

Talking Points on DEP Stormwater Management Regulations

- **No Need for this Program:** The initial goal behind the draft regulations was to reduce phosphorous levels in the Charles River Watershed under the Clean Water Act's Total Maximum Daily Load (TMDL) requirements. However, this has now grown into an expansive, statewide water infiltration program - affecting communities where phosphorous is not an issue. The program design is far in excess of what is required for the Department to address the TMDL and litigation to enforce TMDL compliance.
- **Lack of Fairness:** Municipalities, state owned property, golf courses, farms, single-family residences and other phosphorus generating sectors are not required to participate in this program. By targeting only the institutional, commercial, and industrial sectors for source reduction and infiltration, the regulations raise some serious questions about the fairness of the program and whether or not it will result in any substantial environmental benefit. There has also been no determination by the Commonwealth as to whether the targeted members of the regulated community will be able to comply with these regulations.
- **Cost:** The Department did not perform a cost benefit analysis before releasing the regulations for public comment. Based on multiple studies, NAIOP estimates **compliance costs for a typical property required to retrofit to be a minimum of \$100,000 per acre, without zoning or physical feature impediments, and without regard to business disruption or planning and permitting costs.** At a time when businesses are making critical decisions just to stay open, they will now be faced with hundreds of thousands, if not millions of dollars in compliance costs.
- **The Regulations Should Not Move Forward:** Promulgation should not be considered until many of the fundamental flaws contained in the regulations are addressed. Alternative solutions include a pilot program in the Charles River Basin to determine costs and compliance issues, a public education program and the adoption of Operations & Maintenance (O&M)/Best Management Practices for all sectors.