



## RHODE ISLAND

### DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

#### OFFICE OF THE DIRECTOR

235 Promenade Street, Room 425  
Providence, Rhode Island 02908

March 20, 2025

The Honorable David A. Bennett  
Chairman  
House Committee on Environment and Natural Resources  
82 Smith Street  
Providence, Rhode Island 02903

**RE: H 5607 An Act Relating to Agriculture and Forestry – Agricultural Functions of  
Department of Environmental Management**

Dear Chairman Bennett,

Thank you for providing the Department of Environmental Management (DEM) the opportunity to comment on H 5607, which would amend the Freshwater Wetlands Act (the “Act”) by repealing the statutory definition of the term “farmer” and introducing an alternative framework for regulating agricultural activities subject to the Act. DEM has concerns with this legislation.

The Act is the primary state law responsible for regulatory protection of Rhode Island’s freshwater wetlands, buffers, and floodplains. The law requires that individuals seeking to undertake development projects and certain other activities within freshwater wetlands and adjacent regulated lands must first obtain a permit from DEM or the Coastal Resources Management Council (CRMC). In recognition of the unique circumstances of farms, the law provides an alternative pathway for farmers to obtain a permit for specific farming projects and exempts certain normal agricultural activities from permit requirements altogether. For example, permit applications from farmers for new farm ponds, farm roads and drainage structures, are reviewed and processed by the DEM Division of Agriculture, rather than the DEM Office of Water Resources, provided that the projects are determined to have insignificant impacts. Obtaining some of these benefits is dependent upon an individual meeting the definition of the term “farmer” included in the law.

DEM is aware that it can be difficult for new or beginning farmers to qualify for the DEM Division of Agriculture permitting process and other benefits afforded to farmers under the law because the current definition of the term “farmer” includes an income threshold of \$10,000 gross income on farm products for four consecutive years. Although we agree that this definition warrants review and possible modification, any amendments to the current statute should not

open loopholes allowing non-farmers to obtain access to the special review process and other benefits intended to be provided only to bona fide farmers. We note that the \$10,000 income threshold has been eroded by inflation significantly since it was first adopted in the 1980s and an equivalent threshold adopted today would be much greater.

DEM is concerned that the way the legislation is drafted could open the door to any individual or entity, including non-farmers, to claim the benefits afforded to farmers under the Act. The definition of the term “agricultural land” is overly broad in that it includes all land which “is suitable for agricultural operations.” This definition could potentially be applied to virtually all land in Rhode Island. Furthermore, we are concerned that the bill also reduces the income threshold to qualify as a farmer from the current \$10,000 for four consecutive years to only \$2,500 in the preceding year. The combined effect of these changes could open the door to abuse of the benefits afforded to farmers under the Act.

Although DEM cannot support the legislation as currently drafted, we are open to the idea of a waiver process which would allow us to waive the income threshold in certain specific circumstances. For example, farming is highly susceptible to the impacts of natural disasters, and we would be supportive of amendments providing flexibility to protect against temporary loss of farm income as it relates to the Act. We would also support providing DEM with the same type of flexibility in cases of farm succession. One option may be to amend the Act to authorize DEM to develop a waiver process by regulation.

We appreciate the opportunity to offer comments on this legislation and would be pleased to make ourselves available as needed. Please feel free to contact Susan Forcier, DEM Deputy Director for Environmental Protection, at [susan.forcier@dem.ri.gov](mailto:susan.forcier@dem.ri.gov) or Ken Ayars, DEM Chief of Agriculture and Forest Environment at [ken.ayars@dem.ri.gov](mailto:ken.ayars@dem.ri.gov) should you have any additional questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terrence Gray". The signature is fluid and cursive, with the first name "Terrence" being more prominent than the last name "Gray".

Terrence Gray, P.E.  
Director

cc: Members of the House Committee on Environment and Natural Resources  
The Honorable Megan Cotter  
Nicole McCarty, Esq., Chief Legal Counsel to the Speaker of the House  
Lynne Urbani, House Policy Director