

May 18, 2021

The Honorable Charles Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
317 Russell Senate Office Building
Washington DC 20510

The Honorable Tom Carper
Chairman of the Senate Committee on
Environment and Public Works
513 Hart Senate Office Building
Washington DC 20510

The Honorable Shelley Moore Capito
Ranking Member of the Senate Committee on
Environment and Public Works
172 Russell Senate Office Building
Washington DC 20510

The Honorable Maria Cantwell
Chairman of the Senate Committee on
Commerce, Science and Transportation
511 Hart Senate Office Building
Washington DC 20510

The Honorable Roger Wicker
Ranking Member on the Senate Committee on
Commerce, Science and Transportation
555 Dirksen Senate Office Building
Washington DC 20510

The Honorable Sherrod Brown
Chairman of the Senate Banking, Housing and
Urban Affairs Committee
503 Hart Senate Office Building
Washington DC 20510

The Honorable Pat Toomey
Ranking Member of the Senate Banking,
Housing and Urban Affairs Committee
455 Dirksen Senate Office Building
Washington DC 20510

The Honorable Gary Peters
Chairman of the Senate Homeland Security and
Governmental Affairs Committee
724 Hart Senate Office Building
Washington DC 20510

The Honorable Rob Portman
Ranking Member of the Senate Homeland
Security and Governmental Affairs Committee
448 Russell Senate Office Building
Washington DC 20510

The Honorable Ron Wyden
Chairman of the Senate Finance Committee
221 Dirksen Senate Office Building
Washington DC 20510

The Honorable Mike Crapo
Ranking Member of the Senate Finance
Committee
239 Dirksen Senate Office Building
Washington DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Carper, Ranking Member Capito, Chairman Cantwell, Ranking Member Wicker, Chairman Brown, Ranking Member Toomey, Chairman Peters, Ranking Member Portman, Chairman Wyden and Ranking Member Crapo:

We call your attention to legislation slated to advance this week through the Senate that incorporates language which would create unintended consequences throughout the construction supply chain, increase project costs and inflict significant project delays, specifically, language via an amendment to S. 1303, the *Build America, Buy America Act*. The language offered last week before the Homeland Security and Governmental Affairs Committee's (HSGAC) legislative markup, would expand Buy America provisions to construction materials necessary for countless public works projects. This bill is expected to be enveloped into a larger package via an amendment in the nature of a substitute to S. 1260, the *Endless Frontiers Act*, which is slated to go to the Senate floor for a vote this week.

The undersigned national trade associations represent companies who produce and use the materials and equipment necessary to build America's transportation infrastructure and employ tens of thousands of hard-working men and women in well-paying jobs. We ask that the expansion of the Buy America provision to include "construction materials" be stricken from the bill and not be included in the legislation so that the construction supply chain is not adversely impacted. This addition is unnecessary and creates many unintended consequences that will delay and increase the cost of major infrastructure projects throughout the country. We understand the current bill being considered falls within HSGAC but given the real impacts this would mean for the entire construction supply chain, this impacts all committees of jurisdiction tasked with drafting and passing a robust, multi-year surface transportation reauthorization package.

A good example of an unintended consequence is the inclusion of construction aggregates in the underlying language of S. 1303. Aggregates are limited by geology in coastal states and the supply chain in these states is supplemented with aggregates from Western Hemisphere countries like Canada, Mexico and Caribbean nations. Congress has long recognized this is an issue of geology and does not undercut American jobs or manufacturing. By including aggregates under Buy America, Congress is disrupting the materials supply chain and increasing the cost of construction. Additionally, the simple fact is that many regions of the country consume all of their domestically produced cement and therefore rely on imported cement to support local construction projects.

As a result, coastal states like Alabama, California, Florida, Louisiana, Michigan, New York, Oregon, South Carolina, Texas, and Washington will have a diminished return on their infrastructure investments, because the price of raw materials will be higher. For inland states, as aggregates prices inland increase, overall construction costs will similarly increase and will reverberate across countless public work projects. Cities like Houston, New Orleans, and Mobile, would also experience increased traffic congestion and CO2 emissions, as it takes 3,250 over-the-road trucks to move the same amount of material as one Panamax ship. Thus, more trucks will be on the road and for longer, which equates to more traffic and greenhouse gas emissions for these communities and their residents. Importing material by ship is the most cost-effective, timely and environmentally friendly way to supply these communities.

The construction equipment industry has similar concerns with the expanded Buy America provisions that have been proposed. Construction equipment, machinery, and related supplies vital to build and repair the nation's infrastructure are sourced from global supply chains. Domestic content requirements and similar restrictions on equipment used on road and bridge projects are detrimental to equipment dealers, manufacturers, and contractors working to rebuild America. And expansion of Buy America could actually suppress domestic manufacturing activities.

Additionally, another issue we have with the underlying bill is that the waiver process for Buy America, which would be applicable to each federally-funded project, would create a bureaucratic and overly burdensome process that would require thousands of waivers on Federal Highway projects alone. Finally, the Endless Frontiers Act is not the forum to discuss the expansion of Buy America to include construction materials for infrastructure projects. The merits of this type of discussion should be debated by the Environment & Public Works Committee when they consider the surface transportation bill later this month.

We hope the concerns identified reiterate the unintended consequences we anticipate if this language moves through your chamber without these changes. At this critical time for impactful infrastructure investment, we cannot arbitrarily handicap state departments of transportation, agencies, and contractors

by cutting off major supply sources of the raw materials and equipment needed to build key transportation infrastructure projects.

Thank you again for your steadfast leadership during this important time for our nation. We look forward to working with you and your colleagues on a successful and historic surface transportation reauthorization that maximizes federal investment and puts countless Americans back to work.

Sincerely,

American Association of Port Authorities
American Concrete Pipe Association
American Council of Engineering Companies
American Road & Transportation Builders Association
American Traffic Safety Services Association
Associated Equipment Distributors
Associated General Contractors of America
Association of Equipment Manufacturers
National Asphalt Pavement Association
National Ready Mixed Concrete Association
National Stone, Sand & Gravel Association
Portland Cement Association
Precast/Prestressed Concrete Institute
U.S. Chamber of Commerce

cc: Members of the Senate