

118TH CONGRESS 1ST 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 400 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 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:

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

Whether investing in rural community roads or a new urban transit system, federal infrastructure investment 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. Utilizing existing formulas and funding structures is key to accelerating work and 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 intended – and keep partisan mandates that Congress rejected out of the implementing guidelines.

■ **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 steps in permitting reform by codifying One Federal Decision, expanding categorical exclusions, expediting interagency reviews, and granting

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

■ **Buy America Exclusion:** Title 9 of IIJA includes a broad expansion of Buy America requirements to federally funded infrastructure projects. Section 70917 clearly excludes from the new Buy America requirements, “cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives” and the mixes where these products are used, like concrete and asphalt. OMB, all federal agencies, and state DOT’s must follow the statute, while implementing IIJA to ensure these critical inputs and resources can be efficiently sourced. Should Congress consider further changes to federal sourcing requirements, they must not impose additional mandates on these specifically excluded materials and inputs that cannot be sourced onshore. If the exclusions are not followed, then many areas of the country will not be able to build Infrastructure.

■ **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 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 several 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):** Aggregates and industrial sand 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 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 construction projects authorized by Congress to keep critical water infrastructure work moving forward.

■ **Rail Service Reform:** The aggregates and industrial sand industries support common-sense solutions that will bolster our supply chain and rail networks, which are currently failing these industries. 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 legislative efforts in Congress to reauthorize the STB, giving the agency the tools needed to level the playing field between shippers and carrier.

■ **Material Neutrality:** NSSGA strongly believes Congress should maintain a material-neutral approach and should 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 needed to plan and execute projects.

■ **Complete Annual Spending Bills:** Completion of the 12 annual appropriations bills is critical to the aggregates



and industrial sand industries, as they provide significant investment to infrastructure through discretionary programs 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.

■ **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 window to ensure long-term solvency. The next surface transportation reauthorization bill must incorporate visionary and evolutionary revenue increases to avoid a disastrous shortfall. NSSGA supports sustainable revenue sources to adequately fund needed investments and create financial certainty, including vehicle-miles-traveled (VMTs), bonding measures, highway freight fees, registration fees for electrical vehicles and the raising and indexing of the federal gas tax, which has been unchanged for nearly 30 years.

■ **Airport Investment:** NSSGA is looking forward to engaging with Congress, as they work to reauthorize the Federal Aviation Administration (FAA). We support efforts to continually improve U.S. runways, taxiways, and associated infrastructure through the Airport Improvement Program (AIP). Finally, we call on Congress to expand the FAA materials research programs to include critical aggregates research priorities that will modernize runway construction, promote sustainability, and deliver cost savings to taxpayers.

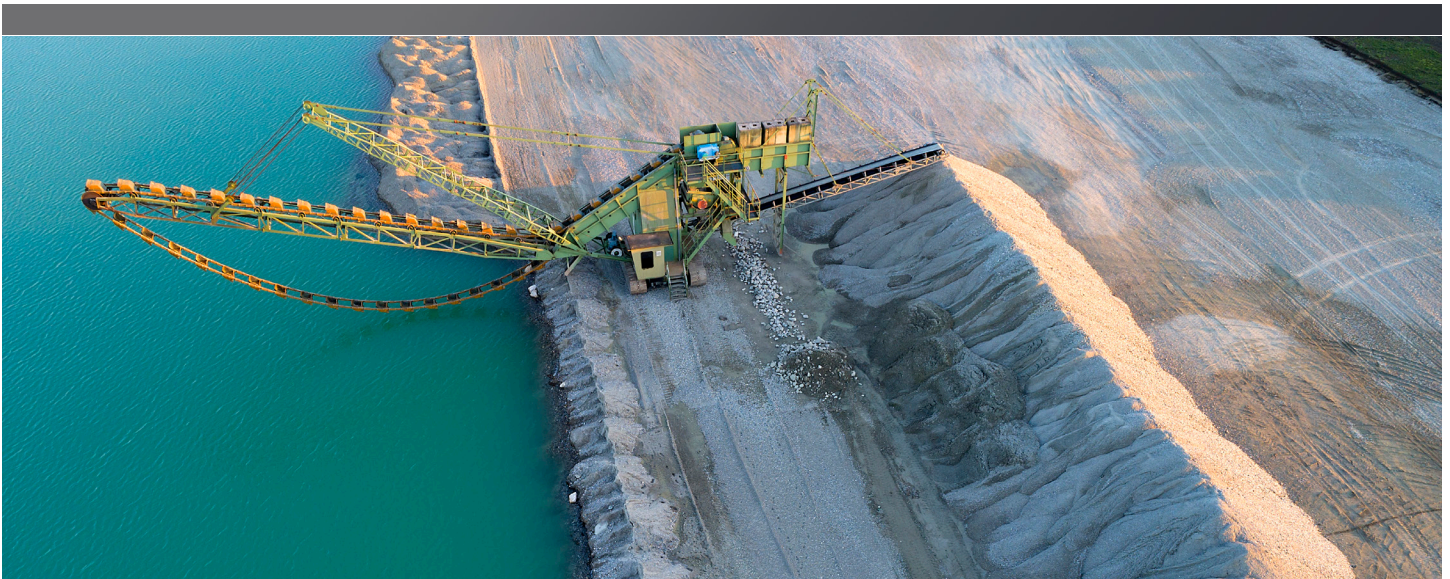
BUILDING A SUSTAINABLE FUTURE

NSSGA members are leaders in taking aggressive action to protect our environment and produce construction materials in a responsible and sustainable manner. 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. 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 baseline emissions, these industries continue to be leaders in responding to climate change and are constantly evaluating ways to reduce energy use. For example, companies are promoting recycling, making crushing and screening processes

more efficient and using 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 are using innovative technology to further reduce the carbon footprint of the materials they produce using the aggregate. We support incentives, grants and opportunities that will drive investments into modern technologies and equipment that reduce energy use, 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. It is imperative the programs established by the Inflation Reduction Act and the Biden administration's procurement actions follow the law, as written by Congress and incorporate industry input. The industry led aggregates Environmental Product Declarations (EPD) process is a critical tool to achieving shared sustainability goals. Creating new burdensome procedures and regulations will only slow our ability to deliver sustainable materials that are being developed by America's aggregates producers.

■ **Waters of the US (WOTUS) Rule:** To provide aggregates and industrial sand in a timely and responsible manner for vital infrastructure and environmental projects, producers need clean water and clear rules. The changes to the definition of the Waters of the United States (WOTUS) rule makes it difficult for the industry to supply the unprecedented infrastructure projects under the IIJA and other federal investments. NSSGA believes a proper balance can be struck to responsibly protect federal waters, while allowing state control of land use, as intended under the Clean Water Act. Further, we are disappointed this rule was finalized while the Supreme Court is actively deliberating changes to WOTUS. The changes implemented by this rule will have substantial consequences on the aggregate and industrial sand industries' ability to deliver critical raw materials to public works project sites on time and within budget.

■ **Particulate Matter (PM) Rule:** EPA is proposing to reduce the standard for fine PM (PM2.5) to a level that will send many parts of the U.S. into nonattainment. Such a reduction could create problems for aggregates and industrial sand operators in many areas of the U.S., as this will affect permitting and potentially limit production.

■ **Endangered Species Act (ESA):** The Endangered Species Act, as enacted, has historically done a poor job of recovering threatened and endangered species. NSSGA supports common-

sense reforms to allow more state and local expertise and programs 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 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 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 supply chain and create state-of-the-art solutions 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.

■ **Farm Bill Reauthorization:** NSSGA will be working to enact legislative priorities in the 2023 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 byproducts 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 inflation 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 to normalize the price 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 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. These investments will incorporate multiple sectors and ensure energy resources are reliably and efficiently delivered to millions of Americans. 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 roads, bridges, schools, hospitals, homes, and businesses. NSSGA has long opposed 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 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 market demands and 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 that produce the critical materials found in infrastructure projects. Unfortunately, many producers have difficulty hiring and retaining an adequate workforce in today's labor market. The aggregates and industrial sand industries take pride in 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 supports policies and funding from the federal government to train workers, increase the diversity of our workforce and ensure producers can access the skilled employees needed to continue producing the building blocks of America. We support legislation 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 spouses 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.

■ **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 enact additional agreements that will level the playing field for our nation, leading to stronger economic growth and create 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 tax 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 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 Biden 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 tax 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 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 Jan. 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.

- **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 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 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.

KEY DATES:

Please note these dates when NSSGA members will be in Washington, DC to talk with their lawmakers:

- **Construction on the Mall:** May 14-16, 2023
- **Transportation Construction Coalition Fly-In:** May 16-17, 2023
- **NSSGA’s Annual Legislative and Policy Forum:** September 24-27, 2023