

Remarks for Jerry Howard  
Chief Executive Officer  
National Association Home Builders

Discussion Topics and Questions for Administrator  
Pruitt  
The Broadmoor Resort  
Colorado Spring, Colorado  
October 5, 2015

## 1) Trump Administration Deregulatory Objectives

On Monday, NAHB's Senior Officers and I heard the President speak at The White House on the importance this Administration has placed on reducing federal regulations to spur economic growth and ultimately job creation.

The home building industry is one of the most heavily regulated industries because typically a government-issued permit is required for each new unit of production.

Given 25 percent of the cost, on average, of a new single-family home is attributed to regulations at all levels of government, builders nationwide applaud the Administration's efforts to cut the red tape that drives up the cost of homes.

**Question for Pruitt:** What role will the EPA play in helping ensure the Trump Administration accomplishes its deregulatory objectives?

## 2) Smart Sectors

There has been a lot of attention this week on the Trump Administration's regulatory reform efforts.

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On Tuesday, EPA's Office of Policy launched the "Smart Sectors" program.

NAHB participated in the kick-off where our First Vice Chairman of Board Randy Noel joined you and other industry stakeholders at EPA Headquarters.

As I understand, the program has three areas of focus:

Building relationships and improving customer service to regulated sectors;

Developing additional expertise in each industry's operations and environmental performance; and

Informing the planning of future policies, regulations and agency processes.

Under this initiative, EPA will seek the business community's input on ways to reduce regulatory burdens while improving environmental performance.

This approach is certainly a welcome change from the prior Administration.

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I am pleased to see that you chose the construction sector for EPA's Smart Sectors program, and that NAHB will represent the residential construction sector.

We look forward to working with you on this important initiative.

**Question for Pruitt:** How does the Smart Sectors approach differ from how regulated industries were treated under the previous Administration?

**Question for Pruitt:** How can builders and developers work with EPA to achieve environmental protection and economic growth?

### 3) Stormwater

As you know, the price tag of water infrastructure continues to rise.

With regard to stormwater, it can stop development in its tracks.

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Builders disturbing over one acre of land or under one acre within a subdivision are regulated twice, once to capture sediment during active construction and again to ensure that pollution controls are put in place for the life of a site.

The construction sector pulls nearly half of permits issued by EPA's 402 program annually, more than industrial and municipal permits combined.

Unfortunately, this complex and burdensome program is ill-suited for an important group – small builders.

Under EPA's current regulatory framework, a single-family home has to comply with the same 400-page stormwater permit as a large housing development.

NAHB has worked with EPA to simplify the process for small, low-risk sites, but much work remains to be done.

I also wanted to touch on a topic you brought up earlier, “**making regulations regular**”.

This concept is near and dear to our members.

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Inconsistent regulation of stormwater enforcement severely hurts us.

Small, low-level paperwork violations cost our members millions and distract enforcement officers from going after repeat bad actors causing real environmental harm.

**Question for Pruitt:** NAHB and AGC have been long-time proponents of policies that award operators complying in good faith — such as "Right to Cure" procedures that let builders correct minor paperwork violations within a specific timeframe — without the risk of an expensive EPA fine.

Will you work with NAHB and AGC to expand these simple, win-win policies to improve the current stormwater enforcement process?

**Question for Pruitt:** We know that permit streamlining is one of your top priorities as Administrator.

Can we count on your support to finally make a simplified, single-lot EPA stormwater permit a reality for small builders?

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#### 4) WOTUS

The definition of “waters of the United States” is critically important to the construction industry. Home building involves substantial earth-moving activities, such as land clearing and grading.

In addition, the federal government has historically asserted such broad and ever-increasing jurisdiction over “waters of the United States.”

For these reasons, NAHB members must often obtain Clean Water Act 404 wetland permits when their activities impact “waters of the United States.”

Builders must also get Clean Water Act 402 stormwater permits for runoff discharges into a “water of the United States.”

If WOTUS expands to isolated ponds, ditches and channels that only flow when it rains – as it would have under the expansive 2015 rule – more home building activities will require federal permits.

Simply put, more WOTUS = more permits.

Obtaining these permits is no small task.

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The process causes delays and increased costs.

A 2002 study, for instance, found that it takes an average of 788 days and \$271,596 to obtain an individual CWA Section 404 permit.

It takes 313 days and \$28,915 for a “streamlined” nationwide permit.

Importantly, these ranges do not consider the cost of mitigation.

That can be exorbitant, ranging from an estimated \$25,000 to \$50,000 per acre nationwide.

President Trump kept a campaign promise to builders when he signed an Executive Order in February directing EPA and the Corps to review the 2015 Rule and propose a rule rescinding or revising it.

**Question for Pruitt:** How is EPA responding to the President’s WOTUS Executive Order, and what can builders expect moving forward?

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**Question for Pruitt:** As part of your “State Action Tour” this summer, you visited landowners and stakeholders across the country — including our home builder members in Dallas — to get their input on a narrower, common-sense WOTUS definition.

What were some of your major takeaways from the tour?

**Question for Pruitt:** On the topic of cooperative federalism, I understand the Clean Water Act allows states to take control of the wetland permitting program within their borders if they choose.

Yet, only two states – Michigan and New Jersey - have done so.

How could we put more states in control of regulating waters and wetlands as Congress intended?

*### END OF JERRY’S QUESTIONS TO ADMINISTRATOR PRUITT ###*

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