RHODE ISLAND
Enforceable Provisions Applicable to Nonpoint Source Water Pollution

DISCHARGE PROHIBITIONS

Water Pollution Control Law

Rhode Island’s water pollution law includes a provision that may be used to take enforcement action against nonpoint source discharges of pollutants that are placed on land, or nonpoint source discharges of solid waste or debris.

- "It shall be unlawful for any person to place any pollutant in a location where it is likely to enter the waters or to place or cause to be placed any solid waste materials, junk, or debris of any kind whatsoever, organic or non organic, in any waters."¹ These prohibitions on the placement of "any pollutant" on land where it may enter water, and on the placement of solid wastes, junk, and debris in any water, can be applied to nonpoint source water pollution. (In contrast, another subsection prohibits "discharge [of] any pollutant" from a "point source.")² Enforcement includes notices of violation, compliance orders, injunctive relief, criminal liability, and civil penalties of up to $25,000 per day.³

Other Discharge Limitations

- Common law nuisance liability may be available with respect to some instances of nonpoint source discharges. However, nuisance liability under Rhode Island law does not apply to odors or dust from farming practices, nor to the use of pesticides, rodenticides, insecticides, herbicides or fungicides.

- A state wetlands law contains a provision that may also provide some enforceable authority with respect to certain nonpoint discharges. "No person, firm, industry, company, corporation, city, town, municipal or state agency, fire district, club, nonprofit agency, or other individual or group, may...place trash, garbage, sewage, highway runoff, drainage ditch effluents [sic], earth, rock, borrow, gravel, sand, clay, peat or other materials or effluents upon... or otherwise change the character of any fresh water wetland as herein defined without first obtaining the approval of the director of the department of environmental management."⁴ However, normal farming and ranching activities are exempt from the permitting process.⁵

Fish/Fisheries Laws

- "No person shall place, deposit, or explode any substance injurious to the health or life of a fish in any stream or fresh water pond within this state..."⁶ This provision is enforceable by the attorney general in court; and the sanction is a misdemeanor punishable "by a fine of not more than $500 or imprisonment for up to 90 days or both."⁷
OPERATIONAL REQUIREMENTS

Forestry Requirements

- Cutting of trees for commercial forest products requires registration with the department of environmental management as a "woods operator" and cutting without such registration is a misdemeanor punishable by a fine of $100 to $500. This provision may serve as a basis for imposing some requirements.

Agriculture Requirements

The state’s agriculture laws do not appear to contain independently enforceable provisions relating to regulation of agricultural nonpoint source discharges.

- Pesticides being used in violation of any requirements may be subject to an order, and violations may give rise to civil penalties of up to $10,000 and criminal penalties for knowing violations of up to $25,000 and/or 60 days imprisonment.

Development and Other Earth-Disturbing Activities

Apart from any requirements 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, Rhode Island law provides some additional authority.

- Cities and towns may adopt a model soil erosion and sediment control ordinance that is an enforceable mechanism.

- The state’s Coastal Resources Management Program can adopt regulations affecting activities within 200 feet of shoreline features, which includes some limits relevant to nonpoint source pollution. Enforcement is via cease and desist orders, and administrative penalties of up to $1000 plus $100 per day (with aggregate limit of $5000); or misdemeanor convictions for knowing violations, with a $500 fine and/or 3 months imprisonment.

Endnotes

5. R.I. Rule 6.08.