



NATIONAL STONE, SAND
& GRAVEL ASSOCIATION

February 12, 2024

Dear Members of the Small Business Committee,

Thank you for drawing attention to the Environmental Protection Agency (EPA) regulatory burdens faced by small businesses like the aggregates industry. NSSGA represents the aggregates and industrial sand industry of our country, with over 9,000 facilities and more than 100,000 employees in high-paying jobs. This industry procures 2.5 billion tons of aggregates annually, which are crucial in sustaining our lifestyle and constructing our nation's infrastructure and communities. The products sourced by this industry are fundamental components required for building roads, airports, transit, rail, ports, clean water and energy networks.

On behalf of the 450 members of the National Stone, Sand & Gravel Association (NSSGA), we are concerned about the increasing regulatory burden on the many small businesses in our industry. According to MSHA data, there are a total of 4,266 aggregate companies in the U.S. Of these, 3,685 or 86% of aggregates companies have 20 employees or fewer; 73% or 3,133 have less than 10 employees.

NSSGA members depend on permits for their operations. When agencies lack clear guidelines, it leads to delays, and overly broad definitions escalate costs. This, in turn, increases the expense of road and other infrastructure projects. Specifically, the aggregates industry has faced challenges due to changes in regulations such as:

1. The expansion of a previously state-managed reporting program to require thousands of small businesses to report on nearly 200 chemicals under the Clean Air Act's Air Emissions Reporting Rule.
2. The incorrect application of the unanimous Sackett opinion in the regulation of Waters of the United States under the Clean Water Act.
3. The lowering of the standard for fine particulate matter (PM_{2.5}) to levels that are nearly indistinguishable from background levels across much of the U.S

Air Emissions Reporting Rule (AERR) Changes (1):

The AERR historically mandated state and tribal agencies to report air emissions data to the EPA for the National Emissions Inventory and related purposes. Governments employed expert staff for this complex reporting and to navigate EPA databases. However, EPA now proposes that businesses calculate and report their emissions from nearly 200 hazardous air pollutants annually if they exceed low thresholds. This requirement represents a significant new burden, particularly for industries like aggregates, where the emissions are minimal. The Clean Air Act has focused primarily on major



emitters for the most significant impact on emission reduction, achieving notable success as U.S. emissions have decreased. The proposed AERR expansion would shift focus to negligible emitters, demanding that small businesses, like those in the aggregates sector, navigate complex reporting systems without the necessary expertise, potentially at great cost and risk of fines. This approach seems redundant, given state governments already estimate this data and the EPA monitors it, without clear evidence that the change would improve accuracy or EPA's information quality.

Clean Water Act and the Sackett Opinion Implementation (2):

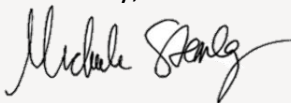
Following the Supreme Court's unanimous Sackett decision, which limited the EPA's regulatory authority over U.S. waters, inconsistencies have emerged. Our members report that the EPA and the Army Corps of Engineers are applying jurisdiction over remote and ephemeral streams far beyond navigable waters, contrary to the Court's directive and without clear public guidance. This has left the industry and Corps field staff in a state of confusion, compromising clarity and consistency essential for compliance. The EPA must align rules with the Sackett opinion, clearly excluding dry land from being considered as waters of the U.S., and offer precise directions to both the Corps and the regulated entities to avoid undue penalties and regulatory confusion.

PM 2.5 Standard Reduction (3):

The EPA's decision to lower the PM2.5 standard poses challenges across various sectors, including the aggregates industry. Given the weight of aggregate materials, extending transport distances could paradoxically increase emissions. Industrial contributions to PM2.5 pale in comparison to those from wildfires and other non-permitted sources. This stricter standard complicates the permitting of new operations and mandates expensive upgrades with minimal benefits to air quality, affecting both community well-being and industry operations nationwide.

Thank you again for your interest in these issues. We look forward to working with the committee on these issues.

Sincerely,



Michele Stanley

Executive Vice President and Chief Advocacy Officer

