

November 16, 2020

Re: Reissue and Modify Nationwide Permits COE-2020-0002; Filed at [www.regulations.gov](http://www.regulations.gov)

The National Stone, Sand and Gravel Association (NSSGA), is pleased to submit these comments on the Army Corps (Corps) of Engineers' proposal to reissue and modify nationwide permits (NWP). NSSGA supports this reissuance, particularly the removal of the 300 ft linear stream loss from NWP 44, but continues to urge a specific NWP for aggregates mining.

NSSGA is the leading advocate for the aggregates industry, which employs more than 100,000 highly-skilled men and women. For every job created in the aggregates industry, an additional 4.87 jobs are supported throughout the economy. Our customers are ultimately the taxpayers who fund our nation's infrastructure. NSSGA members are responsible for the essential raw materials found in every home, road, runway and public works project from schools to hospitals. Additionally, environmental applications such as erosion control, wastewater, sewage treatment, air pollution control and drinking water purification systems also use these materials. Aggregates companies remove natural materials from the ground to crush and process them. When aggregates producers are finished producing stone, sand or gravel in the area, they return the land to other productive uses such as residential communities, parks, nature preserves, and drinking water reservoirs. Aggregates are essential for many important public works projects such as important Corps flood control efforts, and undue regulatory burdens can limit aggregates availability.

### **SEPARATE NWP FOR AGGREGATES**

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. The Corps' decision to combine all mining activities into just one permit, NWP 44, ignores the significant differences between environmental effects of aggregates vs. other types of mining, which limits the use of NWP 44 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.

### **GENERAL COMMENTS ON REISSUANCE**

NSSGA supports proposed changes in the NWP to align with current definitions and regulations, including the Navigable Water Protection Rule (NWPR) and those covering the Endangered Species Act. However, there are some areas where the NWPR and this reissuance conflict.

NSSGA is a member of the Waters Advocacy Coalition (WAC), and incorporates the WAC comments by reference to address some of these discrepancies.

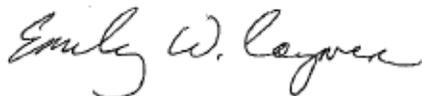
NSSGA supports the Corps' decision to post Corps district public notices soliciting input for proposed regional conditions and final regional conditions at [www.regulations.gov](http://www.regulations.gov). This will make it easier for stakeholders to better understand regional conditions. NSSGA supports continued Corps efforts to be more consistent and transparent with stakeholders.

**REMOVAL OF 300 LINEAR FOOT STREAM BED LOSS FOR NWP 44**

In the event that the Corps does not act on NSSGA's request for a separate NWP for aggregates, NSSGA supports the removal of the 300-foot stream bed loss limit for NWP 44. NSSGA opposed this requirement when it was introduced as unnecessary and burdensome. Because the local Corps offices have the authority to impose regional conditions, as well as the authority to disallow NWPs and require full 404 permits, this requirement is not needed. NSSGA agrees with the technical and legal rationale in the preamble for the removal of the 300-foot limit. The half-acre limit is protective, and this removal prevents confusion by all stakeholders. NSSGA also supports the waiver removal for ephemeral streams, since those streams are now clearly excluded from federal jurisdiction. These changes will save administrative costs and allow the Corps and regulated community to focus on more pressing matters.

In summary, NSSGA generally supports this reissuance of the NWPs, but is concerned about the lack of a specific NWP for aggregates. NSSGA suggests that the Corps more clearly address the scope of jurisdiction and issue a functional NWP for the aggregates industry. Thank you for considering these comments and recommendations. I can be reached at (703) 526-1064 or at [ecoyner@nssga.org](mailto:ecoyner@nssga.org).

Sincerely,



Senior Director, Environmental Policy