

EPA Further Delays Issuance of Post-Construction Stormwater Regulation Proposal; Contractors and Developers Are Distraught (Not!)

December 15, 2011 by [Seth Jaffe](#)

Those following stormwater issues know that EPA is overdue to promulgate a proposed rule for stormwater controls at post-construction sites. The rule has been extremely controversial, with groups such as the [Associated General Contractors arguing](#) that EPA has no authority to promulgate post-construction rules. EPA was originally scheduled to issue the proposed rule by September 30. When EPA couldn't meet that deadline, it negotiated an extension until December 2 (while stating that the deadline for the final rule, November 19, 2012, would still be met). Well, it's December 15, and no proposal has been issued.

[E&E Daily has now reported](#) that, in recent Congressional testimony, EPA Acting Assistant Administrator for Water Nancy Stoner (a law school classmate, I might add) has acknowledged the obvious and admitted that EPA is "behind schedule." Stoner did not provide a new target for when the rule would be proposed. If I were a betting person, I'd be skeptical that there are any circumstances under which EPA could actually meet the November 19, 2012 deadline for promulgation of a final rule.

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