

October 18, 2017

Filed electronically at www.regulations.gov

Re: COE–2017–000409, Evaluation of Existing Regulations, Army Corps of Engineers

The National Stone, Sand and Gravel Association (NSSGA) thanks the Army Corps of Engineers (Corps) for the opportunity to comment on burdensome regulations and requirements. We are heartened by the administration's vision and leadership on transportation infrastructure and regulatory reform, particularly this effort to collect information on burdensome regulations to be updated or eliminated.

NSSGA is the leading advocate for the aggregates industry which employs more than 100,000 highly-skilled men and women. Our industry generates \$27 billion in annual sales and supports \$122 billion in national sales in affiliated industries. For every job created in the aggregates industry, an additional 4.87 jobs are supported throughout the economy. Our members are responsible for the essential raw materials found in every home, road, runway and public works project from schools to flood control. Additionally, environmental applications such as erosion control, wastewater, sewage, and air pollution control, and drinking water purification systems also use these materials. Aggregate companies remove natural materials from the ground to crush and process them.

Due to how stone, sand and gravel are formed, these deposits are often located in or near areas that are considered jurisdictional under the Clean Water Act; in order to be recovered, large areas must be temporarily excavated. However, unlike other types of mining, aggregate operations do not use or release chemicals. When operations have ceased, these areas are converted to nature parks, golf courses, water supply storage by local governments, flood storage enhancements and other useful functions.

All sorts of construction projects rely upon Corps permits, and too often delays of months and years hold up crucial infrastructure projects and the extraction of materials needed for these projects. NSSGA understands the need for federal protections of waters and resources, but the Corps can make common sense improvements that will aid the economy and protect the environment.

GENERAL CORPS PERMITTING IMPROVEMENTS (33 CFR 320)

The Corps should consider ways of improving and expediting the permitting process for permittees. These include:

- Enhancing the nationwide permits (NWP) program, including more opportunity to use for common repair and replacement activities,
- Setting deadlines for regulators to respond to permit applications and requests,
- Better coordination with other federal agencies, particularly the Fish and Wildlife Service, and
- Allowing an expedited permit path for simpler projects vs. large complex projects which understandably require more review.

NWP FOR AGGREGATES (33 CFR 330)

Congress enacted section 404 (e) so that the Corps could focus its resources appropriately and provide a streamlined process for minimal impact activities, and NSSGA supports this. NSSGA has consistently engaged with the Corps on revisions to the NWP program. Since the Corps first proposed phasing out NWP 26 and replacing it with activity-specific NWPs, NSSGA's members have requested an activity-specific NWP for the aggregates industry multiple times (NSSGA Comments, 06/12/97). While the first draft by the Corps appropriately set forth a separate NWP for aggregate mining activities, in the July 1, 1998 proposal the Corps combined all mining activities into one proposed NWP. NSSGA comments (8/26/98) on this proposal noted that there are significant differences between aggregates and other mining types to justify an aggregates-specific plan. The Corps decided to combine all mining activities into just one permit, NWP 44, despite the major differences between environmental effects of aggregates vs. other types of mining. During a previous reissuance, despite NSSGA's objection, the Corps reduced the maximum limit for NWP 44. NWP 44 for mining activities has a very limited use for the aggregates industry. Many types of projects required at an aggregates operation require costly and lengthy 404 permits far too often, even though the environmental impacts are minimal for aggregates operations when compared with other types of mining. In addition to requesting a separate NWP, NSSGA suggests that higher limits be considered given the temporary nature of aggregates operations. A higher limit for temporary impacts can encourage applicants to restore areas after the completion of aggregates mining. These limits should be restored to at least 3 acres or 500 linear square feet, which were sufficiently protective and allowed use for the industry.

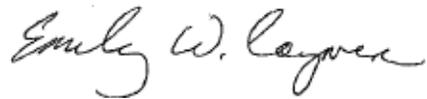
DEFINITION OF WATERS OF THE U.S. (33 CFR 328)

NSSGA is pleased to see that the Corps and EPA are withdrawing the final 2015 WOTUS rule, which made many previously non-jurisdictional features like dry stream beds and isolated wetlands jurisdictional. These features are common where stone sand and gravel are located and impossible to avoid. NSSGA urges that the replacement rule exempt ephemeral waters

and purpose-built structures like pits, quarries, and water treatment systems. Furthermore, the rule should not include waters that are not connected to navigable waters.

In summary, NSSGA suggests that the Corps improve the permitting process to make permitting faster and more efficient for all parties. NSSGA also requests that the Corps more clearly address the scope of jurisdiction and issue a functional NWP for the aggregates industry. Thank you for your consideration of these comments. I can be reached at (703) 526-1064 or at ecoyner@nssga.org.

Sincerely,

A handwritten signature in cursive script that reads "Emily W. Coyner".

Director, Environmental Policy