

August 13, 2018

Filed electronically at www.regulations.gov

Re: EPA-HQ-OA-2018-0107, Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process

We are pleased to submit comments on the Environmental Protection Agency's proposal titled "Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process" (40 CFR Cha 1, 83 FR 27524). We strongly support EPA's continuing efforts on regulatory reform. Numerous regulations, rules or other practices include costs that drastically outweigh small or nonexistent gains in environmental quality. Good government relies on reasonable regulations that are supported by sound science and provide certainty and clarity for industry. An important part of rulemaking is public notice and comment, and this process can only be improved if stakeholders have access to good quality data and information.

As the National Stone, Sand & Gravel Association (NSSGA) is the leading advocate for the aggregates industry, we make the following recommendations that are certain to assist our industry, have a positive impact on the economy and create jobs. The aggregates industry 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. Every job in the aggregates industry supports an additional 4.87 jobs throughout the economy. Our members – stone, sand and gravel producers and the equipment manufacturers and service providers who support them – are responsible for the essential raw materials found in every home, commercial building, road, runway and public works project from schools to hospitals. This industry works diligently to protect the health of our workers, the public and the environment, but burdensome regulations and red tape that do not improve worker health or environmental quality can only hinder business and adversely affect the communities in which those businesses operate.

Many of these requirements have been based on inaccessible scientific research and questionable cost-benefits analyses. We support the administration's efforts to standardize and improve the quality of these important functions by providing independent researchers with access to the underlying methods and data.

NSSGA offers specific input as requested by EPA with the following:

A. The Nature of Potential Concerns Regarding Perceived Inconsistency and Lack of Transparency -EPA requests more information about the nature and extent of the concerns relating to possible inconsistency and lack of transparency in considering costs and benefits in the rulemaking process. The most helpful comments would provide specific examples with context and specify relevant statutory provisions. What impact

could greater consistency or transparency have on regulated entities, states, tribes, and localities, and the public?

If research methods and data are more transparent and made accessible for independent verification, then public comments on proposals can be more accurate and detailed. As a result, the resulting rule will be improved and better understood by the general public and those who bear the costs of regulations. This, in turn, increases the public trust in EPA and its programs.

B. Potential Approaches for Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process - EPA requests comment on approaches for increasing consistency and transparency when and how EPA

It is especially important for EPA to standardize and provide public access to the methods and data used in cost-benefit analyses by the agency, as its regulations are the most expensive for the regulated community (and the costs of which are ultimately passed on to consumers). It has appeared in some cases that EPA has started with an answer, then worked backwards to provide the cost and benefit data to support it. Abuses include double and triple counting the same benefits¹ across different regulations, such as National Ambient Air Quality Standards. While counting co-benefits may sometimes make sense, it needs to be clear when co-benefits are included.

One of the areas that EPA should include with cost-benefit analyses are the effects of unemployment. These can include numerous stress-related health effects, including stroke, heart attack, arthritis and mental health issues, but the adverse effects of unemployment have not been considered by EPA in the past. In areas of the country where there may be only one or two major employers, regulations can cause off-shoring that can devastate communities. The comments submitted by the Coarse Particulate Coalition includes a review of this topic and references, and NSSGA incorporates these by reference.

The 2015 Waters of the U.S. Rule is an example where the economic study overstated the benefits and drastically understated the costs in order to bolster support for the rule. It relied on incomplete data, flawed methodology, and outdated studies to conclude that acreage covered by Clean Water Act Section 404 permits would increase only a fraction of what it would have in reality caused. The study did not take into account the decreases in land values where the economic activity is outweighed by the costs, rendering the land worthless for its intended and planned use. It used anecdotal data and ignored a myriad of costs including permit applications and mitigation expenses. For aggregates operations, these cost increases would be considerable, estimated to be a \$1,000,000 more in mitigation costs per expansion or new operation. These costs would be primarily related to increased stream mitigation with some wetland mitigation. Assuming only 1 percent of the aggregates operations in the U.S. attempted to expand, these costs would be an additional \$100 million dollars. However, the

¹ [Smith, 2011](#): An Evaluation of the Pm2.5 Health Benefits Estimates in Regulatory Impact Analyses for Recent Air Regulations

final economic study for the 2015 WOTUS rule estimated increased costs for all industries AND government administration to be \$158.4 million to \$306.6 million total. Furthermore, the study did not bother to calculate increased costs for stream mitigation, despite it being the greatest driver for increased costs.

NSSGA believes that there are numerous areas where the methods for developing costs and benefits can be improved. NSSGA supports this effort by EPA to increase consistency and transparency in analyzing costs and benefits of regulations. 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".

Senior Director, Environmental Policy