MISSISSIPPI
Enforceable Provisions Applicable to Nonpoint Source Water Pollution

DISCHARGE PROHIBITIONS

Water Pollution Control Law

Mississippi’s water pollution control law prohibits causing pollution or discharging wastes into waters so as to violate water quality standards. The law appears to provide a basis for enforcement against nonpoint source discharges.

- "It shall be unlawful for any person (I) to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution in any waters of the state; (II) to discharge any wastes into any waters of the state which reduce the quality of such waters below the water quality standards established therefor by the commission.....Any such action is hereby declared to be a public nuisance."[1]

The law defines "wastes" as "sewage, industrial wastes, oil field wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state."[2] Pollution is defined as contamination or alteration of waters "unless in compliance with a valid permit."[3] But Mississippi’s regulations provide that no permit may be required for nonpoint agriculture and silviculture pollution.[4] Violations are enforceable by administrative orders, civil penalties of up to $25,000 per day, injunction, or misdemeanor prosecution.[5]

Other Discharge Limitations

Mississippi’s laws do not appear to contain other discharge limitations addressing nonpoint sources, apart from the use of nuisance remedies which would be supported by the referenced provision above defining water pollution as a nuisance.

Fish/Fisheries Laws

Mississippi’s laws do not appear to contain fisheries provisions that appear to address nonpoint source water pollution, but do provide that any person who violates water pollution laws or regulations and thereby causes the death of fish or wildlife must pay the state the amount necessary to restock.[6]

OPERATIONAL REQUIREMENTS

Forestry Requirements

- The Forest Harvesting Law declares a state policy for sound forestry, to encourage better management of forest lands...and "to prevent soil erosion and consequent silting of stream channels and reservoirs; to protect watersheds and reservoirs and to insure at all times an adequate supply of water of the forest quality..."[7]
But the enforceable regulatory standards require simply that certain numbers of trees be left on each acre for growing stock and/or seed trees. The law does not apply to land clearing for crop production or pasture, building sites or roads, nor to noncommercial cutting by owners for their own use. The law is enforceable by injunction or by misdemeanor prosecution with a fine of $25-$50 per working unit of 40 acres or less.

Agriculture Requirements

- State wastewater permit regulations cover some sizes and types animal feeding operations not required to receive NPDES permits, and may contribute to control of nonpoint source water pollution from such establishments. In addition, such operations must be at least 1000 feet from the nearest dwelling or commercial establishment not owned by the applicant, and at least 300 feet from the property line. Land application of animal waste must be at least 50 feet from the property line and 300 feet from the nearest dwelling not owned by the applicant. Enforcement is under the water pollution control law.

- The water pollution control law also prohibits the following activities unless they have a permit as may be required for the disposal of all wastes which are or may be discharged thereby into the waters of the state...[, the construction, installation or operation of any industrial, commercial or other establishment, including irrigation projects or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized...". Unlike the agricultural and silvicultural nonpoint exemption from permitting identified above, the inclusion of irrigation projects gives authority for permitting.

- State law requires registration of pesticides and certification and licensing of applicators. If the Commission on Environmental Quality finds groundwater contamination by a chemical not within its jurisdiction, it must notify the Department of Agriculture and Commerce which must proceed under the pesticide law. Enforcement includes license and certification actions, injunctions, and criminal prosecutions. Non-registration and registration violations with respect to pesticides, or to "handle, transport, store, display, distribute, or dispose of any pesticide or container in such manner as to endanger man and his environment," is a criminal offense punishable as a misdemeanor with a fine of $500.

- Drainage districts, swampland districts, and conservation districts do not have express powers for enforceable regulation except that districts may adopt "necessary regulations, programs, and procedures" for prevention of erosion, floodwater, and sediment damage, "subject to approval of the chancery court or chancellor and on proper notice to the interested parties." However this portion of the law further provides that none of these powers shall be exercised except for the purpose of participating in federally authorized programs for "soil and water conservation and utilization."
Development and Other Earth-Disturbing Activities

No operating requirements are set forth, apart from any that may be contained in urban stormwater programs under the Clean Water Act or that may be authorized by general land use regulation such as zoning.

State law provides typical authorities to municipalities and counties to regulate building location and development, but "no permits shall be required with reference to land used for agricultural purposes including forestry activities...outside the corporate limits of municipalities." Penalties for violation of a zoning ordinance are fines not to exceed $100 per day.

Endnotes