

State of Rhode Island
Department of Environmental Management

Rules and Regulations
for Implementation
of the Farm, Forest
and Open Space Act

Effective October 2, 1980

DEFINITIONS

1.01 Act - The term "Act" shall mean section 44-27 of the General Laws of 1956 as amended.

1.02 Actively Devoted to Agricultural or Horticultural Use -The term "Actively Devoted to Agricultural or Horticultural Use" shall mean land used, under normally acceptable practices, in the production of plants and animals useful to man including but not limited to: Forages and sod crops; fruits of all kinds including nuts, berries, grapes and vegetables; floral, ornamental and greenhouse products; dairy animals, (both cows and goats) and dairy products; poultry and poultry products; Sheep and sheep products; livestock including beef cattle, swine, horses and mules; the commercial breeding or grazing of any or all such animals in a density of at least 1 animal unit per 2.5 acres for the production of meat, milk, fiber in saleable livestock. An animal unit is defined as one horse, one cow, one mule, five goats or five sheep, and commercial breeding is defined as the production of at least five animal units per year.

1.03 Actively Managed - The term "Actively Managed" shall mean forest land used in accordance with the provisions of a Forest Management Plan for the purpose of growing, thinning, and harvesting forest products. Forest products shall mean products derived from cultural operations to improve, where feasible and practical, wildlife habitat, watershed protection, aesthetics, soil stability, the atmosphere and passive non-commercial recreation. Recognized harvested products include but are not limited to firewood, pulpwood, saw logs, Christmas trees, mulch, compost, maple syrup, poles and posts.

1.04 Assessor - The term "Assessor" shall mean the appointed individual or elected board or other person or agency charged with the duty of assessing real property in municipality.

1.05 Director - The term "director" shall mean the Director of the Department of Environmental Management or his authorized designee.

1.06 District - The term district shall mean a Conservation District organized under chapter 2-4 of the General Laws of Rhode Island.

1.07 Department - The term "Department" shall mean the Department of Environmental Management.

1.08 Farmer - The term "Farmer" shall mean the principal person operating a farm as indicated for income tax purposes.

1.09 Farm Land - The term “Farm Land” shall mean any tract or tracts of land, exclusive of house sites, which meets any one of the following conditions.

(a) It constitutes a farm unit as defined in 1.10

(b) It has at least five (5) contiguous acres actively devoted to agricultural or horticultural use which has produced an annual gross income of \$2,500 from the sale of its farm products in one of the two preceding years. Not more than one acre in aggregate, of the five, may be under barns, silos, cribs, greenhouses, ponds, or streams. A tract shall be considered contiguous even though divided by a right of way, road or town line. Exceptions to the income requirement may be made for land planted to slow maturing stock such as orchards, vineyards, etc. and/or land newly purchased whose owner provides evidence from present use, nature, characteristics of the land and farm productivity plans that gross sales will average \$2,500 or more.

(c) It meets the requirements and qualifications for payments under an agreement with the federal government for conservation set asides and voluntary diversions.

(d) It is owned and operated by a subsistence farmer as defined in 1.18.

(e) It has a combination of income, crop and acreage which in the Director’s opinion qualifies this land for inclusion as a farm.

In addition, all land, to qualify as farmland, must have a current soil conservation plan, either applied for or in force. All land used for the removal of soil, gravel, stone or other minerals for commercial purposes, or land used for farm stands, surrounding parking lots, and display areas are ineligible for inclusion as farmland.

1.10 Farm Unit - The term “Farm Unit” shall mean land owned by the farmer, including woodland and wasteland, at least five (5) acres of which are actively devoted to agricultural and horticultural use and which have produced an income from the sale of its farm products of at least \$2,500.00 in one of the two preceding years, held under a single deed or if more than one parcel, historically (for more than ten (10) years) associated as part of a single farm.

1.11 Forest Land - The term “Forest Land” shall mean any tract or contiguous tracts of land, exclusive of house sites and not part of a planned or existing development, at least ten (10) acres or larger, actively managed according to the provisions of a Forest Management Plan, which meets one of the following two conditions:

(A) It is capable of producing 20 cubic feet of wood fiber per acre per year and is at least 30% stocked by Forest trees of any size.

(B) It is a tree plantation containing at least 500 trees per acre.

1.12 Forest Management Plan - The term “Forest Management Plan” shall mean a five (5) year plan, prepared by a professionally qualified forester in consultation with the landowner and approved by the director which provides for the active management of forest land.

1.13 Housesites - The term “House sites” shall mean the zoned lot size or one acre, whichever is smaller, and land under and surrounding any houses , mobile homes, or dwellings and such land areas as may be devoted to lawns, pools, tennis courts, and like facilities related to the use and enjoyment of said residences.

1.14 Landowner - The term “Landowner” shall mean the person recorded as owner on the deed of any tract of land.

1.15 Person - The term “Person” shall mean any individual, firm, corporation, co-operative, partnership or other form of organization.

1.16 Professionally Qualified Forester - The term “Professionally Qualified Forester” Shall mean an individual who has graduated from a school of forestry recognized by the Society of American Foresters, or who possesses qualifications for the practice of forestry equivalent to graduation from a school of forestry recognized by the society of American Foresters and approved by the Director.

1.17 Soil Conservation Plan - The term “Soil Conservation Plan” shall mean the written soil erosion control practices recommended by a local district.

1.18 Subsistence Farmer - The term “Subsistence Farmer” shall mean any person who derives his/her primary means of sustenance from the consumption of agricultural products grown on his/her primary means of sustenance from the consumption of agricultural products grown on his/her land and who is eligible for assistance under Title 20 Programs, under the General Public Assistance Program; such programs being administered by the Rhode Island Department of Social and Rehabilitative services.

1.19 Under Normally Acceptable Practices - The terms “under Normally Acceptable Practices” shall mean management of the farm using cultivation and husbandry techniques including but not limited to techniques for the proper animal and plant densities and spacing, harvesting techniques, soil conditioning techniques, cover crops and rotation cycles recommended by the College Of Resource Development, University of Rhode Island, U.S. Department of Agriculture, recognized producers, organizations, and seed and implement manufacturers for the Rhode Island soils.

2.00 APPLICATION FOR DESIGNATION OF FARM LAND AND FOREST LAND

2.01 Request for Designation - Any owner of farm land or forest land may apply to the Director for designation of such land pursuant to sections 44-27-3 and 44-27-4 of the act of forms provided by the Director. A landowner may obtain the appropriate forms from the Divisions of Agriculture or Forest Environment, Department of Environmental Management. The application forms are contained in appendix A of these Rules and Regulations.

All completed applications shall be submitted to the Department of Environmental Management. Completed applications shall be dated, and numbered and considered in order received.

2.02 Application Filing Dates - Deadlines completed applications for designation of farm land or forest land must be submitted to the Director by November 1st of the year prior to the tax year for which application is being made, except in years of revaluation, when the application deadline shall be twenty

(20) days after receipt of the Notice of Revaluation or in its absence, the Tax Bill. Extensions of application deadlines may be made at the discretion of the Director.

2.03 Fees - All applications for designation shall be accompanied by a fee of ten (\$10.00) dollars in check or money order made payable to the General Treasury - State of Rhode Island.

3.00 APPLICATION FOR FARM LAND DESIGNATION - REQUIRED SUBMISSIONS

3.01 Required Signatures

- (a) The application form must be signed by the owner (s) of record.
- (b) The application must be countersigned by the Tax Assessor in the municipality in which the land lies to verify that the acreage claimed by the landowner is mutually agreeable.
- (C) The application must be countersigned by a representative of the District in which the land lies.

3.02 Map - Applications for farm land designation shall be accompanied by a map (8 ½" x 11" or folded to that size) adequately scaled, identified and oriented to establish farm land location in relation to the local road system. The map shall clearly show the boundaries and acreage of the entire parcel and internal boundaries and acreages of different land categories. Applicants may use maps prepared by the district. All maps will be identified with the name and address of the applicant, the town (s) in which the land is located and the plat and lot number (s).

3.03 An application for designation of farmland shall show the acreage and types of crops, and/or the number and kind of livestock. If the land is leased, the name and address of the lessee shall be included. Verification of annual gross income shall be accomplished by providing either a certified copy of the federal income tax statement for one of the two preceding years of a complete description of the nature and characteristics of the land and the productivity plans as evidence that gross sales will average \$2,500 or more.

The Director may require additional information as proof that land qualifies as farm land. The Director shall send a written request to the landowner detailing the kinds of information required. Income tax information submitted information required. Income tax information submitted to the Department shall not be treated as confidential information and shall not be subject to inspection.

3.04 An application for designation of a farm unit, in addition to the submissions required in 3.03 shall not be accompanied by documentation showing that non-contiguous land is historically associated as part of the farm unit.

3.05 An application for designation of farmland based on its operation and ownership by a subsistence farmer shall be accompanied by a certified copy of the federal income tax statement for the preceding year(s), or other such information as will substantiate the claim.

4.00 APPLICATION FOR FOREST LAND DESIGNATION - REQUIRED SUBMISSIONS

- (a) The application form must be signed by the owner(s) of record.
- (b) The application form must be countersigned by the Tax Assessor in the municipality in which the land lies to verify that the acreage claimed by the landowner is mutually agreeable.

4.02 An application for forest land designation shall be accompanied by a Forest Management Plan which shall include: A. Map

A Map 8 ½" x 11" (or folded to that size) with the following ink:

- I. name and address of owner
- II. name of person preparing map
- III. Scale
- IV. North arrow
- V. Property boundaries neatly drawn
- VI. Date prepared
- VII. Physical features labeled (roads, streams)
- VIII. name of town or towns land is located in
- IX. Labeled political features (town, state lines)
- X. ineligible and non committed land delineated
- XI. eligible land delineated by forest type, numbered

In a logical sequence and acreage to the nearest whole acre for each type listed.

B. A listing of the Stands For each forest stand numbered on the map, a corresponding numbered listing should be attached on a form provided by the Director with the following information for each stand:

- I. Stand number
- II. Acreage to nearest whole acre
- III. Forest type
- IV. Stand description - includes information on stocking level, basal area, average tree diameter, trees per acre and other characteristics important to the management of the area.
- V. Site Index
- VI. Management objectives and silvicultural treatment in consultation with the landowner and forester.
- VII. Year objectives will be accomplished

C. Forest stands must be placed in one or more of the following forest types and the appropriate U.S. consulted for stocking levels and suggested stand prescriptions:

White Pine Type - Pitch Pine Type - "A silvicultural Guide for White Pine in the Northeast, USDA, FS, GTR-NE-41

Hemlock Type, Spruce - Fir Type -excluding Christmas tree plantations." A silvicultural Guide for Spruce-Fir in the Northeast" USDA, FS, GTR-NE-6

Northern Hardwoods Type - Birch - excluding Christmas tree plantations. Guide for Northern Hard-woods in the Northeast" USDA, FS, RP-NE-143

Mixed Hardwoods - aged silviculture for upland central Hard-woods", USDA FS, Agricultural Hand-book #355

Plantations - Christmas tree plantations - Christmas tree plantation with at least 500 tree per acre or other tree plantations at least 30% stocked or 500 trees per acre.

Red Maple - Commonly found in wetland areas and white cedar should be managed under special practices.

The Director of the Department of Environmental Management may waive the above forest typing system in cases of stands and species not included in the silvicultural guides.

D. Landowner filecard

A. a 5"x8" file card provided by the director for each applicant filled out by the forester for each town with the following information:

- I. Name and address of landowner
- II. Aerial photo number covering property
- III. Owner's deed - registry book and page number, town name
- IV. Plat and lot number
- V. Zone
- VI. Acreage listed by the town
- VII. Minimum lot size
- VIII. Date information obtained

4.03 Owners of land which was designated and certified as forest land prior to June 1, 1980 may submit with their applications for designation under these Rules and Regulations, the forest management plan or recommendation sheet prepared at the time of initial designation and certification to meet the requirements of the Forest Management plan described in Rule 4.02 above, provided, however, that by December 31, 1981 such owners shall submit a Forest Management Plan in accordance with section 4.02 of these Rules and Regulations.

4.04 For continued eligibility, the landowner must update and submit a forest management plan at the end of each five (5) year period, including evidence of work completed during that period to the director.

4.05 An approved forest management plan may be amended only if the landowner files a written request with the Director indicating the nature and substance of the amendment. If the request is approved, the Director shall inform the landowner of the necessary technical and administrative procedures which must be followed to effect the amendment in accordance with the rules and regulations.

4.06 If, on any portion of the productive area of certified forest land, trees are cut, killed or removed by wind, fire, insects or other causes, resulting in a reduction of the stocking level of living and acceptable commercial trees, such area shall be regenerated naturally or by planting within the following three years to maintain its designation as forest land. Where losses to fire or natural causes are extensive, the landowner may be granted, at the discretion of the Director, and extension of time for regeneration.

4.07 Where new plantings are established on non-forest areas, the planting must survive one (1) growing season and meet eligibility requirements of 500 trees per acre to be designated as forest land by the Director.

5.00 A landowner whose land has been designated by the Director as farmland or forest shall notify the Director:

- (a) if a change in lessee occurs;
- (b) if a change in ownership occurs;

- (c) if a federal conservation contract is terminated;
- (d) or such other information as the Director may require.

6.00 CANCELLATION OF DESIGNATION

6.01 If at the request of the community, or by his inspector, the Director finds that land designated as farm land or forest land is not in compliance with the intentions of the Act or the Rules and Regulations, the Director shall issue, in accordance with sections 44-27-3(b) of the Act, a notice to the landowner informing him/her that he/she has thirty (30) days to bring the land into compliance or to request a formal hearing. If, after the hearing of after thirty (30) days, the Director finds the land not in compliance, he shall issue a certificate canceling the designation and shall furnish one copy to the landowner and one copy to the Tax Assessor of the municipality in which the land lies.

6.02 Criteria for cancellation of Designation of Farm Land - Farm Land shall be considered not in compliance by the Director if:

- (a) Land, for reasons other than inclusion in federal set-asides remains unused for a period spanning two planting seasons (the director may waive this criteria if economic conditions warrant);
- (b) Operations to strip the topsoil or to mine sand or gravel or other minerals are undertaken on designated land;
- (c) Building permits for structures not directly related to the farm operation are obtained or construction for such structures commenced.
- (c) Other use is made of the subject property inconsistent with its management as farmland.

6.03 Criteria for cancellation of Designation as Forest Land - Forest Land shall be considered not in compliance by the Director if:

- (a) The procedures and schedule outlined in the Forest Management Plan are not followed;
- (b) Building permits for structures not directly related to the forest operation are obtained or construction of such structures commenced;
- (c) Other use is made of the subject property inconsistent with its management as forest land.
- (d) An owner of land which was designated and certified as forest land prior to June 1, 1980 fails to submit a forest management plan in accordance with 4.02 of these Rules and Regulations by December 31, 1981;
- (d) operations to ship topsoil or to mine gravel or other minerals are undertaken on designated land.

6.04 FORMAL HEARING- In accordance with sections 44-27-3 (b) and 44-27-4(b), the Director shall hold a formal hearing at the land owner's request on the cancellation of designation of forest land or farm land. Such a hearing shall be held in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws of 1956, as amended, and such other rules as the Director may lawfully prescribe regarding practice before the Department.

7.00 Upon the filing of an appeal pursuant to sections 44-27-3(f) and 44-27-4(f) of the Act, the Director shall forward the record of designation on file at the Department and such other evidence supporting his

designation. The Director may, at his discretion, further participate in such hearing through the presentation of the director in support of application requirements shall remain confidential. The director shall in its stead assure that those conditions have been fulfilled.