



CONCRETE CAPITOL CONNECTION

UPDATES ON LEGISLATION, REGULATION AND CASE LAW • July 2010

Dear Member:

Climate Change Debate Further Complicated. On June 29th, a bipartisan group of 23 Senators joined President Obama at the White House to discuss the path forward on climate change legislation. However, 70 days after the Deepwater Horizon oil leak began, a month and a half after Senators John Kerry (D-MA) and Joseph Lieberman (I-CT) introduced the *American Power Act* (APA), and one day after the longest serving member of Congress died (Sen. Robert Byrd (D-WV)), the Senators and the White House again found themselves trying to decide what that path looked like, and if their bill was a climate change bill or something paired down to more closely resemble simple energy reform. Although stymied for the better part of a year, renewed calls for climate change and energy reform legislation have increased because of the Gulf oil leak. However, since the APA's only Republican co-sponsor, Sen. Lindsay Graham (R-SC) who didn't attend the meeting, retracted his support earlier this year, and now with the death of Senator Byrd, the Democrats will be hard pressed to find their 60th vote needed for passage this year. Democrats stated they plan to introduce a new bipartisan bill soon but no timetable was given.

House Passes DISCLOSE Act. On June 24th, the House of Representatives passed legislation aimed at limiting the scope of the January 2010 U.S. Supreme Court ruling which ended the prohibition on corporations and special interest groups using their own money to produce and publicize campaign ads in federal elections. The legislation, titled *Democracy Is Strengthened by Casting Light On Spending in Elections Act* or *DISCLOSE Act* (H.R. 5175), passed by a vote of 219 to 206. The bill will increase the disclosure requirements for those organizations taking advantage of the new freedoms, as well as bar those same political expenditures by corporations that are at least 20% foreign-controlled, have \$10 million or more in government contracts, and that have accepted Troubled Asset Relief Program (T.A.R.P.) funds. The bill also bans "corporations and other interest groups in coordinating spending with candidates or political parties," and mandates that company heads appear in their company's advertisements. The bill now moves to the Senate where it will likely face a Republican filibuster. On a similar note, on June 29th, the U.S. Supreme Court by default upheld the current ban on soft-money contributions. By agreeing not to hear a case addressing the issue, the court effectively continues the practice of limiting individual political contributions to federal elections and political parties.

High Court Invalidates Nearly 600 NLRB Cases, Board Gets New Members. On June 18th, the U.S. Supreme Court handed down a decision stating that the National Labor Relations Board (NLRB) needed more than two board members to legally decide cases. The NLRB had been operating from late 2007 through March 2010 with only two, out of a possible five, sitting board members. The 500+ cases the two board members decided in that time frame are now called into question and may need to be overturned and retried. The NLRB however, has suggested that most of the decided cases were non-controversial and only about 70-80 cases will need to be reconsidered. Following the Supreme Court decision, Congress on June 24th, passed a year's worth of blocked nominations. Two of which were to the NLRB, Democrat Mark Pearce and Republican Brian Hayes. Not included in the nomination bundle was Craig Becker, a former general counsel to the AFL-CIO. Becker's nomination was rejected by the Senate because of close ties to labor, although he is currently serving on the board due to a recess appointment by President Obama back in March.

EPA Publishes Proposal to Reclassify Fly Ash. On June 21st, nearly two months after the Environmental Protection Agency (EPA) released its draft proposal to further regulate the disposal of coal combustion residuals (CCRs), including fly ash, the agency finally published the proposed rule. The published rule is similar to the draft version, but outlines a 90-day comment period which expires on September 20th. Due to the size and complexity of the proposal the NRMCA is requesting EPA extend the comment period by 120 days in order for the industry to fully and accurately assess the proposal's dual classifications on the beneficial use of fly ash in ready mixed concrete.

Flood Insurance Program Extended, Again. On June 30th, Congress cleared another extension of the National Flood Insurance Program (NFIP). The program will now be extended through the end of 2010. On the upside, the insurance for the 5.5 million homes protected under the program won't lapse, and the extension comes just in time for the beginning of hurricane season. However, on the downside, this development marks a setback for NRMCA's building codes agenda. A new NFIP authorization is the vehicle for NRMCA's building code language which directs the Federal Emergency Management Agency (FEMA) to study whether more robust building codes can be integrated into the NFIP as criteria for participation in the program.

Sincerely,

NRMCA Government Affairs

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Event reminder:



Don't forget to register for the 2010 NRMCA Government Affairs Fly-In, in conjunction with the 2010 Board of Directors Meeting here in Washington, D.C., September 19-21. For more information please visit: www.nrmca.org.