



REGION 1

BOSTON, MA 02109

Dated by electronic signature

VIA EMAIL

Maria Briones, Stormwater Management Unit Supervisor
Massachusetts Department of Transportation, Highway Division
10 Park Plaza
Boston, MA 02116
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RE: EPA audit of Massachusetts Department of Transportation, Highway Division, NPDES
Permit # MA0403025

Dear Ms. Briones:

On October 1 through October 4, 2024, the U.S. Environmental Protection Agency ("EPA") performed an audit at the Massachusetts Department of Transportation, Highway Division ("Highway Division") regarding compliance with the National Pollutant Discharge Elimination System program of the Clean Water Act, specifically the EPA 2003 General Permit For Storm Water Discharges From Small Municipal Separate Storm Sewer Systems in Massachusetts (the "Permit"), which covers certain stormwater discharges from MassDOT Highway Division under permit number MA0403025

A copy of the audit observations report is enclosed with this letter. Note that the observations report covers discussions during the audit, but not necessarily the review of all documents shared with EPA.

Based on the audit and on EPA's review of some additional documents submitted by MassDOT Highway Division, EPA has concerns about compliance with certain terms and conditions of the Permit, particularly the following:

Maintenance

Part II.B.6.a of the Permit requires that the permittee "Develop and implement a program with a goal of preventing and/or reducing pollutant runoff from transportation facility operations", and Part II.B.6.c requires "schedules for maintenance activities".

MassDOT Highway Division's District offices track all maintenance activities; there appears to be no way for the Highway Division's MS4 program to track these maintenance activities sufficiently to ensure that a schedule is being maintained, and therefore the MS4 program has not demonstrated that this permit requirement is being fulfilled for catchbasins and street sweeping.

Part II.B.6.d requires "inspection procedures and schedules for long term structural controls", and Part 5.b requires "Procedures to ensure adequate long term operation and maintenance of best management practices." MassDOT Highway Division was unable to show inspection and maintenance plans for structural controls nor could it show documentation of maintenance activities.

Impaired Waters and TMDLs

Part I.C requires the permittee to, for all 303(d) listed waters, "control the discharge of the pollutants of concern and ensure that the discharges will not cause an instream exceedance of the water quality standards."

Part I.D.2 and D.3 require that if a TMDL has been approved for any water body into which the MS4 discharges, the permittee must: (1) "determine whether the TMDL includes a pollutant waste load allocation (WLA), BMP recommendations or other performance requirements for storm water discharges" that may apply to the permittee; and (2) "the permittee must assess whether the WLA is being met through implementation of existing storm water control measures or if additional control measures are necessary."

MassDOT Highway Division indicated that since the implementation of its impaired waters program ceased in 2015, it has not assessed its overall discharges to any impaired waters, either with or without TMDLs. MassDOT Highway Division was also unable to produce any documentation assessing whether TMDL WLA's had been met for any applicable TMDL.

Illicit Discharge Detection and Elimination ("IDDE")

Part II.B.3 of the Permit requires that "the permittee must develop, implement and enforce a program to detect and eliminate illicit discharges."

An effective program to detect and eliminate illicit discharges requires a pro-active program observing outfalls for signs of illicit discharges, and sampling discharges where appropriate (or "screening" outfalls). While MassDOT Highway Division stated they have screened all outfalls once since the effective date of the Permit, a single screening is insufficient to ensure an effective IDDE program. MassDOT Highway Division indicated it currently identifies illicit discharges to the MS4 during routine maintenance

activities or complaints received, however, no pro-active IDDE program is currently being implemented.

Areas of Responsibility

Part A.3 of the Permit allows other entities to implement parts of the Permit, but there must be an agreement with the other entity, and the permittee remains responsible for compliance. MassDOT Highway Division personnel were unclear who was responsible for stormwater at the large rest stops on the Mass Pike and other interstates, or if the Permit was being implemented at these areas.

As a first step in addressing these concerns, I would like to extend an opportunity for discussion between EPA's Enforcement and Compliance Assurance Division and the MA DOT Highway Division. Please contact Andrew Spejewski at 617-918-1014 or spejewski.andrew@epa.gov to arrange a meeting to begin discussion.

Sincerely,

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NEWTON TEDDER
TEDDER Date: 2025.01.03
11:55:16 -05'00'

Newton Tedder, Manager
Water Compliance Section 1
Enforcement and Compliance Assurance Division

Enclosures:

Inspection Report for Oct 1-4, EPA Audit with contact sheet

CCs (electronic only):

David Boyer, MA DEP
Kevin Pechulis, US EPA
Andrew Spejewski, US EPA