

NMHC/NAA Viewpoint

Expanding the scope of the Clean Water Act would result in undue federal regulatory requirements for apartment firms. These additional hurdles not only fail to reflect the uniqueness of higher density apartment development but also would create delays, add costs and ultimately limit construction and revitalization activity.

Multifamily development decreases water runoff rates per home by 74% compared to low-density single-family development.

CLEAN WATER ACT

The Clean Water Act (CWA) protects the quality of the nation's waters, including its lakes, rivers, wetlands and more, by regulating how many pollutants properties can discharge.

The CWA gives the Environmental Protection Agency (EPA) the authority to set pollutant discharge limits and enforce the regulations.

Under the law, apartment firms must obtain federal permits and follow strict rules when they undertake any building activities. These rules help minimize the amount of pollutants, such as construction debris, soil or sand and other foreign materials, that could inadvertently make their way into the nation's water resources.

While the apartment industry strongly supports protecting our water resources, EPA has proposed a number of onerous regulatory expansions of the CWA that would significantly restrict both new apartment construction and redevelopment activities. These constraints would exacerbate the nation's struggle to meet growing rental demand.

More specifically, the apartment industry opposes changes in two areas:

- **Definition of waters.** Originally, the CWA limited federal authority to regulate so-called "navigable waters." However, legal and political forces seek to expand the law's reach to all U.S. waters, including small streams, creeks, swamps and bogs, which currently are regulated at state and local levels. Such an expansion would require apartment developers to negotiate additional federal hurdles before breaking ground on land that has water or a tenuous connection to a body of water. This would result in permitting delays, higher development costs and additional legal risks.
- **Stormwater management rules.** EPA proposes new and significantly expanded stormwater management rules for already developed and redeveloped properties under the CWA. While EPA currently regulates stormwater discharges during new apartment construction, the proposed new rules would have repercussions for existing building operations and maintenance. The new regulations also would likely include new building design and performance standards, which could force apartment owners to invest in expensive and sometimes site-inappropriate materials and technologies.