



# **FEDERAL ENVIRONMENTAL UPDATE**

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# TOPICS FOR TODAY

- State of the Industry
- Trump Administration 2
- EPD Update
- Environmental Issues Impacting Aggregates: Status
  - Air Emissions Reporting Rule (AERR)
  - Standard for Fine Particulate Matter (PM2.5)
  - Waters of the US (WOTUS)
  - Multisector General Permit (MSGP – NPDES)
  - Endangered Species Act (ESA)
  - End of Chevron Deference to Federal Agencies

# STATE OF THE INDUSTRY

- An estimated 671 Mt of total *construction aggregates* was sold or used in the United States in the third quarter of 2024, a decrease of 7% compared with that in the third quarter of 2023.
- The estimated production for consumption in the first 9 months of 2024 was 1.79 Gt, a decrease of 6% compared with that in the same period of 2023.

Source: USGS – Data subject to change, official release is Jan 31.

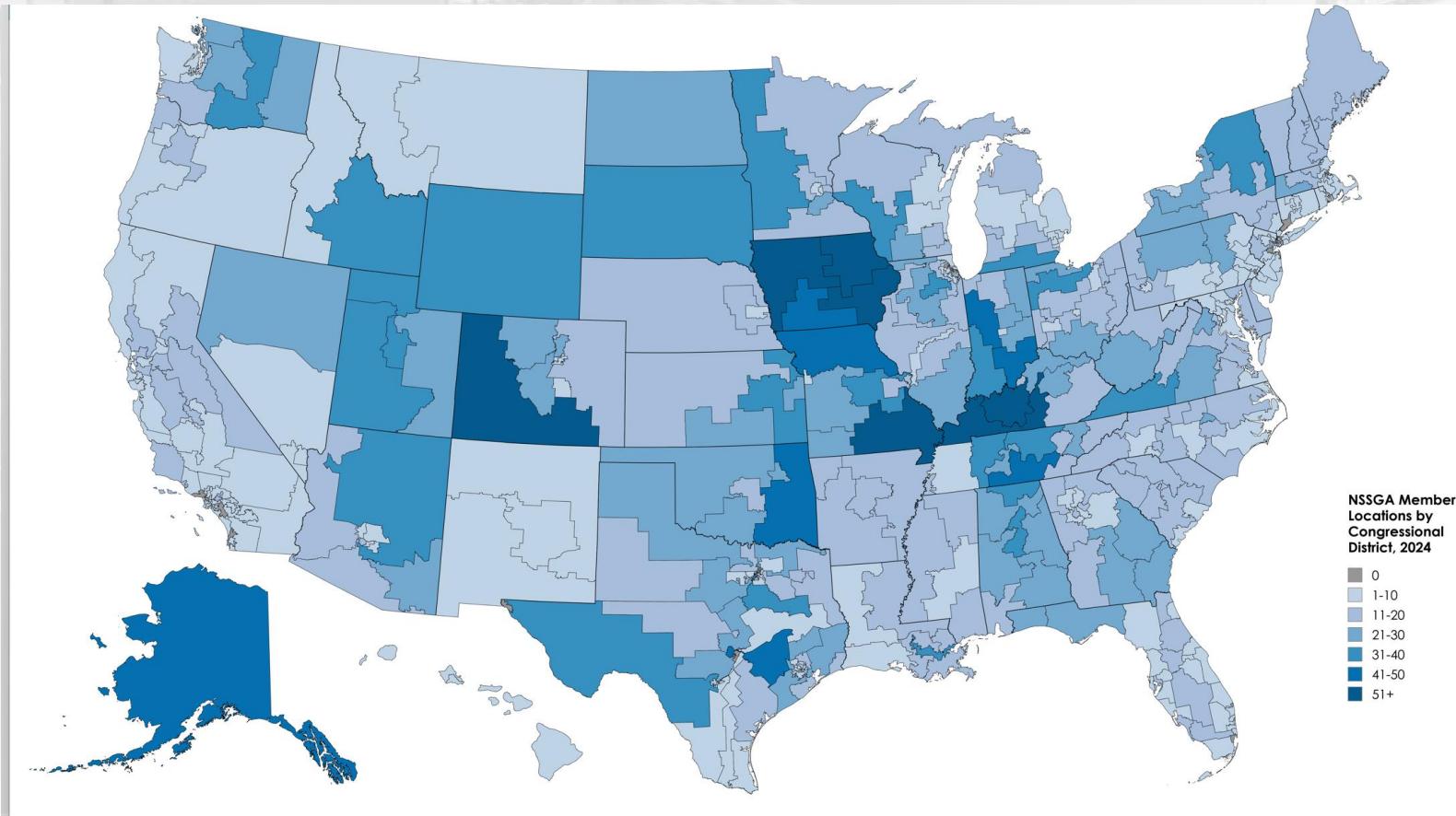
**TABLE 5.** Construction aggregates sold or used by producers in the United States, by division.  
 [Quarterly totals shown are estimates based on a sample survey. Estimated quantities for prior quarters have been recalculated. Data are in thousand metric tons and thousand dollars.]

Region/Division1	2023						2024					
	Quantity					Value	Quantity	Percent	Quantity	Percent	Quantity	Percent
	1st qtr.	2d qtr.	3d qtr.	4th qtr.	1st–4th qtr.2, 3	1st–4th qtr.2, 4	1st qtr.	change5	2d qtr.	change5	3d qtr.	change5
Northeast												
New England	4,299	18,652	24,515	19,600	80,723	1,149,421	5,748	33.7	19,376	3.9	25,969	5.9
Middle Atlantic	35,964	58,718	60,420	47,916	203,017	3,371,890	30,436	-15.4	54,566	-7.1	61,004	1.0
Midwest												
East North Central	50,152	100,388	111,411	91,110	381,920	4,489,571	47,819	-4.7	91,413	-8.9	104,411	-6.3
West North Central	44,189	78,434	84,348	62,520	281,800	2,628,498	35,283	-20.2	64,605	-17.6	73,699	-12.6
South												
South Atlantic	98,295	116,081	113,278	102,469	430,227	8,500,748	94,330	-4.0	115,008	-0.9	102,488	-9.5
East South Central	38,135	50,984	50,638	46,324	201,872	3,382,500	35,364	-7.3	48,563	-4.7	48,103	-5.0
West South Central	96,401	114,061	112,980	96,449	420,062	6,074,573	92,407	-4.1	101,128	-11.3	105,785	-6.4
West												
Mountain	45,654	77,333	82,477	67,018	280,755	3,526,159	40,837	-10.6	74,563	-3.6	73,695	-10.6
Pacific	41,296	63,637	66,446	56,831	228,210	3,418,814	44,773	8.4	61,537	-3.3	63,853	-3.9
<b>Total6</b>	487,753	696,615	721,449	615,736	2,521,552	35,499,285	467,208	-4.2	656,159	-5.8	671,011	-7.0

1Sales region equivalent to U.S. Census Bureau Geographic Division as follows: New England (CT, MA, ME, NH, RI, VT); Middle Atlantic (NJ, NY, PA); East North Central (IL, IN, MI, OH, WI); West North Central (IA, KS, MN, MO, NE, ND, SD); South Atlantic (DE, FL, GA, MD, NC, SC, VA, WV); East South Central (AL, KY, MS, TN); West South Central (AR, LA, OK, TX); Mountain (AZ, CO, ID, MT, NM, NV, UT, WY); Pacific (CA, OR, WA).



# NSSGA Members



- 518 Total NSSGA Members: 155 Producers
- Members in 428 congressional districts

# TRUMP ADMINISTRATION 2

- What's the same
  - Emphasis on deregulation & energy
  - Seek industry input/address concerns
- What's different
  - Appointees – communicators & loyalists
  - Better planning & understanding
  - No concern for re-election

# CONGRESSIONAL MAKEUP

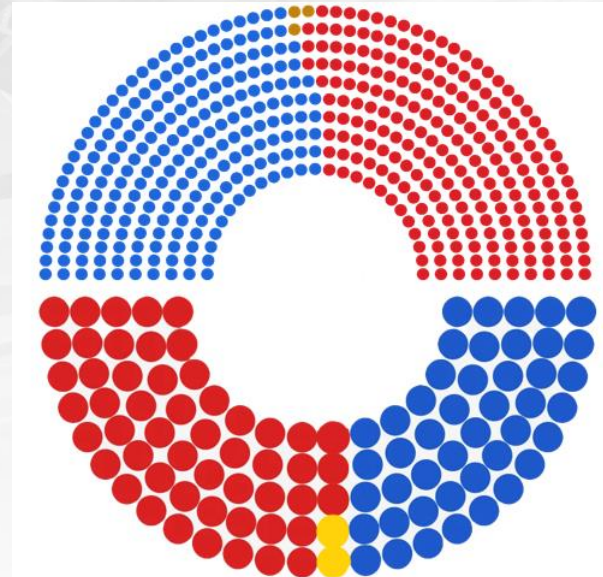
- Tight margin in house = major environmental law redo unlikely
- Possible opportunity for minor/bipartisan changes and negotiations
- Republican majorities = little negative oversight

## HOUSE OF REPRESENTATIVES

Republican: 220  
Democrat: 215

## SENATE

Republican: 53  
Democrat: 45  
Independent: 2





# TOOLS OF POWER

## Executive Branch

- Bully pulpit
- Nominations
- Executive orders
- Regulations
- Guidance documents
- Policy statements
- Decrease enforcement
- Regulatory freeze

## Congress

- Nominations
- Legislation
  - Budget Reconciliation
    - Slash EPA, FWS
  - Congressional Review Act
- Hearings
- Oversight & investigations



# TOOLS FOR RULES

- Proposals and final rules not yet published are now paused by executive order
- Proposals never finalized can be withdrawn and revised or left to languish
- Final rules need to be repealed and in some cases replaced or Congressional Review Act applied (time limits – won't work for PM or WOTUS)

# EXECUTIVE ORDERS & AGGREGATES

- [Department of Government Efficiency](#)
  - Agencies form a DOGE team of at least 4 employees; ends July 4, 2026
- [Unleashing American Energy](#)
  - Could remove barriers for extraction of other non energy materials, particularly on federal land
- [Ending Government DEI Programs And Preferencing](#)
  - Terminates Environmental Justice offices and actions (as allowed by law)
- [International Environmental Agreements](#)
  - Orders agency appointees to withdraw from international climate agreements and funding
- Other orders target Endangered Species Act & Corps Permitting

# TRUMP'S CABINET PICKS

- Hearings largely positive; likely to be confirmed
- “Back to basics” & Cooperative Federalism (state authority)
- Lee Zeldin, EPA: not former environmental agency staffer or AG, former congressman & ran for NY Governor
- Doug Burgum, Interior (FWS): former ND governor & tech executive





# NSSGA EPA EPD UPDATE

- NSSGA was selected for a \$9.65M, 5-year program from IRA:
  - become the EPD program operator for the aggregates industry
  - provide technical assistance and access to digital solutions for obtaining EPDs

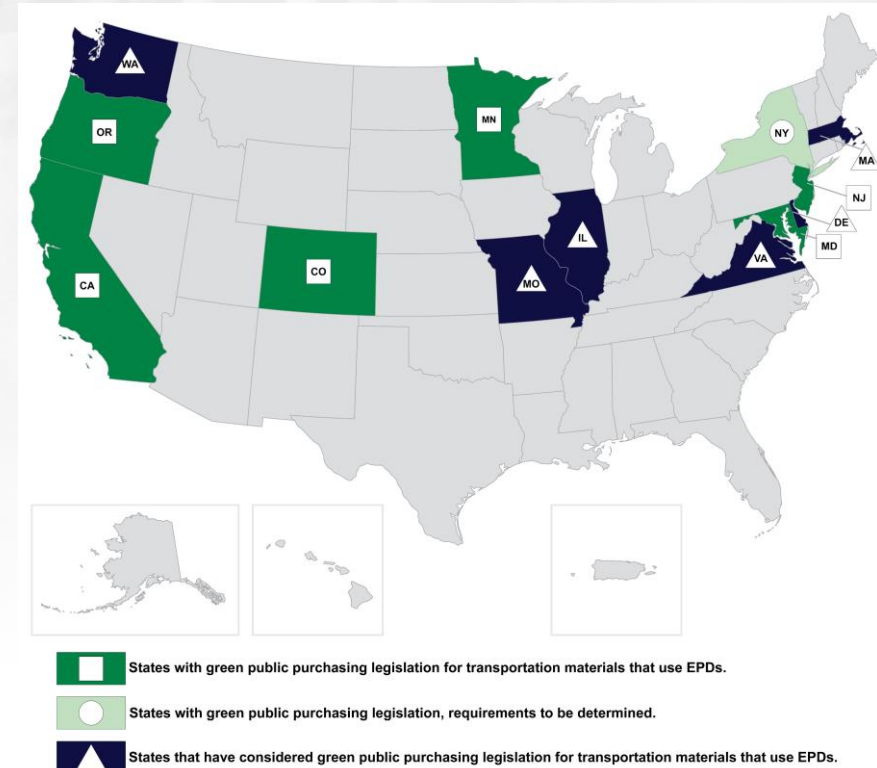
LCA Report



Construction  
Aggregate PCR



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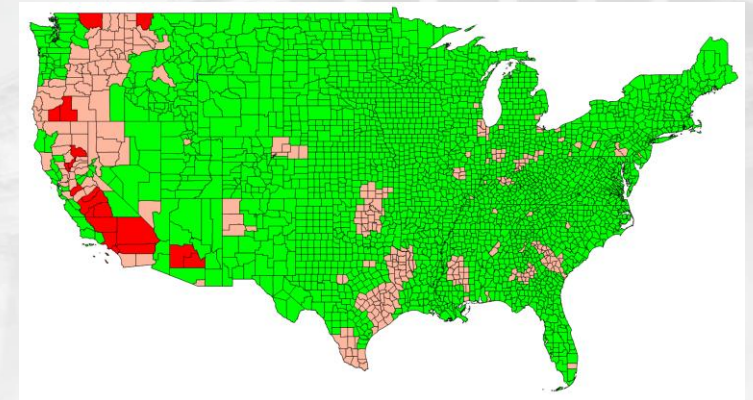


# AIR EMISSIONS REPORTING RULE

- Long time rule requires states to report annual air emissions data to EPA
- 8/23 Proposal would require emitters to determine applicability, track equipment use & report 426 Hazardous Air Pollutants to EPA starting in 2027
- Even to prove non-applicability, \$30,000-\$75,000 per aggregates operation annually (presented in 5/24 meeting with White House reviewing rule)
- Unlikely to be finalized during Trump Administration – removed from White House review site

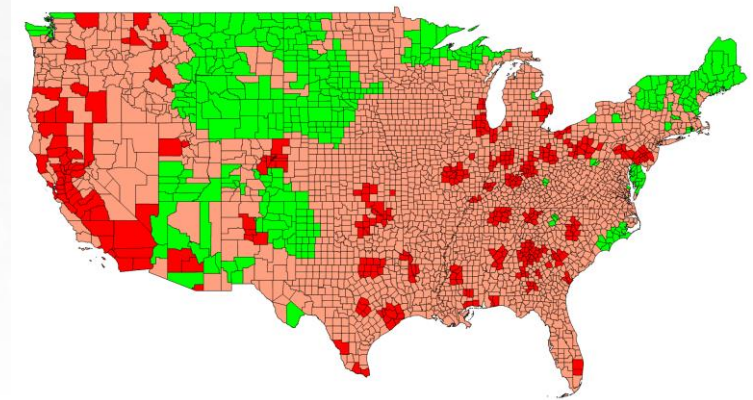
# PM 2.5 STANDARD

- PM 2.5 from 12 ug/m<sup>3</sup> to 9 ug/m<sup>3</sup> effective 6/24
- **Under Clean Air Act, 2 years after final rule, attainment designations made by EPA**
- 1.5 years after designations, states submit implementation plans
  - These will include changes to permits to comply with new standard
- Legal challenges: Cost and procedural issues
- Can Trump Administration repeal/lower?
  - Anti-backsliding provisions
  - Is rule final upon effective date or when EPA makes attainment designations?



2019-2021 Annual PM<sub>2.5</sub> DV  
Headroom to Threshold

■ Nonattainment  
■ 1-3 ug/m<sup>3</sup>  
■ 3+ ug/m<sup>3</sup>





# WOTUS: SACKETT OPINION

- 5/23: 9-0 SCOTUS finds not a wetland, end Significant Nexus
- 9/23 Final WOTUS rule in effect; no notice & comment; removed SN but left terms undefined



# POST SACKETT WOTUS

- Corps used dry continuous surface connection as not requiring water despite SCOTUS “indistinguishable” concept to pull in remote features
- Use of “Coordination Memos”
- Judge in recent *Sharfi* decision: can’t use non jurisdictional to connect jurisdictional
- Executive Order likely forthcoming
- Recommendations (subject to change!) – Faithfully Implement Sackett
  - Withdraw coordination memos
  - Clear AJD backlog
  - Revise Biden rule to strengthen & expand exemptions (ephemerals out); “indistinguishable”



# MULTISECTOR GENERAL PERMIT PROPOSAL

- Only used in 3 states, but informs all state NPDES
- Need to revise per Clean Water Act (every 5 years)
- Permit expires soon, comments due 2/11/25
- Includes new requirements: expanded AIM, Impaired Waters, Storms (PFAS for other industries)
- Did not undergo White House review
- Asked for withdrawal & re-proposal



# ENDANGERED SPECIES ACT

- Recent proposals for Monarch Butterfly, Hellbender & Rusty Patch Bumblebee; Tricolor Bat limbo
- Proposals unlikely to go final unless court order
- Final rules last year defining critical habitat and other procedural issues may be redone
- People > Fish Executive Order
- ESA Goal: Prevent extinction



# END OF CHEVRON DEFERENCE

- 6/24, SCOTUS *Loper Bright* ruling ended the legal theory established in *Chevron v NRDC* (1984)
  - When a rule was challenged, courts would defer to a federal agency's interpretation of authority; now regulated community on more equal footing with regulators
  - Longstanding rules written shortly after laws passed are the most secure (such as Clean Air Act Permitting)
  - Agencies must not use new novel authority of older statutes; less successful "out of the blue" rules
- Congress needs to write clearer laws
- Some "reasonable" rules may face challenges
- Deregulatory efforts may be more difficult

# KEEP IN TOUCH!

- NSSGA Webinars & Monthly Water Calls
  - February 18, 11 AM ET
- NSSGA Environmental Emails
- NSSGA Meetings & Breakout Sessions
  - March 24, 1 PM, St. Louis
- NSSGA Washington Report
- NSSGA Magazine
- [ecoyner@nssga.org](mailto:ecoyner@nssga.org)

