

**NRMCA Priority Federal Legislative Issues – 110th Congress
As of January 9th, 2008**

Issue/Bill #	Sponsor	Initiative	Status	NRMCA Position
Power Take-off Tax Correction (PTO)	N/A	PTO tax correction continues to be a top legislative priority for NRMCA	<p>In a major victory for the industry, NRMCA successfully negotiated Section 11144 of SAFETEA-LU, directing the Internal Revenue Service (IRS) to estimate the amount of tax-paid fuel consumed due to the Power Take Off (PTO) operations of various truck types, including ready mixed concrete trucks. Section 11144 also called on the IRS to determine whether it is technically and administratively feasible to exempt PTO related fuel use from the federal excise tax. In November, the IRS report on PTO fuel use was completed and delivered to Congress.</p> <p>The IRS used a weighted average of current state allowances to determine that 30.2% of a ready mixed concrete truck's fuel use is due to PTO off-highway business use.</p> <p>The IRS report did not conclude that a PTO tax credit would be either technically or administratively unfeasible. In fact, the report identified five options for claiming a PTO tax credit.</p>	NRMCA is currently considering regulatory and legislative alternatives for amending the IRS Code to secure a tax credit for the industry. Among the alternatives are 1) report language in an appropriations bill directing the IRS to conduct a rulemaking to provide a PTO tax credit for ready mixed concrete trucks, 2) introducing a stand alone bill based on 30.2% PTO fuel use, 3) attaching a rider to a tax package providing for a PTO tax credit, and 4) including an industry PTO tax credit as part of the reauthorization of SAFETEA-LU.
<p>Card-Check</p> <p>“Employee Free Choice Act”</p> <p>H.R. 800</p> <p>S. 1041</p>	<p>Miller (D-7-CA)</p> <p>Kennedy (D-MA)</p>	Currently employees have the right to hold secret ballot elections conducted by the National Labor Relations Board (NLRB) to determine if they would like to be represented by a union. These two pieces of legislation would eliminate the secret ballot process and replace it with a card-check system that relies on employees signing cards to indicate union support.	<p>On 03/01/07, H.R. 800 passed the House (241-185). Roll no. 118</p> <p>On 06/26/07, Senate leaders attempted to hotline H.R. 800 by invoking a cloture motion to end debate and vote on the bill. The cloture motion failed (51-48). Roll no. 227</p> <p>46 cosponsors, referred to the Committee on Health, Education, Labor and Pensions on 03/29/07.</p>	NRMCA opposes legislation that would require an employer to recognize a union as its employees' collective bargaining representative absent an election conducted by the NLRB. The card-check system could lead to intimidation and may not accurately reflect worker's full consent.

<p>Montgomery GI Bill Extension / Driver Training</p> <p>H.R. 1824</p> <p>S. 526</p>	<p>Michaud (D-2-ME)</p> <p>Pryor (D-AR)</p>	<p>These pieces of legislation would extend accelerated educational assistance payments under the Montgomery GI Bill to veterans seeking to obtain a commercial driver's license and operate a commercial motor vehicle. This legislation would help to alleviate the severe driver shortage currently being experienced by the ready mixed concrete industry.</p>	<p>3 cosponsors, referred to the House Veterans' Affairs Subcommittee on Economic Opportunity. Hearing held on 05/03/07.</p> <p>2 cosponsors, referred to the Senate Committee on Veterans' Affairs 2/8/2007.</p>	<p>NRMCA has driven the effort to move this initiative. NRMCA anticipates that a broad based accelerated benefits package including funding for driver training will be passed by Congress in 2007.</p>
<p>Clean Water Restoration Act</p> <p>H.R. 2421</p> <p>S. 1870</p>	<p>Oberstar (D-8-MN)</p> <p>Feingold (D-WI)</p>	<p>The <i>Clean Water Restoration Act</i> would grant the Environmental Protection Agency (EPA) and the Corps of Engineers (Corps) unlimited regulatory control over all "intrastate waters" – essentially all wet areas within a state including groundwater, ditches, pipes, streets, and gutters. Wash-out ponds, settlement basins and water reclaiming facilities located at ready mixed concrete plants could potentially be subject to federal regulation.</p>	<p>169 cosponsors, referred to the House Transportation and Infrastructure Committee, Subcommittee on Water Resources and Environment. Hearing held at full committee on 07/17/07.</p> <p>19 cosponsors, referred to the Senate Committee on Environment and Public Works.</p>	<p>Proponents assert that H.R. 2421/S. 1870 "restores" the original intent of the CWA and "clarifies" CWA jurisdiction, however, this legislation does neither. NRMCA opposes this legislation because it would:</p> <ul style="list-style-type: none"> • Grant the Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps), for the first time, jurisdiction over all "intrastate waters" – essentially all wet areas within a state, including groundwater, ditches, pipes, streets, municipal storm drains, gutters, and potentially all wash out facilities at ready mixed concrete plants. • Grant EPA and the Corps authority over all "activities affecting these waters" (private or public), regardless of whether the activity is occurring in water or whether the activity actually adds a pollutant to the water. • Change the original underpinning of Congress in enacting the CWA from the Commerce Clause to the full "legislative power of Congress under the Constitution."

<p>Clean Water State Revolving Fund</p> <p>H.R. 720</p>	<p>Oberstar (D-8-MN)</p>	<p>H.R. 720, the Water Quality Financing Act of 2007, would provide \$14 billion for the SRF during fiscal years 2008-2011.</p>	<p>On 03/09/07, H.R. 720 passed the House (303-108). Roll no. 135</p>	<p>NRMCA believes the federal government should share in maintaining and improving the nation's water infrastructure. NRMCA wants to position the ready mixed concrete to help address the nation's staggering wastewater infrastructure needs.</p>
<p>Water Resources Development Act (WRDA)</p> <p>H.R. 1495</p>	<p>Oberstar (D-8-MN)</p>	<p>H.R. 1495, the Water Resources Development Act of 2007, authorizes \$23 billion to provide for the conservation and development of water and related resources and authorizes the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States.</p>	<p>On 11/6/07 the House voted to override the President's veto of H.R. 1495, (361-54). Roll no. 1040</p> <p>On 11/8/07 the Senate voted to override the President's veto of H.R. 1495, (79-14). Record Vote 406</p> <p>The override immediately signed the legislation into law. Public Law no. 110-114</p>	<p>WRDA authorizes \$11 billion over the next four years, and \$12 billion in the 10 years following. The \$23 billion funds more than 900 navigation, flood control, water supply, and environmental restoration projects to be overseen by the U.S. Army Corps of Engineers.</p> <p>NRMCA regards the Water Resources Development Act as an essential measure to the long-term viability and productivity of our nation's waterways. This bill authorizes rehabilitation projects on the Upper Mississippi River and Illinois Waterway, a provision the cement industry has long supported.</p>
<p>OSHA Reporting</p> <p>H.R. 141</p>	<p>Green (D-29-TX)</p>	<p>H.R. 141 directs the Secretary of Labor to revise regulations concerning the recording and reporting of occupational injuries and illnesses under the Occupational Safety and Health Act.</p>	<p>Introduced on 01/04/07 and referred to the House Committee on Education and Labor. There are no cosponsors.</p>	<p>Current OSHA policy states in CPL 02-00-135 that the OSHA 300 log must include injuries and illnesses to employees on the employer's payroll as well as injuries and illnesses of other employees the employer supervises on a day-to-day basis, such as temporary workers or contractor employees who are subject to daily supervision by the employer. H.R. 141 contradicts and confuses the issue of multi-employer and controlling employer definitions that are already in policy and practice.</p>

Drivers' Hours of Service	DOT/ FMCSA	The Drivers' Hours of Service (HOS) rule regulated by the Federal Motor Carrier Safety Administration (FMCSA) is a top NRMCA priority.	On July 24 th , 2007 the United States Court of Appeals for the District of Columbia Circuit vacated the 11-hour daily maximum driving time and the 34-hour restart provisions of the federal HOS regulations. On December 11 th , 2007 the FMCSA issued an interim final rule (IFR) retaining the two vacated provisions. This action was taken after new data showed that the vacated provisions have actually helped to improve highway safety. The IFR maintains the status quo for the federal drivers' HOS regulations while FMCSA hears public comment for 60 days.	NRMCA will be submitting responsive comments on the IFR expressing support for the retention of the two provisions. NRMCA continues to closely monitor this situation. The HOS provisions pertinent to NRMCA; the construction materials 24-hour clock restart, tolerance guidelines, 16-hour short-haul exemption, and the logbook exemption are not effected by the court's ruling.
Logbook Exemption	N/A	Language crafted to increase the arbitrary 12-hour on-duty logging exemption threshold contained in 49 CFR 395.1 (e) (2) and (3) to 14 hours, consistent with the maximum on-duty period contained in the federal hours of service regulations. This proposal would effectively exempt ready mixed concrete delivery professionals from logbook requirements on 90% of all trips.	NRMCA currently has an exemption request pending before FMCSA for gulf coast operations and is seeking legislative vehicles for the proposal.	NRMCA crafted legislative language and is actively lobbying this issue.
S-Miner Act H.R. 2768/H.R. 2769 S. 1655	Miller (D-7-CA) Kennedy (D-MA)	Legislation will prematurely place new and different regulations upon a highly regulated industry that is still working to implement the MINER Act of 2006. This would only cause confusion for the industry and for regulators and threatens continued progress for ready mixed concrete companies with aggregate mining operations. Takes a one-size fits all approach that fails to recognize that aggregate mines are unique. If enacted, many mines may be forced to install inappropriate or unnecessary technology.	Introduced on 06/19/07 and referred to the House Committee on Education and Labor. There are 14 cosponsors . Hearing held on 07/26/07 before the Subcommittee on Workforce Protections. Introduced on 06/19/07 and referred to the Committee on Health, Education, Labor and Pensions. There are 2 cosponsors .	S-MINER is a troublesome piece of legislation for a number of reasons not limited to the increased penalties. The legislation circumvents notice and comment that is typical with this type of enforcement proposal. There are also parts which potentially affect an individual's right to counsel in an enforcement action. In addition, S-MINER requires MSHA to adopt the OSHA asbestos standard, and directs the Secretary of Labor to adopt the more detailed hazard communication standard promulgated in 2000. The current administration changed the standard in 2002, which is viewed as less burdensome than the 2000 version. Moreover, it would adopt the lower National Institute for Occupational Safety and Health (NIOSH) Recommended Exposure Limit for hexavalent chromium as the Permissible Exposure Limit for workers in cement plants.

Equitable Enforcement	N/A	NRMCA is leading an effort to level the regulatory enforcement playing field.	Large NRMCA member companies and member companies situated in certain regions of the United States have in the past been subjected to greater regulatory scrutiny than peers. NRMCA believes that all laws should be applied and enforced equally.	NRMCA will pursue a legislative and/or regulatory plan to remedy this inequity.
Truck Weights	N/A	NRMCA is attempting to liberalize truck weight restrictions for specialized hauling vehicles through a special permit system or other structure that would allow these vehicles to operate in a safe and productive manner while also protecting the infrastructure.	House Transportation and Infrastructure Committee Chairman James Oberstar (D-8-MN) indicated that he would consider authorizing a pilot project that would test the effects that raising truck size and weight limits would have on the nation's highways. Oberstar said that there needs to be extensive discussions of the locations of where heavier trucks could be accommodated and where they would help relieve congestion. He said that any permanent plan to expand sizes and weights would likely require separate truck lanes built to higher standards and that there may be a separate fee system for use of the reinforced roadways.	Specialized hauling vehicles have a particularly difficult time meeting current weight restrictions, especially the bridge formula, due to their heavy tare (empty) weights and short wheel bases necessary to maneuver in tight spaces and on job sites.
National Flood Insurance Program (NFIP) H.R. 3121	Waters (D-35-CA)	This legislation would reform the NFIP. The NFIP prohibits the Federal Government from providing flood insurance unless an enrolled community adopts and enforces floodplain management regulations. The Federal floodplain management criteria make communities responsible for reviewing proposed development in flood hazard areas to ensure that structures have the integrity to withstand hydrodynamic forces and are constructed using methods and practices that minimize flood damages. NRMCA is attempting to strengthen the Federal floodplain management criteria.	On 09/27/07, the House voted 263-146, to pass flood insurance reform legislation that included an NRMCA provision directing the FEMA to study whether building codes can be integrated into the NFIP's floodplain management criteria. Roll no. 921 The House also approved Financial Services Committee Chair Barney Frank's (D-Mass.) manager's amendment, which contains a similar provision requiring structures eligible for new wind coverage to meet International Code Council (ICC) wind rating requirements. On 9/28/07 referred to the Senate Committee on Banking, Housing, and Urban Affairs. There are 13 cosponsors .	Building codes are proven to have greatest impact on the quality of construction and how structures will withstand the forces of nature. NRMCA has been working with Senate and House committee staff to integrate the ICC building codes into the National Flood Insurance Program floodplain management criteria. This change would encourage all 50 states to adopt a uniform building code based on ICC standards. These provisions directly reflect NRMCA's federal building codes lobbying efforts.

<p>Homeowners' Defense Act</p> <p>H.R. 3355</p>	<p>Klein (R-22-FL)</p>	<p>This legislation incorporates the International Code Council (ICC) building codes as criteria for a qualified reinsurance program, when federal support is provided for state-sponsored insurance programs relating to natural catastrophes.</p>	<p>On 11/8/07 H.R. 3355 passed the House (258-155) Roll no. 1074</p> <p>On 11/13/07 and referred to the Senate Committee on Banking, Housing, and Urban Affairs. There are 41 cosponsors.</p>	<p>NRMCA supports incorporating the ICC building codes as criteria for a qualified reinsurance program. Building codes are proven to have the greatest impact on the quality of construction and how structures will withstand the forces of nature.</p>
<p>Safe Highways and Infrastructure Preservation Act (SHIPA)</p> <p>H.R. 3929</p>	<p>McGovern (D-3-MA)</p>	<p>SHIPA aims to decrease the allowable length and weight limits for property-carrying vehicles traveling on federal-aid highways. SHIPA would extend federal truck weight limits and non-divisible load regulations from the Interstate System to the entire National Highway System (NHS). The NHS consists of approximately 150,000 miles of federal-aid highways and includes the Interstates. The legislation also would establish a <i>maximum</i> trailer length limit of 53 feet on the Interstates and other NHS highways, and freeze permissible "non-divisible" load weight variances.</p>	<p>Introduced on 10/23/07 and referred to the House Committee on Transportation and Infrastructure. There are 19 cosponsors.</p>	<p>NRMCA opposes SHIPA. This bill would further limit the number of roadways on which our trucks could legally operate, which would serve as a major impediment to efficient ready mixed concrete delivery operations throughout the nation and force our trucks onto secondary state or local roads which were not designed primarily for heavy truck use. This will deteriorate state and local road conditions more rapidly, and would not promote safe commercial motor vehicle operation or the safety of the traveling public. NRMCA supports keeping the authority to regulate non-interstate truck size and weight limits under the jurisdiction of the states.</p>