

**Stormwater Issues**  
National Association of Home Builders  
Briefing for Office of Policy – U.S. EPA  
May 10<sup>th</sup>, 2017

Background:

Because the nature of construction involves earth-moving activities, NAHB members must comply with federal, state and local stormwater regulations (see chart below). During **active construction**, operators must seek coverage for any disturbance over one acre, or under one acre within a larger common plan of development. Builders and developers are also indirectly regulated under the Clean Water Act in regards to permanent, or **post-construction** stormwater requirements. The National Pollution Discharge Elimination System (NPDES) program requires either states or EPA regional offices where EPA is the permitting authority to issue permits to the owners/operators of small Municipal Separate Storm Sewer Systems (MS4s). MS4s are viewed as point sources under the Clean Water Act (CWA) since they discharge polluted stormwater via sewer outfalls directly into rivers and streams.

Issues:

**1. Streamlined Small Lot Permit for Residential Sites**

- NAHB would like to continue to work with the Agency to develop a streamlined “small lot” active construction stormwater permit. We are concerned that these efforts may be stalled.
- NAHB worked with Office of Wastewater Management (OWM) staff over the past three years to develop a streamlined [voluntary compliance plan template](#) for residential sites. However, we do not yet have a green light on developing an EPA permit based on this model.
- NAHB believes the cost savings to small businesses from shrinking the current ~300 page permit down to 20 pages would be enormous.
- Work needs to start soon to allow time for NAHB and other stakeholders to provide feedback, develop compliance assistance tools, and organize outreach to our membership.

**2. Federal Overreach in the NPDES Stormwater Program**

- In the four states where EPA is in charge of stormwater permitting, we’ve seen actions that far outreach the scope of the Clean Water Act.
- Most recently, Region 3 included a provision in D.C.’s draft Phase I MS4 permit which mandates that the city spend \$12.75 million local dollars to establish a Stormwater Retention Credit (SRC) purchase agreement program.
- We are gravely concerned with this type of federal meddling in municipal affairs and the precedent this permit will set.

## How Section 402 Stormwater Rules affect Builders

