

# *Massachusetts Highway Association*

P.O. Box 2004, Danvers MA 01923 ([www.masshwy.org](http://www.masshwy.org))



*Organized August 3, 1893*

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Newton Tedder

U.S. Environmental Protection Agency, Region 1

5 Post Office Square, Suite 100 Code OEPo6-4

Boston, MA 02109-3912

Re: Objections to Proposed draft Massachusetts new EPA Storm Phase 2 regulations

Dear Mr. Tedder

The following is a list of the most troubling portions of the proposed new Storm water Phase Two regulations.

- 1) Pavement maintenance work triggers retaining first inch of storm water or storm water treatment. Under the new regulations, when one disturbs more than 1 acre in area or phased construction totaling one acre (translates to only ¼ mile of 30' wide pavement) or more which will include road reclamation projects, the new regulations require that the first inch of storm water be retained or all the storm water must be treated. This essentially means one now not only has to resurface the road one has to completely redesign and re-construct the entire storm water collection system to satisfy this requirement. This will cripple road maintenance budgets. Accordingly, cities and towns will be forced to purchase/take extra land by eminent domain for storm water storage or pay for the expense of storm water treatment systems on simple routine maintenance projects. This is a huge expense in downtown business districts and even in rural areas with old roads and narrow town-owned rights-of-way.

As everyone is aware, the funds available for pavement maintenance are less than half of what are needed to simply preserve the condition of the current infrastructure. This means that Massachusetts roads are falling apart faster than they can be repaired. The above added costs will compound the problem and create more failing roads and more erosion.

Municipalities will be forced to use the wrong pavement rehabilitation technique at the wrong time which will squander the available limited pavement maintenance resources.

There must be an exemption for pavement maintenance projects. The above regulations should not be applied to maintenance projects. If a new road is being constructed or a lane is being added, these storm water management upgrades may be able to be accommodated, depending on surrounding conditions like available right-of-way width and/or proximity of buildings to the right-of-way. Simple pavement surface maintenance projects or minor improvements should not trigger rebuilding the world.

- 2) Chloride Reduction. Most municipalities already are trying to limit salt/chloride usage. The cost of road salt and deicers is a large portion of the winter storm budgets. Any responsible DPW director or winter road program manager is looking to reduce the costs in all areas that are practical. There is no objection to installing computers on the truck spreaders and training the operators in best management practices nor do we object to the EPA providing Best Management Practices or guidance suggestions; however, reducing salt usage below what is practical with the current technology is irresponsible and to do this exposes the motorists to hazardous conditions and the municipalities to legal action. Yes, usage of chlorides could all stop tomorrow, but at what cost to human life. If the EPA will protect an endangered salamander, it should be equally as concerned with the loss of human life. The chloride reduction regulations should be limited to recommending that municipalities follow the latest accepted Best Management Practices.
- 3) Requirement for tracking impervious area. The EPA in its permit guidance documents implicitly admits that the simple presence of impervious areas is not a direct correlation to storm water quality. Sites with paved areas can store/detain or treat storm water so that the presence of paved areas on storm water quality is mitigated. Similarly, the MADEP considers roof water runoff “clean” and can be infiltrated into the ground without pre treatment. Tracking the amount of impervious areas does not have a direct correlation to water quality; therefore the MS4’s should not have to expend resources tracking changes in impervious area. As long as new development is in compliance with Best Management Practices, control of development should be under the jurisdiction and control of local planning authorities. Any attempt at limiting /restricting development through the veiled attempt at controlling impervious area is outside the purview of the Clean Water Act.
- 4) Cost of implementation. An article published in Construction Outlook a publication of UCANE recently published EPA cost estimates of compliance between \$70,000 and \$829,000 per year depending on population and size. This is very troubling because they have been known to significantly underestimate the actual cost. At the meeting, Newton Tedder from the EPA commented that he believes most cities and towns will have to pass a storm water utility in order to pay for the costs to comply with the new Storm Phase Two regulations. Obviously, the EPA is admitting that the new regulations are an undue burden and so costly that the municipalities cannot afford them with existing revenues. It seems unlikely that the intent of Congress in passing the Clean Water Act was to authorize the EPA to mandate additional taxes and create its own hidden tax structure to accomplish its charge of cleaning the water. The EPA was charged with cleaning the water and operating within its budget as set by Congress. The States and local cities and towns must do the same. It is unconscionable at a time when state and local governments are undergoing staff and budget cuts to capriciously raise the cost of compliance with the new regulations. The local governments will be happy to work with the EPA to achieve progress on storm water. However, punishing regulations will not encourage cooperation from state and municipal partners.

The Congress of the United States should act to restrain the EPA from imposing uncontrolled and expensive tax burdens on the subjects it regulates. Taking reasonable actions to improve water quality is one thing, but being mandated to accomplish everything overnight is unfathomable. All levels of government must be cognizant of costs. The regulations, reporting requirements and the overall implementation costs must be reduced to a sustainable and rational level.

- 5) Signage at outfalls: Installation of signage at outfalls provides no tangible benefit to water quality. Installation of signs and posts will waste resources. The signs will encourage theft or vandalism and will provide little to no use in management of the storm drain system. All regulated organizations are required to have maps with locations of all outfalls. The availability of low cost GPS devices makes these outfalls easily located by just about anyone.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerry Coppola". The signature is fluid and cursive, with the first name "Gerry" and last name "Coppola" clearly distinguishable.

Gerald Coppola

President

Massachusetts Highway Association

CC: MHA Executive Board  
Thomas Philbin, MMA