

118TH 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; advance environmental stewardship; and build the transportation networks that sustain our lives.

The National Stone, Sand & Gravel Association (NSSGA) represents the men and women who work every day to produce over 2.5 billion tons of aggregates each year and industrial sand. NSSGA's 450 member companies are actively engaged to advance policies that improve our infrastructure and build sustainable communities. Below is an overview of the specific policies NSSGA is working to address with the 118th 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 administration for diligently drafting and advancing the bipartisan Infrastructure Investment and Jobs Act (IIJA) in the 117th Congress. The aggregates industry is working to deliver the billions of tons of construction materials needed to build, repair and maintain the roads, bridges, tunnels, rail, transit, ports, energy facilities (including solar and wind), water conveyance systems, broadband capacity and 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:

■ Oppose Partisan Mandates and Handcuffing Policies:

Whether investing in rural community roads or a new urban transit system, federal infrastructure investment should benefit all Americans. We oppose new administration policies or proposed rulemakings that add additional requirements to either the implementation of the IIJA or the Federal-Aid highway programs functions. Utilizing existing formulas and funding structures is the best way to ensure the promises of IIJA are delivered to every community efficiently. 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 intended — and keep partisan mandates that Congress rejected out of the implementing guidelines.

■ **Execute Permitting Reform:** IIJA includes critical policy provisions to ensure taxpayer dollars flow expeditiously to the array of vital infrastructure projects, without sacrificing applicable regulatory standards. IIJA makes key steps in permitting reform by codifying One Federal Decision, expanding categorical exclusions, expediting interagency reviews, and

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granting greater flexibility around utility relocation. NSSGA is concerned about new rulemaking that would unduly complicate the National Environmental Policy Act (NEPA) procedures, and we oppose efforts that further complicate federal permitting requirements.

■ **Buy America Exclusion Implementation:** In August 2023, OMB issued final guidance and an amendment to the Code of Federal Regulations implementing the Build America, Buy America Act (BABAA). The OMB guidance recognizes the Section 70917(c) exemption of “cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives,” as well as wet concrete and asphalt. Implementation challenges continue to persist, as State DOTs and other procurement authorities work to develop compliant procurement regimes. Reasonable guidance from the Federal Highway Administration (FHWA) on BABAA certification forms and processes is needed to remove certification form confusion, inconsistency and delay. Moreover, FHWA guidance is needed to clarify BABAA compliance at the APL/QPLs level. OMB’s intention to regularly convene “inter-agency workgroups” to ensure “that federal agencies implement BABAA in a consistent, uniform, efficient and transparent manner” should include participation by State DOTs to hasten consistent BABAA implementation across all states.

■ **ROCKS Act:** NSSGA strongly supported the inclusion of Section 11526 in IIJA, which establishes a working group to examine and produce policies

that ensure our nation has sustainable access to quality and proximate aggregate resources. This provision was similar to the bipartisan legislation, Rebuilding Our Communities by Keeping Aggregates Sustainable (ROCKS) Act, which was 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 acted to institute policies that ensure proper planning to maintain sustainable aggregate supplies, the federal government must also be involved in this planning. This will reduce construction costs and improve environmental outcomes, as the industry works to source materials needed to build the infrastructure funded under IIJA. NSSGA looks forward to working with FHWA, as they form 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 notable 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):** Aggregates and industrial sand materials are critical components 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. NSSGA has long supported the bipartisan efforts to pass WRDA in each Congress and encourages this work to continue in the 118th Congress, before the 2022 WRDA bill expires. Further, we call on Congress to ensure robust appropriations are available each fiscal year to fund the authorized construction projects to keep critical water infrastructure work moving forward.

■ **Rail Service Reform:** The nation’s supply chain and rail networks are currently failing the aggregates and industrial sand industries. We support pragmatic, durable and common-sense solutions to resolve these issues. We support the reforms

being examined by the Surface Transportation Board (STB) that would increase competition (particularly to smaller, rural, and underserved communities) and transparency to improve rail service. We support Congressional legislative efforts to reauthorize the STB, providing the agency with the tools to level the playing field between shippers and carriers.

■ **Material Neutrality:** NSSGA strongly believes Congress should maintain a material-neutral approach and not legislate market share. NSSGA opposes attempts by competing materials to utilize legislation like the National Defense Authorization Act, the Farm Bill and appropriations bills to promote market share by establishing material-specific deployment programs. When executing federal investments, material choice decisions should be left to engineers and construction professionals who have the expertise and local knowledge to plan and successfully execute projects.

■ **Complete Annual Spending Bills:** Completion of the 12 annual appropriations bills is critical, as it provides significant investment to infrastructure through discretionary programs and supports the work of agencies that are essential to



our nation's businesses. Multiple short-term and stop-gap measures diminish the investments Congress previously allocated and waste taxpayer dollars, as state and local agencies are unable to reliably plan and successfully execute projects.

■ **Highway Trust Fund Solvency:** While we applaud Congress and the Biden administration for providing five more years of solvency for the Highway Trust Fund, Congress must look beyond that timeframe to ensure long-term solvency. To avoid a devastating shortfall, the next surface transportation reauthorization bill must incorporate visionary and evolutionary revenue increases. NSSGA supports sustainable revenue sources to adequately fund needed investments and create financial certainty, including vehicle-miles-traveled (VMTs), bonding measures, registration fees for electric vehicles, national registration fee and the raising and indexing of the federal gas tax, which has been unchanged for nearly 30 years. As discussions about the Highway Trust Fund unfold, we at NSSGA advocate for a comprehensive consideration of all potential funding methods. It's crucial to explore sustainable and stable funding sources while explicitly avoiding reliance on yearly appropriations, which could jeopardize the consistency and effectiveness of infrastructure investments.

BUILDING A SUSTAINABLE FUTURE

NSSGA members are leaders in taking aggressive action to protect our environment and produce construction materials responsibly and sustainably. NSSGA supports science-based federal standards that protect public health and the environment and provide economic opportunity. Below are issues NSSGA continues to work on within this topic:

■ **Aggregates Are Part of the Climate Solution:** Demand for aggregates and industrial sand to support renewable energy development is rapidly increasing. Innovative infrastructure projects are essential for reducing greenhouse gas emissions and enhancing community resiliency to withstand the effects of climate change. The aggregates and industrial sand industries are committed to taking reasonable steps to reduce greenhouse gas emissions while supplying essential materials. Greenhouse gas emissions at aggregates facilities are inherently low due to the characteristics of our products and manufacturing processes. The plants and facilities that produce these necessary construction materials use relatively little electrical energy or fossil fuels. Despite low baseline emissions, our industry continues to be a leader in responding to climate change and is constantly evaluating ways to reduce energy use. For example, companies promote recycling, make crushing and screening processes more efficient and use new refrigerants with lower warming potential for air-conditioned truck cabs and offices. The aggregates and industrial sand industries have undertaken many greenhouse gas mitigation efforts, such as investing in fuel-efficient mobile equipment; installing renewable energy generation facilities; using biodiesel fuels



for mobile equipment; and improving operational efficiency. The end producers of asphalt, concrete and cement use innovative technology to further reduce the carbon footprint of the materials they produce that use aggregates. We support incentives, grants and opportunities to drive investments into modern technologies and equipment that reduce energy use, decrease air emissions and increase sustainability.



■ **Buy Clean Policies:** NSSGA appreciates the increased focus in Congress and by the administration to create opportunities that promote the use of sustainable building materials. The programs established by the Inflation Reduction Act and the Biden administration's procurement actions must follow the law, as written by Congress and incorporate industry input. The industry-led aggregates Environmental Product Declarations (EPD) process is a critical tool for achieving shared sustainability goals. Creating new burdensome procedures and regulations will only slow our ability to deliver sustainable materials developed by America's aggregates producers.

■ **Waters of the US (WOTUS) Rule:** Producers need clean water and clear rules to provide aggregates and industrial sand in a timely and responsible manner for vital infrastructure and environmental projects. While the unanimous Supreme Court opinion on *Sackett* limited federal jurisdiction, the lack of definitions and clarity from the agencies makes it difficult to supply the unprecedented amount of infrastructure projects under the IIJA and other federal investments. NSSGA believes a proper balance can be struck to protect federal waters responsibly while allowing state control of land use, as intended under the Clean Water Act.

■ **Particulate Matter (PM) Rule:** EPA has reduced the PM (PM2.5) standard to a level that will send many locations in the U.S. into a nonattainment status. This may unnecessarily create problems for aggregates and industrial sand operators, as it will impose new requirements on existing operations and make permitting new operations difficult in these areas.

■ **Air Emissions Reporting Rule (AERR):** EPA is proposing a vast expansion of a reporting system used by states to report estimated emissions, which could require many businesses to report trace levels of nearly 200 pollutants. While major emitters are already obligated to disclose such emissions, this new requirement would force small emitters to track mobile equipment usage, adopt complex new calculations and report systems for a negligible improvement in information quality.

■ **Endangered Species Act (ESA):** The Endangered Species Act has historically been ineffective in the revival of threatened and endangered species. NSSGA supports common-sense reforms to allow more state and local program expertise to solve complex species and habitat issues, as well as voluntary efforts by industry to create and enhance habitats.

■ **Sustainability and Biodiversity:** Aggregates and industrial sand producers are proactive members of their communities who operate sustainable businesses, both during production and sale as well as at the end of a quarry's life cycle. Operators ensure closed sites are responsibly reclaimed and add community benefits once extraction is completed. Reclaimed quarries can take many forms depending on where they are located, including farmland, parks, wildlife habitat areas, water reservoirs, community developments, recreation spots, nature preserves and alternative energy generation. NSSGA members are effective stewards of the land. They value innovation that enhances sustainability throughout the supply chain and creates state-of-the-art solutions that improve our homes, businesses and schools. For example, finding environmentally and socially beneficial strategies to utilize quarry fines (traditionally a waste material) in road construction, as a soil enhancement, or sequester of carbon. 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.

■ **Farm Bill Reauthorization:** NSSGA is working to enact legislative priorities in the 2024 Farm Bill, which sets policy and funding for all federal engagement with our farm and food ecosystem. We are seeking to promote research and development on the use of aggregate by-products in topsoil restoration, fertilizer manufacturing and as a best practice for water retention and carbon capture. Doing so will create new opportunities to promote soil health and drive sustainability across the marketplace.

■ **Domestic and Renewable Energy Production:** In the face of global economic challenges it is critical that action be taken to support our nation's 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 to normalize the availability and cost of energy inputs. Aggregates and industrial sand producers face volatile and ever-changing fuel inputs that hamper our ability to reliably produce materials. NSSGA supports an all-of-the-above energy strategy, that includes developing green 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 and durable energy industry. These investments will incorporate multiple sectors and ensure energy resources are reliably and efficiently delivered to millions of Americans. However, policies must recognize there will still be a long transition period

moving towards greater reliance on renewable energy and it is impossible for industries to change overnight. Efforts to reinforce the 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 resources necessary for building and maintaining roads, bridges, schools, hospitals, homes and businesses. NSSGA has long opposed unprincipled efforts to withdraw or impede mining rights on federal lands, where aggregate and industrial sand operations responsibly supply these construction materials. Additional legislative or regulatory hurdles, including enacting withdrawal proposals, would significantly increase the cost of public works projects by creating the need to import the stone, sand and gravel required to develop and repair infrastructure and buildings. This unnecessarily increases costs and uncertainty, while the nation confronts economic challenges and inflation.

ENSURING SAFE AND EFFICIENT PRODUCTION OF AGGREGATES

Those working in the aggregates and industrial sand industries take great and justifiable pride in safely and efficiently supplying the nation with vital building materials. Health and safety are industry values inherent in the daily routines at our facilities, at our customers' sites and within our communities. NSSGA works to ensure our products can meet varying market demands and strict specifications, as efficiently as possible, to keep costs low for customers and taxpayers. We actively support policies that encourage 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. Unfortunately, many producers have difficulty with hiring and retaining an adequate workforce in today's challenging labor market. The aggregates and industrial sand industries take pride of investing in their employees by providing attractive salaries, competitive benefits, robust training, support and career development. Our industry's average annual salary is over \$75,000 and most employees spend their entire careers in the industry. NSSGA

that seeks to expand mine engineering and related fields at colleges and universities and develop vocational education programs supporting the mining industry. We also encourage Congress and the administration to continue its bipartisan support for programs that work with America's veterans, active and reserve service members, and their families to find meaningful careers and employment opportunities. Finally, we urge Congress to examine and update our immigration laws and provide new opportunities to increase the legal workforce in the United States.

■ **Unnecessary Workforce Standards:** Aggregates and industrial sand producers are committed to promoting the health and safety of their most precious resource - their workers. We support reasonable regulations and standards that are based on sound science. Working proactively with federal partners, such as the Mine Safety and Health Administration (MSHA), is essential to creating even safer workplaces. We support an MSHA rule on respirable crystalline silica that is both protective of workers and reasonable for employers. However, we are concerned about numerous rulemakings at the Department of Labor that do not make the industry a safer or healthier workplace but only add unworkable mandates and regulations.



supports policies and funding from the federal government to train workers, increase workforce diversity and ensure producers can access the skilled employees needed to continue producing the building blocks of America. We support legislation

■ **Pro-Growth Trade:** Pro-growth trading policies are important to aggregates and industrial sand producers, along with the manufacturers and businesses that supply them. NSSGA supports new trade agreements, such as USMCA, that 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 introduce and enact additional agreements that will level the playing field for our nation, leading to stronger economic growth and creating good-paying jobs. NSSGA supports Congressional efforts to re-establish the ability of the Executive Branch to negotiate trade agreements through “fast track” Trade Promotion Authority.



■ **A Tax Structure That Supports Growth:** A Revenue Code that encourages investments in infrastructure development and allows families and businesses who operate quarries to create and support high-paying jobs is critical to a growing and sustainable economy. NSSGA supports sensible reforms to our tax laws that remove undue burdens and allow for industry innovation. NSSGA will continue working with Congress and the administration on tax code changes that advance 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. This important provision, incorporated in the Revenue Code since 1926, incentivizes aggregates producers to make new investments by providing a 5 percent capital cost recovery method for sand, gravel and crushed stone and 14 percent for industrial sand development. Eliminating this provision will inappropriately increase costs for end-users of aggregates, including federal agencies, and discourage investment.
- **Bonus Depreciation:** Aggregates producers make costly investments in heavy equipment and machinery to

properly run their quarries. This supports our nation’s manufacturing economy and ensures materials are available and competitively priced and is the basis for increasing jobs. The bonus depreciation allowance began to phase out on January 1, 2023. NSSGA supports permanent expansion of this important tool that provides aggregate operators the certainty to make necessary capital investments that creates jobs and grows our economy.

- **Research and Development Tax Credit:** For almost seven decades, the Revenue Code has acknowledged the significance of research and development by permitting businesses to deduct their entire R&D expenses within the same fiscal year. However, as of the start of 2023, businesses were obligated to spread out or deduct these expenses over an extended period. This change significantly increased the cost of conducting R&D in the United States. Unfortunately, the industry is already experiencing the chilling impact of the R&D deduction limitations, resulting in the loss of high-paying jobs and a reduction in R&D activities geared toward future innovations. Even more frustrating, the new expensing requirements are disproportionately impacting small businesses and requiring hard-working taxpayers to cover as high as 200 – 300 percent increases in taxes for this year.
- **Corporate Tax Rate:** Corporate tax rates must remain globally competitive to allow American labor and materials to fairly and effectively compete. 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 Section 199A, 20 percent deduction for qualified business income. Over 80 percent of NSSGA members are small producers and family-owned operations that have supplied their local communities with needed materials 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 the 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 aggregate industry.
- **Estate Tax:** NSSGA supports a full repeal of the 40 percent federal estate or “death” tax, which is levied on estates valued at greater than \$5 million at the time of death. NSSGA supported the 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.