

117TH CONGRESS 2ND Session: *The NSSGA Legislative Agenda*

NSSGA
NATIONAL STONE, SAND
& GRAVEL ASSOCIATION

ROCKS BUILD AMERICA

Aggregates are the second most utilized product in the world and are the foundation to create buildings, roads, airports and bridges. They are indispensable in developing the infrastructure needed to access clean water; deliver reliable energy; and advance environmental stewardship. **The National Stone, Sand & Gravel Association (NSSGA) represents more than 90 percent of the crushed stone and 70 percent of the sand and gravel produced annually in the United States.**



Our 400 member companies are actively engaged to advance policies that improve our infrastructure and build sustainable communities. Our industry works to enhance our nation's roads, buildings and the environment through efficient material sourcing and transportation, along with sustainable construction supply chains and effective project delivery. Below is an overview of the specific policies NSSGA is working to address with the 117th Congress and the Biden Administration, as we collectively work to build a better future.

ENSURE RAPID AND EFFICIENT IMPLEMENTATION OF INFRASTRUCTURE LEGISLATION

NSSGA applauds Congress and the Biden Administration for diligently drafting and advancing the bipartisan Infrastructure Investment and Jobs Act (IIJA). We are proud to have been a partner in the work to complete this historic bill, as it will directly improve the lives of all Americans. The aggregates industry stands ready to deliver the billions of tons of construction materials needed to build the roads, bridges, tunnels, rail, transit, ports, energy (including solar and wind facilities), water, broadband and every public works project funded through IIJA. At all stages of implementation, we encourage every federal agency to efficiently execute and deliver IIJA's investment to project planners. Below are the specific issues NSSGA is advocating for within this topic:

■ **Avoid Partisan Mandates, Provide DOTs Flexibility:**

Whether investing in a new road in a rural community or a new transit system in an urban city, this legislation should benefit all Americans. That is why we are concerned with proposed policies that were not included in IIJA, which insert new, partisan criteria into the planning process, such as restrictions on new highway capacity projects. Further, utilizing existing formulas and funding structures is key to accelerating the work, and it is the best way to ensure the promises of IIJA are delivered to every community. While distributing funds, the administration must continue to provide state and local governments with the flexibility to

address and prioritize their unique transportation needs as Congress intends.

■ **Execute Permitting Reform:** The IIJA includes critical policy provisions to ensure taxpayer dollars flow expeditiously to the array of infrastructure projects, without sacrificing environmental standards. IIJA makes key permitting reform steps by codifying One Federal Decision, expanding categorical exclusions, expediting interagency reviews, and granting greater flexibility around utility relocation. These new policies implemented by the administration should ensure projects reduce supply backlogs, stay on time and are executed on

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budget. These projects include delivering renewable energy, providing clean water, expanding ports, updating reliable transportation, and modernizing rail lines. NSSGA will continue to support efforts in Congress to further reduce permitting delays.

■ **Buy America Exclusion:** Title 9 of IIJA includes a broad expansion of Buy America requirements to federally funded infrastructure projects. Section 70917 clearly excludes “cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives” (i.e., asphalt binder) from the new Buy America requirements. It is imperative that OMB and all agencies follow the statute while implementing IIJA to ensure these critical inputs and resources can be efficiently sourced. Should Congress deliberate further changes to federal sourcing requirements, it is imperative that additional mandates are not imposed on these specifically excluded materials and inputs that cannot be sourced onshore.

■ **ROCKS Act:** NSSGA strongly supports the work of Congress to include Section 11526 that establishes a working group to examine and produce policies that ensure our nation has sustainable access to aggregates resources. This provision is similar to bipartisan legislation, Rebuilding Our Communities by Keeping Aggregates Sustainable (ROCKS) Act that has been championed by Rep. Greg Stanton (AZ), Rep. Troy Balderson (OH), Sen. Mark Kelly (AZ) and Sen. Rob Portman (OH). While states like Arizona and Minnesota have

taken key actions to institute policies that ensure proper planning is being done to maintain sustainable aggregates supplies, it is imperative the federal government also be involved in this planning. This will reduce material costs and improve environmental outcomes as the industry works to source materials needed to build the infrastructure funded under IIJA. NSSGA looks forward to being engaged with FHWA and being an active participant in the working group established under Section 11526.



IMPROVING INFRASTRUCTURE CHALLENGES

While IIJA takes a historic step in addressing our nation’s infrastructure challenges, there are still a number of important areas where Congress must act to ensure America does not fall further behind. Below are the specific issues NSSGA continues to work on within this topic:

■ **Water Resources Development Act (WRDA):** Aggregate materials are a critical component for the various Army Corps of Engineers projects covered under WRDA that improve ports and harbors; enhance waterway infrastructure traffic; protect our shorelines; and mitigate flooding in our communities. NSSGA supported the bipartisan efforts to pass WRDA in the last Congress and to finally open the entire Harbor Maintenance Trust Fund for relevant projects in the coming years. NSSGA urges Congress to continue this investment and pass WRDA 2022 before the current authorization expires.

■ **Reliable Access to Markets is Essential to Addressing Supply Woes:** The aggregates industry encourages Congress and the administration to work on finding common-sense

solutions that will bolster our supply chain. The aggregates industry produces and ships 2.5 billion tons of material each year to the market and has faced new challenges, like cost increases and shipping delays. Our materials will be used to build the infrastructure improvements funded by the bipartisan infrastructure law to reduce congestion at ports, roads, airports and rail lines. While we are proud to help complete this work, we also support policies like enacting meaningful reforms that will promote a more affordable and more dependable freight rail system while strengthening the economy.

■ **Complete Annual Spending Bills:** Completion of the 12 annual appropriations bills are critical to the aggregates industry, as they provide significant investment through

discretionary programs to infrastructure and support the work of agencies that are essential to our operations. Short-term and multiple stop-gap measures diminish the investments Congress previously allocated and waste taxpayer dollars, as state and local agencies are unable to reliably plan and execute projects.



■ **HTF Solvency:** While we applaud Congress and the administration for providing five more years of solvency for the Highway Trust Fund, Congress must look beyond that window to ensure long-term solvency. The next reauthorization bill must incorporate visionary and evolutionary revenue increases to avoid this disastrous outcome. NSSGA supports sustainable revenue source to adequately fund needed investments and

create financial certainty, including vehicle-miles-traveled (VMTs), bonding measures and the raising and indexing of the federal gas tax, which has been unchanged for nearly 30 years.

■ **Project Delivery:** The authorization of IIJA and subsequent appropriations that need to follow is a great achievement. Congress and the administration must ensure the agencies implementing federal investments, like FHWA and state DOT's have the staff to do environmental reviews and design. Flexibility should be provided to employ alternative procurement methods where it makes sense to deliver finished projects quicker and on time.

■ **Material Neutrality:** NSSGA strongly believes Congress should maintain a material neutral approach and should not legislate market share. These decisions should be left to engineers and construction professionals who have the expertise and local knowledge needed to plan and execute projects.

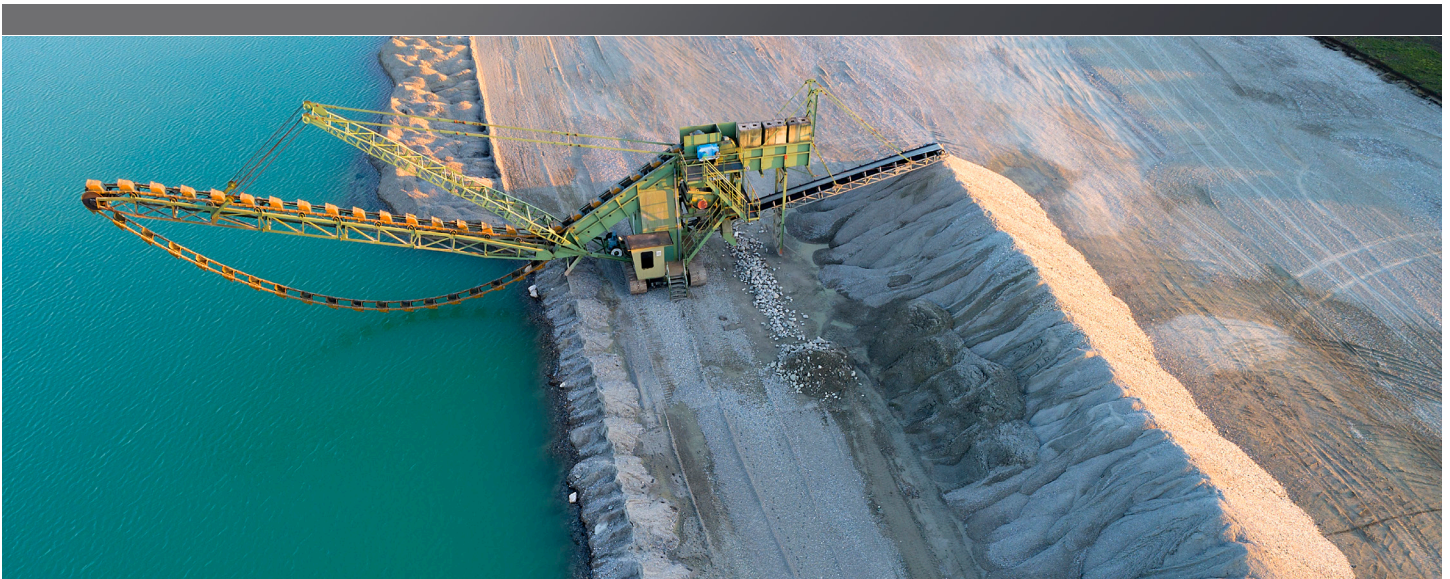
■ **Airport Investment:** NSSGA supports efforts to make continued improvements to U.S. runways, taxiways and associated infrastructure. The Airport Improvement Program (AIP) provides grants to fund construction of critical safety, security and capacity projects at airports of all sizes and is supported entirely by users of the aviation system through the Airport and Airways Trust Fund (AATF). NSSGA supports an AIP baseline of at least \$3.5 billion to ensure the long-term viability of small, medium and large airports. NSSGA also supports efforts to increase the Passenger Facility Charge (PFC). Last raised in 2000, the PFC creates additional resources for much-needed airport infrastructure improvements. Unfortunately, the PFC is not keeping pace with our airport infrastructure needs or even inflation. Congress must modernize the PFC to maintain and improve our nation's airports, which are critical to advancing our national economy, improving airline safety and the air traveler experience.

BUILDING A SUSTAINABLE FUTURE

NSSGA members are leaders in taking aggressive action to protect our environment and responsibly and sustainably produce construction materials. Companies across the industry routinely develop award-winning projects reclaiming land that include benefits such as conserving critical habitats, promoting biodiversity and providing community amenities. Further, aggregates are an essential resource for developing clean water infrastructure, renewable energy, resilient shorelines and many other important environmental projects. Below are the specific issues NSSGA continues to work on within this topic:

■ **Aggregates Are Part of the Climate Solution:** Aggregate demand to support renewable energy development is rapidly increasing. Innovative infrastructure projects are essential for reducing greenhouse gas emissions and the impacts of climate change in our communities. The industry is committed to taking all reasonable steps to reduce greenhouse gas emissions, while supplying essential materials. Our greenhouse gas emissions are inherently low due to the characteristics of our products and processes. The plants and facilities that produce these

necessary construction materials use relatively little electrical energy or fossil fuels. Despite low emissions, the industry continues to be a leader in responding to climate change and is constantly evaluating ways to reduce our energy use. For example, these measures include improving crushing and screening and utilizing new refrigerants with lower warming potentials for air-conditioned truck cabs and offices. The aggregates industry has undertaken many greenhouse gas mitigation efforts, such as investing in fuel-efficient mobile



equipment, installing renewable energy generation facilities, use of biodiesel fuels for mobile equipment, and improving operational efficiency. We encourage Congress to provide additional incentives that will drive greater demand for investments into new technologies and equipment that reduce emissions and improve the environment.

■ **Sustainability and Biodiversity:** Aggregates producers are proactive members of their communities who operate sustainable businesses during production and at the end of a quarry's life cycle. Operators ensure closed sites are responsibly reclaimed and add community benefit once extraction is completed. Reclaimed quarries can take many different forms, depending on where they are located, including farmland, parks, wildlife habitat areas, water reservoirs, community developments, recreation spots, nature preserves, alternative energy generation and more. NSSGA members are effective stewards of the land. They value innovation that enhances sustainability throughout the industry and diligently work to develop state-of-the-art technologies that improve our homes, businesses, and schools. NSSGA supports incentive-based programs and a flexible sustainability strategy that allows our members to increase their operations' sustainability during extraction and reclamation based on the individual needs of each business.

■ **Waters of the US (WOTUS) Rule:** To provide aggregates in a timely and responsible manner for vital infrastructure and environmental projects, aggregates producers need clean water and clear rules. The changes to the Definition of Waters of the United States (WOTUS) rule will make it problematic for the industry to provide the unprecedented infrastructure projects under the IIJA. NSSGA believes a proper balance responsibly protects federal waters while allowing state control of land use, as intended under the Clean Water Act. The proposed changes to this rule would have substantial consequences on the aggregate industry's ability to deliver

critical raw materials to public works project sites on time and on budget.

■ **Domestic and Renewable Energy Production:** In the face of compounding economic impacts from the COVID-19 pandemic and global pressures on oil production, it is critical that action be taken to support our domestic oil and gas industry and the workers and businesses that supply them. NSSGA encourages policies that allow greater investment in the domestic production and supply of energy resources that will help our nation's economic recovery and keep thousands of workers employed. NSSGA supports an all-of-the-above energy strategy, which includes developing energy deliverables like wind, solar, hydropower and other renewable sources. We urge expanded investments in renewable energy infrastructure that will improve the environment and create thousands of jobs, while also providing our country with a diverse energy industry - incorporating multiple sectors and ensuring energy resources are reliably and efficiently delivered to millions of Americans. Efforts to reinforce the already strained energy sector will help minimize future dependence on foreign producers and maintain America's position as a global energy producer.

■ **Access to Construction Materials on Federal Lands:** It is crucial for communities located near federal lands to access the key resources necessary for building roads, bridges, schools, hospitals, homes, and businesses. NSSGA has long opposed efforts to withdraw or impede mining rights on federal lands, where aggregates operations responsibly supply these construction materials. Additional legislative or regulatory hurdles including enacting withdrawal proposals would significantly increase the cost of public works projects, resulting from the need to import the stone, sand and gravel required to develop and repair infrastructure and buildings. This unnecessarily increases costs and uncertainty as the nation confronts the pandemic and subsequent economic challenges.

■ **Efficient Transport of Materials:** More than any other mode of transportation, the aggregates industry depends on trucking to transport materials and supplies. Since most materials are hauled short distances between aggregates facilities and project sites, trucks are a necessary mode of transportation. NSSGA supports the recent implementation of the Federal Motor Carrier Safety Administration's (FMCSA) modernization to our current Hours-of-Service (HOS) standards for truck operators. The changes will have positive



long-term impacts on the safety and efficiency of this vital mode of transportation while maintaining control of their schedule. NSSGA supports these HOS reforms and opposes any efforts to remove driver flexibility from HOS mandates. NSSGA opposes any efforts to increase truck insurance minimums. Arbitrary insurance increases will not improve the safety of our nation's transportation network or of its users — it would only saddle operators with unnecessary costs.

■ **Accurate Minerals Definitions:** NSSGA supports efforts to ban legacy asbestos use in manufacturing. However, any policy to do so requires scientifically based and accurate definitions and exposure thresholds. Moreover, it is vital for the nation's health, safety and welfare that the extraction of natural materials is not wrongly impacted. Extraction and processing of stone, sand and gravel do not contribute to asbestos-like disease and are required to build our homes, schools, hospitals and the nation's infrastructure. That is why accurate and scientifically sound geological and mineralogical definitions of naturally occurring asbestos are critical to the aggregates industry.

ENSURING SAFE AND EFFICIENT PRODUCTION OF AGGREGATES

Those working in the aggregates industry take great pride in supplying the nation with vital building materials safely and efficiently. Health and safety are industry values inherent in the daily routines at our plants, at our customers' sites, and within our communities. NSSGA works to ensure our products can meet and supply market demands and specifications, as efficiently as possible, to keep costs low for customers and taxpayers. We actively support policies that support economic growth and lead to responsible investments in the infrastructure that improves our daily lives. Below are the specific issues NSSGA continues to work on within this topic:

■ **Workforce Development:** A skilled and highly trained inclusive and diverse workforce is paramount to safely operating quarries that produce the critical materials found in infrastructure projects. Unfortunately, many aggregate producers are unable to hire and retain an adequate workforce from today's labor market. The aggregate industry takes pride in investing in their employees by providing attractive salaries, competitive benefits, robust training, support and career development. In fact, our industry's average annual salary is over \$75,000, and most employees spend their entire careers in the industry. NSSGA supports policies and funding from the federal government to train workers, increase the diversity of our workforce and ensure aggregate producers can access the skilled employees needed to continue producing the building blocks of America. We also encourage Congress and the administration to continue its bipartisan support for programs that prepare America's veterans, service members and their spouses for meaningful careers and employment opportunities.



■ **Unnecessary Workforce Standards:** Aggregate's producers are committed to promoting the health and safety of their most precious resource — their workers. Since the start of the COVID-19 pandemic — in many cases before requirements and guidance measures were released by

federal and local regulators — the industry took aggressive actions to protect workers as they continue to produce essential building materials. It is now clear that the practices established and executed by aggregates operators are working. Aggregate producers are proactive and diligent in ensuring their employees are taken care of on all fronts — physically, financially and mentally. They typically exceed requirements promulgated by federal and state health experts to keep employees safe, diligently update protocols and have proactively pursued vaccination of the workforce. NSSGA is concerned with the enactment of a broad and unnecessary Emergency Temporary Standard at either the Occupational Safety and Health Administration or the Mine Safety and Health Administration that may undo our progress to safely produce construction materials.

■ **Pro-Growth Trade:** Pro-growth trading policies are important to aggregate and industrial sand producers, along with the manufacturers and businesses that supply them. NSSGA supports new trade agreements, such as USMCA, which restores predictability to North American trade markets and limits disruptions to the construction equipment supply chain. Such trade agreements allow for more efficient product delivery and reduced costs for equipment purchasers. We look forward to partnering with Congress to enact additional agreements that will level the playing field for our nation, leading to stronger economic growth and creating good-paying jobs.



■ **A Tax Structure That Supports Growth:** A tax code that encourages investments in infrastructure development and allows families and businesses operating quarries to continue to create and support high-paying jobs is critical to a growing economy. NSSGA supports sensible reforms to our tax laws that remove undue burdens and allow for innovation in the aggregates industry. NSSGA will continue working with Congress and the Biden Administration on tax code changes benefitting the stone, sand and gravel industry. NSSGA vigorously opposes any provisions that would adversely impact aggregates operators, including:

- **Percentage Depletion:** NSSGA will continue to oppose legislative efforts to repeal the percentage depletion allowance. Having been incorporated into the tax code since 1926, this important provision incentivizes aggregates producers to make new investments by providing a 5-percent capital cost recovery method for sand, gravel and crushed stone development. Eliminating this provision will further drive cost increases for end-users of aggregates, including federal agencies.
- **Bonus Depreciation:** Aggregates producers make costly investments in heavy equipment and machinery to properly run their quarries that support our nation's manufacturing economy and are critical to ensuring the materials that create our infrastructure are available and competitively priced. Currently, the bonus depreciation allowance is slated to expire January 1, 2023. NSSGA supports permanent expansion of this important tool that provides aggregates operators the certainty to make necessary capital investments that create jobs and grows our economy.
- **Corporate Tax Rate:** Corporate tax rates must remain globally competitive to allow American labor and materials to compete on a level playing field. NSSGA supports maintaining the current Corporate Federal Tax Rate of 21 percent, without the burdensome complexity of an additional minimum tax. NSSGA also supports efforts to incentivize American manufacturing, which is critical to our economic prosperity.
- **Small Business Deduction:** NSSGA supports the permanent extension of the 199A 20 percent deduction for qualified business income. 70 percent of NSSGA members are small producers and family-owned operations that have supplied their local communities for generations. Section 199A is scheduled to sunset at the end of 2025. A permanent extension would bring needed certainty to small businesses and help to further unleash American ingenuity and growth that is powered by small businesses.
- **Capital Gains Tax:** Encouraging risk-taking investments in innovation and infrastructure has always been a hallmark of the U.S. tax system. The current preference for capital gains should be continued without any income phaseout that would disproportionately affect small family businesses like those in the aggregates industry.
- **Estate Tax:** NSSGA supports a full repeal of the 40 percent federal estate or "death" tax, which is levied on estates valued greater than \$5 million at the time of death. NSSGA supported passage of the Tax Cuts and Jobs Act in 2017, which doubled the exclusion from \$5 million to \$10 million (adjusted for annual inflation) through 2025.