specifications, and other data relative to discharge systems
13 and to require that the plans, specifications, or other data be certified by a professional engineer
14 registered in Rhode Island, and to inspect the systems either under construction or in operation;
- 15 (11) To issue a permit for the discharge of any pollutant or combination of pollutants or
16 to issue a general permit authorizing a category of discharges within a geographical area upon
17 conditions as may be necessary to carry out the purposes of this chapter and of the Clean Water
18 Act, 33 U.S.C. section 1251 et seq., which may include, but not be limited to, providing for
19 specific effluent limitations and levels of treatment technology, monitoring, recording, and
20 reporting standards, or to deny a permit or general permit;
- 21 (12) To renew, revoke, modify, or suspend in whole or in part any permit, order, or
22 schedule of compliance pursuant to the provisions of this chapter, and any rules and regulations
23 promulgated thereunder;
- 24 (13) To approve the discharge of pollutants into the waters of this state pursuant to all
25 applicable standards;
- 26 (14) To require publicly owned treatment works to adopt and implement requirements
27 regarding the pretreatment of pollutants consistent with existing federal requirements, and to
28 require compliance by all persons with pretreatment requirements;
- 29 (15) To issue such orders as may be necessary to prevent the unauthorized construction,
30 modification, or operation of discharge systems and the discharge of pollutants into the waters of
31 this state;
- 32 (16) To require proper maintenance and operation of discharge systems;
- 33 (17) To consult the advisory council on environmental affairs on the policies and plans
34 for the control and abatement of pollution;

1 (18) To make, issue, amend, and revoke reasonable rules and regulations for the
2 prevention, control, and abatement of pollution and the enforcement of orders issued hereunder,
3 including public notice and comment requirements;

4 (19) To exercise all incidental powers necessary to carry out the purposes of this chapter;

5 (20) To approve the operation of treatment facilities, pursuant to the provisions of
6 chapters 3, 11, and 18 of title 44;

7 (21) To promulgate and enforce rules and regulations to govern the location, design,
8 construction, maintenance, and operation of underground storage facilities used for storing
9 petroleum products or hazardous materials to prevent, abate, and remedy the discharge of
10 petroleum products and hazardous materials into the waters of the state; provided that all
11 underground storage tanks and associated piping installed after September 1, 1991 shall provide
12 for secondary containment in a manner approved by the director; and provided, that single-walled
13 tanks and/or piping installed prior to ~~May 8, 1985~~ [May 8, 1988](#) shall be permitted to remain in
14 use until ~~December 22, 2017~~ [December 22, 2020](#) and single-walled tanks and/or piping installed
15 between ~~May 8, 1985~~ [May 9, 1988](#) and July 20, 1992 shall be permitted to remain in use for
16 thirty-two (32) years from the date of installation if the owner/operator of the single-walled tank
17 or piping performs an annual facility compliance inspection to ensure structural integrity; and
18 provided, further, that the installation of underground storage tanks is prohibited at sites located
19 within wellhead protection areas for community water supply wells as designated by the director
20 and consistent with chapter 46-13.1. This prohibition shall not apply to the replacement or
21 upgrading of existing underground storage tanks installed prior to July 1, 1991, provided that
22 such activity take place in accordance with all applicable state and federal regulations. The
23 department of environmental management shall by January 1, 2011 develop recommendations for
24 phasing out the stage II vapor recovery program with the required removal of single-walled
25 underground storage tanks in order to achieve the objectives of both program efforts in a cost
26 effective and efficient manner. The department of environmental management shall report its
27 findings to the chair of the house committee on environment and natural resources and to the
28 chair of the senate committee on environment and agriculture on or before January 1, 2011;

29 (22) To promulgate and enforce rules and regulations to govern the installation,
30 construction, operation, and abandonment of monitoring wells;

31 (23) To promulgate and enforce rules and regulations to govern the location, design,
32 installation, operation and maintenance of subsurface disposal systems which receive the
33 discharge of pollutants and of subsurface containment systems, including underground storage
34 tanks, used to contain or control the discharge of pollutants below the ground surface.

1 (24) In connection with the dredging and transportation and disposal of dredge material,
2 to promulgate and adopt water quality standards that conform with the federal Environmental
3 Protection Agency's applicable water quality rules and regulations and guidelines, including, but
4 not limited to, the federal Environmental Protection Agency's rules and regulations and guidelines
5 for deviating from said standards. The department of environmental management shall also apply
6 the applicable standards and guidelines and adopt the procedures as set forth in the manual
7 identified as "Evaluation of Dredge Material for Purpose of Ocean Disposal. Testing Manual Put
8 Together by EPA and Army Corps of Engineers in February, 1991" and any amendments or
9 supplements or successor manuals thereto to the extent that the same are relevant to dredging,
10 transportation and/or disposal of dredge materials in tidal waters or any documents or manuals
11 approved by the federal Environmental Protection Agency relating to dredging, transportation
12 and/or disposal of dredge materials; and

13 (25) To prepare and to submit to the governor, the speaker of the house, the president of
14 the senate, the chairperson of the house committee on environment and natural resources and the
15 chairperson of the senate committee on environment and agriculture, not later than February 1,
16 2005, a plan, including an implementation program with cost estimates, recommended sources of
17 funding, measurable goals, objectives, and targets and limitations for nutrient introduction into
18 the waters of the state, for the purposes of: (i) managing nutrient loadings and the effects of
19 nutrients in the waters of the state; and (ii) preventing and eliminating conditions of
20 eutrophication.

21 SECTION 2. Section 46-12.9-8 of the General Laws in Chapter 46-12.9 entitled "Rhode
22 Island Underground Storage Tank Financial Responsibility Act" is hereby amended to read as
23 follows:

24 **46-12.9-8. Review board.** -- (a) There is hereby authorized, created and established the
25 "underground storage tank review board," to approve, modify, or deny disbursements to eligible
26 parties and to have such other powers as are provided herein.

27 (b) The review board shall consist of nine (9) members, as follows: the director of the
28 department of environmental management or his or her designee who shall be a subordinate
29 within the department of environmental management. The governor, with the advice and consent
30 of the senate, shall appoint eight (8) public members one of whom shall have expertise and
31 experience in financial matters. In making these appointments the governor shall give due
32 consideration to recommendations from the American Petroleum Institute, the Independent Oil
33 Marketers Association, the Oil Heat Institute, the Environment Council, the Independent Oil
34 Dealers Association and the Rhode Island Marine Trade Association. The newly appointed

1 members will serve for a term of three (3) years commencing on the day they are qualified. Any
2 vacancy which may occur on the board shall be filled by the governor, with the advice and
3 consent of the senate, for the remainder of the unexpired term in the same manner as the
4 member's predecessor as prescribed in this section. The members of the board shall be eligible to
5 succeed themselves. Members shall serve until their successors are appointed and qualified. No
6 one shall be eligible for appointment unless he or she is a resident of this state. The members of
7 the board shall serve without compensation. Those members of the board as of the effective date
8 of this act [July 15, 2005]who were appointed to the board by members of the general assembly
9 shall cease to be members of the board on the effective date of this act, and the governor shall
10 thereupon nominate three (3) members, each of whom shall serve the balance of the unexpired
11 term of his or her predecessor. Those members of the board as of the effective date of this act
12 [July 15, 2005]who were appointed to the board by the governor shall continue to serve the
13 balance of their current terms. Thereafter, the appointments shall be made by the governor as
14 prescribed in this section.

15 (c) When claims are pending, the review board shall meet at the call of the chair. All
16 meetings shall be held consistent with chapter 46 of title 42.

17 (d) The review board and its corporate existence shall continue until terminated by law.
18 Upon termination of the existence of the review board, all its rights and properties shall pass to
19 and be vested in the state.

20 (e) The review board shall have the following powers and duties, together with all
21 powers incidental thereto or necessary for the performance of those stated in this chapter:

22 (1) To elect or appoint officers and agents of the review board, and to define their duties:

23 (2) To make and alter bylaws, not inconsistent with this chapter, for the administration of
24 the affairs of the review board. Such bylaws may contain provisions indemnifying any person
25 who is or was a director or a member of the review board, in the manner and to the extent
26 provided in section 7-6-6 of the Rhode Island nonprofit corporation act;

27 (3) To approve and submit an annual report within ninety (90) days after the end of each
28 fiscal year to the governor, the speaker of the house of representatives, the president of the senate,
29 and the secretary of state, of its activities during that fiscal year. The report shall provide: an
30 operating statement summarizing meetings or hearings held, including meeting minutes, subjects
31 addressed, and decisions rendered; a summary of the review board's actions, fees levied, collected
32 or received as prescribed in sections 46-12.9-7 and 46-12.9-11, claims submitted, verified,
33 approved, modified, and denied as prescribed in section 46-12.9-7, and reconsideration hearings
34 held as prescribed in section 46-12.9-9; a synopsis of any law suits or other legal matters related

1 to the authority of the review board; and a summary of performance during the previous fiscal
2 year including accomplishments, shortcomings and remedies; a briefing on anticipated activities
3 in the upcoming fiscal year; and findings and recommendations for improvements; and a
4 summary of any training courses held pursuant to subdivision (f)(15) of this section. The report
5 shall be posted electronically as prescribed in section 42-20-8.2.

6 (4) To conduct a training course for newly appointed and qualified members and new
7 designees of ex-officio members within six (6) months of their qualification or designation. The
8 course shall be developed by the executive director, approved by the board, and conducted by the
9 executive director. The board may approve the use of any board or staff members or other
10 individuals to assist with training. The training course shall include instruction in the following
11 areas: the provisions of chapters 46-12.9, 42-46, 36-14, and 38-2; and the boards rules and
12 regulations. The director of the department of administration shall, within ninety (90) days of the
13 effective date of this act [July 15, 2005] prepare and disseminate training materials relating to the
14 provisions of chapters 36-14, 38-2, and 42-46.

15 (f) Upon the passage of this act and the appointment and qualification of the three (3)
16 new members prescribed in subsection (b) of this section, the board shall elect from among its
17 members a chair. Thereafter, the board shall elect annually in February a chair from among the
18 members. The board may elect from among its members such other officers as it deems
19 necessary.

20 (g) ~~Six (6)~~ Five (5) members of the board shall constitute a quorum and the vote of the
21 majority of the members present shall be necessary and shall suffice for any action taken by the
22 board. No vacancy in the membership of the board shall impair the right of a quorum to exercise
23 all of the rights and perform all of the duties of the board.

24 (h) Members of the board shall be removable by the governor pursuant to section 36-17
25 and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office
26 shall be unlawful.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO WATERS AND NAVIGATION

1 This act provides that all underground storage tanks and associated piping installed prior
2 to May 8, 1988 shall be permitted to remain in use until December 22, 2020. Further, this act
3 provides that five (5) members of the Underground Storage Tank Review Board constitutes a
4 quorum.

5 This act would take effect upon passage.

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