



June 27, 2007

## The best of times, the worst of times, the busiest of times: A PMD legislative update

By NSSGA Vice President of Government Affairs Pam Whitted and NSSGA's Legislative Team

To embellish the Charles Dickens quote from *A Tale of Two Cities*: "It was the best of times, it was the worst of times, it was the busiest of times." That may well be how we look back on the current session of the 110<sup>th</sup> Congress. Although you would not know it from media reports, the economy continues to be strong and the nation is at full employment which makes for the best of times. The country, however, is at war and faces many foreign affairs challenges making for the worst of times. Since it convened in January, the 110th Congress has kept up a breakneck pace making for the busiest of times.

### Mark your calendar for PMD's 2007 Annual Meeting!

**Who:**

The pulverized calcium carbonate industry's senior executive, marketing, and technical personnel

**When:**

Sept. 7, 2007

**Where:**

NSSGA Headquarters,  
Alexandria, Virginia

**What and Why:**

Industry networking.  
Updates on key legislative, regulatory, and operational topics.  
Opportunities to help direct PMD's activities.

For more about the meeting, see the related story in this issue of *PMD Newsline*. Watch your e-mail inbox for registration information.

Here's an update on the status of a number of legislative issues of interest to NSSGA PMD members:

#### ***Senate blocks further action on union secret ballot bill***

As discussed at PMD's 2007 Spring Meeting in San Francisco, early in the current Congress, organized labor identified the Employee Free Choice Act (or "card check" bill) (H.R. 800 and S. 1041) as its top legislative priority. The legislation would eliminate the right to secret ballots in union organizing elections. The House passed the bill on March 1 by a vote of 241-185. Senate consideration of the bill occurred on June 26th. Sixty votes were needed to end debate on the bill and the vote fell short of that number so the Senate moved on to other issues. The Employee Free Choice Act is unlikely to come back to the Senate floor this year due to the press of the appropriations bills and other major Democratic priority items, e.g. energy and global climate change.

NSSGA joined a coalition of businesses united in opposition to the Employee Free Choice Act called the Coalition for a Democratic Workplace. Your association issued a legislative action alert in May to its grassroots network asking members to contact their senators and urge opposition to the card check bill. Over 600 contacts have been made in the past

two months in response to the NSSGA action alert. Although President Bush pledged to veto the card check bill if it reached his desk, we cannot rest. We may not find an ally in the next president.

***Energy issues high on the political radar screen***

PMD members have continually told us that their greatest expense is energy costs. NSSGA has been closely following congressional action on comprehensive energy legislation. Early on June 22, the Senate passed H.R. 6 by a vote of 65-27. The Senate replaced House-passed language with a bill that mostly contains measures approved by the Senate Energy & Natural Resources, Environment & Public Works, Commerce, Science & Transportation, and Foreign Relations Committees. A tax package designed to pay for the bill was defeated. Opponents of the measure contend it does nothing to decrease America's reliance on foreign oil or encourage production of an additional drop of oil. Instead the focus of the bill is to increase fuel efficiency and encourage production of renewable fuels.

Among other things, the energy bill would:

- Require the use of 15 billion gallons of biofuels, largely corn ethanol, by 2015;
- Increase Corporate Average Fuel Economy (CAFE) standards for all passenger cars and light trucks by roughly 40 percent by 2020, to a fleet wide average of 35 miles per gallon;
- Make price gouging in petroleum markets a federal crime when a "national energy emergency" has been declared by the president;
- Codify pending efficiency standards for various household appliances;
- Require the federal government to purchase 15 percent of its electricity from renewable sources by 2015; and
- Encourage research and development into technologies that can capture carbon dioxide from power plants and other industrial facilities, and sequester the greenhouse gas underground.

The House will now start work on another version of the energy bill to address issues raised by the Senate. As the legislation moves towards a conference, NSSGA will closely follow the action to assess potential impact on our members.

***Rail infrastructure tax credit bill reintroduced***

On another issue of interest to PMD members, a bipartisan group of lawmakers has endorsed legislation to provide a 25 percent tax incentive for new rail capacity as a way of encouraging movement of more freight by rail and less on the congested highways. Ports, railroads, trucking companies, and others would be eligible for the credit. The Freight Rail Infrastructure Act of 2007 (H.R. 2116) has been referred to the House Ways and Means Committee but has not yet seen action.

Meanwhile efforts to re-regulate freight railroads have begun and the Railroad Competition and Service Improvement Act (H.R. 2125 and S. 953) has been introduced. The bill would increase government control over crucial areas of rail operations and is strongly opposed by the railroads which contend it would deprive them of several billion dollars in revenue each year, making it impossible for them to fund the rail capacity improvement our country needs.

***NSSGA analyzing potential impact of mining bill***

Making good on an earlier promise, House Resources Committee Chairman Nick J. Rahall (D-WV) has introduced legislation to reform the 1872 Mining Act entitled the Hardrock Mining & Reclamation Act (H.R. 2262). Although it appears that this legislation would have little direct impact on PMD members, NSSGA has commissioned a legal analysis of the bill for a more thorough review of its provisions. When the review is complete, NSSGA will share it with PMD members. In the meantime, PMD

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members can look at the legislation for themselves by going to <http://thomas.loc.gov> and searching for "HR 2262". Please forward any comments to [pwhitted@nssga.org](mailto:pwhitted@nssga.org) and [caklein@potomac-law.com](mailto:caklein@potomac-law.com).

### ***A changing political climate for global warming***

NSSGA is also tracking congressional action on global climate change for potential impact on NSSGA members. The House Transportation & Infrastructure Committee has approved a bill that would reduce emissions from multiple modes of transportation including trains, planes, and automobiles, as well as from ports and federal buildings. NSSGA is considering formation of a cross-divisional global climate change task force to review the many global climate change bills percolating through Congress for potential impact on NSSGA members.

### ***Water bill threatens dramatic expansion of EPA & Army Corps jurisdiction***

PMD members need to be aware of another bill which has been introduced in the House. The bill, the Clean Water Restoration Act of 2007 (H.R. 2421) would delete from the Clean Water Act the word "navigable" thus extending the reach of the federal government to "all waters of the United States." By removing this single term, the legislation would allow the Army Corps of Engineers and the Environmental Protection Agency to assert jurisdiction over all intrastate waters and their tributaries, including lakes, rivers, streams (even intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, to the fullest extent that these waters, or activities affecting these waters, are subject to the legislative power of Congress under the Constitution. NSSGA is part of a coalition proactively involved in educating members of Congress on the potential ramifications of this legislation on all natural resource sectors.

### ***Asbestos and more***

NSSGA continues its activities to ensure that any congressional measures to ban asbestos accurately define the mineral so as not to inadvertently ban common rocks. In addition, the Miner Health Enhancement Act (H.R. 2769) and Supplement Mine Improvement and New Emergency Response Act (S-MINER) (H.R. 2768) have been reintroduced in the House. Parallel legislation is pending in the Senate. The bill's sponsors want to enhance the requirements of the MINER Act before it is fully implemented. The *ad hoc* metal/non metal group that succeeded in educating members of Congress on the difference between underground coal and underground aggregate operations has been reconstituted to oppose imposition of any additional regulations until the original act is implemented and given a chance to work.

So, it is the "best of times", "the worst of times", and "the busiest of times." NSSGA needs the help of its PMD members on the very important issues discussed in this newsletter. Think about adding your voice to the chorus of NSSGA's Aggregates in Action (A2) network and participating in the association's grassroots activities on issues of interest to your business. Just contact NSSGA Director of Government Affairs Jim Riley ([jriley@nssga.org](mailto:jriley@nssga.org)) to add your name to the grassroots list.

PMD members can also use NSSGA's online grassroots action tool to contact Congress on any issue. Just go to <http://www.nssga.org> and click on "Legislative Action Center" in the blue box in the upper right hand corner of the page.

## **Redoutey nominated to PMD Exec. Comm.**

During its May 2006 teleconference, the PMD Executive Committee accepted the resignation of Joel Zazyczny (IMERYS) from the Executive Committee due to his departure from the industry. Jeffrey Redoutey (Specialty Minerals, Inc.) was nominated to replace Zazyczny. PMD Vice Chairman Jim Ruddell (Franklin Industrial Minerals) announced during the meeting that Doug Townsend (Oglebay Norton) has agreed replace Ruddell as PMD's Environment, Safety & Health Committee Chairman when Ruddell assumes the chairmanship of PMD in September.

## **Climate change, flue gas desulphurization are hot topics for PMD Annual Meeting**

Planning is well underway for PMD's Annual Meeting, which will take place at NSSGA Headquarters in Alexandria, Virginia on Friday, Sept. 7.

The draft meeting agenda developed by staff and approved by the PMD Executive Committee last month features presentations on the state of the U.S. economy, the use of limestone for flue gas desulphurization by the electric power industry, the potential impact of climate change legislation on PMD members, and lawsuit abuse. The meeting will also include a member dinner on the evening of Thursday, Sept. 6, a meeting of PMD's Board of Directors, briefings by congressional staff, opportunities for PMD members to interface with NSSGA personnel, and roundtable discussions designed to identify opportunities for future PMD activities.

Registration information will be sent to PMD members via e-mail in the coming weeks.