



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



March 31, 2025

Re: Salt Applicator Certification and Limited Liability Relief

Dear Chair Amy Sheldon and Members of the House Committee on Environment,

In 2013, the passage of House Bill 523 enabled the creation of the New Hampshire Voluntary Commercial Salt Reduction Certification Program more commonly referred to as Green SnowPro. The Green SnowPro Program is administered by the New Hampshire Department of Environmental Services (NHDES) and supported by multiple snow and ice industry sector experts. Green SnowPro certified commercial salt applicators and those who hire them, receive limited liability protection against damages arising from snow and ice conditions.

NHDES began the road to chloride reduction through an Environmental Impact Statement on the expansion of Interstate 93 in southern New Hampshire in 2004. Monitoring work identified chloride impairments in four watersheds. As part of the settlement of that issue, the state Department of Transportation (NHDOT) agreed to implement salt reduction best practices on the interstate and to fund the creation of a voluntary salt applicator certification program. In 2009, NHDES began working with the legislature on a set of bills to address the issue of liability. Our legislature grappled with the same issues that you are probably considering and settled on a relatively narrow piece of legislation centered around a voluntary training program. The legislation is based on the limited liability relief granted to ski areas. It recognizes that, like skiing down slopes at top speed, walking and driving in winter weather conditions is inherently dangerous, and that the public must be reasonably protected from hazards. The law was enacted in 2013 creating the Voluntary Commercial Salt Applicator Certification Program (Green SnowPro).

To receive Green SnowPro certification, salt applicators are required to complete training, demonstrate proficiency through written exam, submit an application with payment to NHDES, and report annual salt usage and meet training requirements to renew certification annually. In 2013, 35 Green SnowPro certificates were issued to commercial salt applicators. The current winter season (2024-2025) has over 700 certified salt applicators (initial and renewal certifications) from 175 companies. These numbers continue to grow as more snow and ice management companies and property owners learn about the program and the limited liability extended to them when they contract with a Green SnowPro certified applicator. Many property owners are now requiring the contractors they hire to be Green SnowPro certified. We have also started to see some insurance companies encouraging their clients to be Green SnowPro certified.

Until recently, slip and fall cases involving commercial salt applicators who hold a valid Green SnowPro Certificate have resulted in settlements or withdrawal by the plaintiff. However, in the fall of 2022, a slip and fall case involving a Green SnowPro commercial contractor, the property management company that hired them, and the plaintiff, proceeded to a full jury trial. This provided an unprecedented legal test of the Green SnowPro Program rules, best management practices (BMPs) manual, and limited liability relief provisions. In this case, the jury was unanimous in its findings that the Green SnowPro defendants satisfactorily proved the statutory immunity defense. The plaintiff and their legal counsel appealed the decision, arguing that the Green SnowPro certified salt applicator did not follow all the BMPs linked to their certification at the time of the slip and fall incident (something that is not expected, achievable, or realistic). The appeal was dismissed.

In May 2024, NHDES adopted administrative rules for the Voluntary Municipal Winter Maintenance Certification program (Municipal Green SnowPro). Municipal Green SnowPro certification recognizes New Hampshire municipalities for their efforts to reduce winter salt use while maintaining the safety of the traveling public and protecting surface and groundwater resources, infrastructure, biological integrity, and ecology, all while promoting fiscal efficiencies. Municipalities are the second largest contributor to winter salt application behind the commercial sector. The adoption of the Voluntary Municipal Green SnowPro administrative rules is a milestone partnership to implement statewide winter salt reduction practices to protect surface waters and groundwater from increased chloride concentrations.

Below are a few lessons learned from our program (in no particular order):

- The limited liability relief is key to getting property owners and insurance companies on board to incentivize low salt training and implementation. It has been effective at attracting winter snow and ice professionals to not only get initial training, but to seek advanced classes.
- The data that we have gathered so far shows that companies that have been in the program for the longest time tend to have lower salt application rates than newer Green SnowPro certified applicators. This is a good indicator that the program helps to reduce over-salting over an extended period of time.
- Tracking salt reductions in watersheds is very difficult and will require many years between the time that salt applications are reduced, and water quality benefits are realized.
- There is a significant amount of administration required of the Green SnowPro Program. The program is currently managed by one part-time position funded by annual certification fees. This part-time position does not allow for all desired tasks to be completed.
- Changing the “salt culture” is the critical element. Public perception and expectations play a major role in salt application rates. There is the public misconception that an “icy” sidewalk or parking lot is not safe unless one can see the rock salt. This, as well as unreasonable levels of service expectations, often leads to the over application of salt. Additional outreach to residents, property owners, and property managers is needed to change this mindset.

I wish you well in your deliberations and am available to discuss this issue if needed. I can be contacted at THEODORE.E.DIERS@des.nh.gov or (603) 568-5991.

Sincerely,



Ted Diers, Assistant Director
Water Division
New Hampshire Department of Environmental Services