



NATIONAL STONE, SAND
& GRAVEL ASSOCIATION

October 9, 2026

Re: EPA–HQ–OW–2025–0322 Updated Definition of “Waters of the United States,”
Supplemental Proposed Rulemaking ; submitted via regulations.gov

The National Stone, Sand & Gravel Association (NSSGA) is pleased to provide comments to the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) (the Agencies) on the Updated Definition of Waters of the United States (WOTUS). NSSGA is a member of the Waters Advocacy Coalition and incorporates its comments by reference. NSSGA commends the Agencies on this proposal. NSSGA agrees with the approach this rule takes to provide the clarity and certainty needed by officials of the Agencies and other government entities, the regulated community and the public, based on the Supreme Court's unanimous *Sackett v. EPA* opinion.

NSSGA is the leading advocate for the aggregates industry. Our members are responsible for the essential stone, sand and gravel used in road and public works projects, as well as erosion control, wastewater treatment, sewage, air pollution control and drinking water purification systems. Aggregates companies take naturally occurring rock from the ground, then crush and sort it. When aggregates producers finish using the stone, sand or gravel in the area, they return the land to other productive uses such as drinking water reservoirs and nature preserves. The determination of Clean Water Act (CWA) jurisdiction is critical to this industry, and NSSGA has provided input and comments on every major WOTUS action undertaken by the Agencies.

Aggregates operations cover large areas and are often located near bodies of water. The scope and reach of CWA jurisdiction directly impact the costs of planning, financing, constructing and operating an aggregates facility. An overly expansive WOTUS definition, causing high costs and delays in opening aggregates operations, can have the paradoxical effect of harming water quality by halting or delaying important projects, like those for water treatment and erosion control. Furthermore, the lack of clarity combined with the punitive CWA penalties under WOTUS, causes delays and costs due to uncertainty and inconsistent application across the U.S. The proposed rule balances environmental protection with the clarity and certainty our members need to provide vital materials for infrastructure.



NSSGA Supports the Definitions of Continuous Surface Connection, Perennial and Relatively Permanent

NSSGA agrees that the Supreme Court and the Clean Water Act do not support making dry areas federally jurisdictional. The approach taken in the proposal is protective of the navigable waters of the U.S. and ensures the cooperative federalism intended by the Clean Water Act.

NSSGA Supports the Original Proposal's Exemptions with Some Edits

Exemptions are key to a full understanding of jurisdiction and save time for all parties involved. The rationale for these is in NSSGA's comments on the original proposal.

- NSSGA agrees with the Agencies' definition of a ditch in the original proposal
- NSSGA agrees that the waste treatment exemption includes settling ponds
- NSSGA agrees with the groundwater exemption
- The pits exemption should include idle areas:

The original proposal's definition should be edited as follows:

Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel. ~~unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States~~

- Stormwater Control Features Should be Excluded in the Rule:

The following definition should be added:

Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off.

Summary

NSSGA supports the Trump administration's efforts to create a rule that protects the waters of the U.S. and provides clarity for the public, regulators and businesses, which aligns with *Sackett*. We support clear and robust exclusions to save all parties time and effort, including groundwater, water treatment systems (including settling ponds), stormwater features, ditches and pits.

I maybe reached at (703) 307-2890 or mlezell@nssga.org.

Sincerely,



Mira Lezell

Senior Vice President, Government and Regulatory Affairs

