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CLIMATE BILL AND POTENTIAL IMPACTS ON THE AGGREGATES INDUSTRY

Background

The American Clean Energy and Security Act (H.R. 2454) – also known as the climate change bill or the Waxman-Markey Bill – passed by the House of Representatives on June 26 would cap U.S. greenhouse gas emissions believed to cause global warming. The bill relies heavily on an emissions trading program to achieve its goal.

The legislation would amend the Clean Air Act to reduce greenhouse gas emissions (GHGs) by 3 percent from 2005 levels in 2012, 17 percent by 2020, 42 percent by 2030, and 83 percent by 2050, and would establish a federal registry for greenhouse gas emissions. The emissions trading program would apply to all electricity generation and a range of industrial sources that emit more than 25,000 tons per year of carbon dioxide equivalent.

The debate now moves to the Senate where the six committees with jurisdiction over sections of the bill have been given a September 28th deadline to report a climate change bill from their committees are relinquish jurisdiction. Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) says that committee, which has primary jurisdiction on the legislation, will use the House passed bill as a starting point, although the GHG reduction targets are expected to be steeper.

Impacts on the Aggregates Industry

Fuel Costs:

The bill includes transportation fuels under the cap while the EU-ETS (European standards) does not. Americans consumed about 268 billion gallons of finished petroleum products (e.g. gasoline, diesel, jet fuel) in 2008. According to various sources the cost per gallon of fuel would increase anywhere from 20 cents to 77 cents per gallon over the next decade. The impact of this increase in fuel costs for a one million ton per year aggregate operation that consumes 225,000 gallons of fuel, on average, would range from \$45,000 to \$174,000 per year, with no offsetting gains from infrastructure investment, such as road and bridge structural safety, or for enhanced productivity from less congestion. Costs overall are likely to be significantly higher as the cost of carbon increases over time. EPA projects carbon costs of about \$20 dollar per ton for CO₂.

Increased fuel costs are due to the fact that the bill allocates only 2 percent of allowances to fuel producers, but attributes 44 percent of emissions to them, including emissions from refineries and also consumer emissions from planes, trucks, trains, automobiles, heating oil, and other non-transportation petroleum use. Additional allowances must be purchased thus adding to the price of the final product. In contrast, some other sectors receive free allowances that roughly match their GHG emission reduction target. For instance, utilities get more than 40 percent of all

allowances, select “energy-intensive” industries get 15 percent of all allowances and local natural gas distributors receive 9 percent.

Emission Limitations:

Most, if not all, aggregate facilities emit negligible quantities of GHGs from stationary fuel combustion sources. The vast majority of GHG emissions at these facilities emanate from combustion of fuel in mobile sources such as heavy construction and earth-moving equipment.

EPA, which has a major oversight role over the emissions standards, has noted in a separate agency notice of proposed rulemaking for a national GHG registry, that a 25,000 ton threshold would cover approximately 85-90 percent of U.S. emissions. According to EPA a 25,000 ton threshold would capture the majority of GHG emissions in the U.S., while excluding smaller facilities and sources such as the majority of NSSGA member operations. In measuring if a facility meets the 25,000 ton threshold, the facility must be on contiguous property that is under common ownership and control. For example, if an operator has a quarry at one site but has a cement plant 10 miles away the two will be measured separately and not together.

However, H.R. 2454, in contrast to the EPA GHG proposal, also requires EPA to establish new pollution control standards for stationary sources that emit as little as 10,000 tons of CO₂ per year. This lower threshold may incorporate some aggregate facilities and therefore increase their cost of doing business. Facilities that find themselves in the 10,000 ton per year range will not be able to participate in the cap-and-trade program, according to details in H.R. 2454.

The bill also gives the EPA Administrator the authority to require GHG emission reporting from any entity the administrator deems necessary to meet the goals of reducing total U.S. GHG emissions.

Further, the bill requires GHG reporting of any fleet vehicles that emit more than 25,000 tons of CO₂ equivalent on an annual basis. NSSGA members that own or operate their own employee or customer delivery fleet, may find themselves subject to this reporting requirement.

EPA has found that a 10,000 ton threshold would double the number of facilities required to report but only improve emissions coverage by approximately 1 percent. Further, EPA has found that a national threshold lower than the proposed 25,000 tons would result in a fragmentary dataset insufficient in detail or coverage, and a more burdensome reporting requirement that would be inconsistent with the current requirements of many other existing GHG programs.

NSSGA agrees with these agency conclusions and supports at least a 25,000 ton per year reporting threshold. NSSGA further urges Congress to include assurances within any climate change legislation that will preclude the EPA administrator from including any sources that emit less than 25,000 tons per year of CO₂ equivalent.

Transportation Planning:

The federal transportation planning process is very detailed and at the project level there is comprehensive environmental analysis through the National Environmental Policy Act (NEPA) and other laws. Given the wide-ranging nature of planning and environmental review governing

federally-assisted transportation investment, a critical concern of NSSGA and its coalition partners has been to find ways to expedite the project development and review process while continuing substantive environmental protections and a thorough review process. The bill adds new and onerous planning requirements for states and metropolitan regions that will further slow the process. Under H.R. 2454 states would establish goals for reducing greenhouse gas emissions from the transportation sector based on models and methodologies produced by the U.S. EPA, not by the U.S. Department of Transportation.

In addition, states would submit to EPA plans with transportation strategies to reduce GHGs. NSSGA is concerned that confusion and needless delay will ensue within the transportation planning process for which State departments of transportation and Metropolitan Planning Organizations (MPOs) are responsible, but now will have to be accountable to EPA as well as to USDOT. It is also of concern that EPA rather than USDOT would be making determinations regarding modeling and methodologies to be used in development of strategies.

NSSGA supports USDOT retaining full federal authority over transportation planning. The dual authority over transportation planning contained in H.R. 2454 would reverse recent bipartisan efforts to streamline the planning and project delivery process. Additionally, the new requirements will create disincentives to state and local planners to include new highway and bridge capacity in their transportation plans. If changes to the transportation planning process are pursued, they should be carefully crafted and structured as part of federal transportation laws, not as part of a new regime administered by a separate agency.

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