



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
Providence, Rhode Island 02908

February 27, 2025

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

RE: H 5424 An Act Relating to State Affairs and Government – Rhode Island Climate Superfund Act of 2025

Dear Chairman Bennett,

Thank you for providing the Department of Environmental Management (DEM) the opportunity to comment on H 5424, which would direct DEM to administer a cost recovery program whereby entities contributing to greenhouse gas emissions would be required to make payments to the state.

H 5424 directs DEM to ascertain the total cost of all climate change response work conducted by the state and municipalities since January 1, 2009. The legislation defines this term to include any planning, implementation, operation, and maintenance of projects which are intended to adapt to the negative effects of climate change. After determining the total cost of such projects, DEM would be tasked with determining the proportionate share of these costs among any entity which engaged in the trade or business of extracting or refining fossil fuels between January 1, 1990, and December 31, 2024, and is determined to have been responsible for more than one billion tons of covered greenhouse gas emissions. DEM would then be required to send demands for payment to these responsible parties within six months.

Although DEM acknowledges that this legislation is consistent with the “polluter pays” principle, we have concerns about the potential for legal challenges to this legislation. Two states, Vermont and New York, have enacted comparable state laws to this legislation and have been subject to lawsuits filed on the grounds that their laws are unconstitutional. Furthermore, the Rhode Island Attorney General is a party to a multi-state lawsuit seeking to hold fossil fuel companies accountable for their contributions to climate change. We urge the General Assembly to consider allowing these legal processes to conclude before moving forward with this legislation.

DEM also has concerns related to our ability to successfully implement this legislation. It is uncertain how DEM would determine the proportional share of total costs as required by this legislation as DEM does not currently use datasets that provide information specific to individual entities. Last year, Vermont issued a Request for Information seeking information from experts about how to implement that state's Climate Superfund Act. It is likely that DEM would determine a comparable process is necessary in Rhode Island and may need to enlist the services of outside consultants. However, the bill does not provide any resources to implement its requirements aside from a provision stating that DEM may require responsible parties to pay a portion of their total payment by September 1, 2025, to cover the cost of initial analysis.

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 Ryan Mulcahey, DEM Director of Legislative Affairs, at ryan.mulcahey@dem.ri.gov should you have any additional questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in cursive script that reads "Terrence Gray".

Terrence Gray, P.E.
Director

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