DISCUSSION DRAFT

THREATS AND OPPORTUNITIES IN CLIMATE CHANGE LEGISLATION FOR THE REAL ESTATE AND CONSTRUCTION INDUSTRIES

A "cap and trade" scheme (and unspecified EPA regulation for smaller emitters) to regulate GHG emissions could increase the cost of construction and make U.S. investments in manufacturing and industrial facilities less economically attractive. Potential increases in the cost of electricity and fuel used in manufacturing and industry would affect the cost of materials (cement, steel) and products (HVAC, plumbing supplies) used in construction; thereby reducing the demand for new construction and major upgrades and/or renovations. This effect would be seen particularly strong in geographic areas where renewable energy targets may not be met easily. The increases in cost also could force manufacturing and industrial facilities to relocate overseas or cease operations altogether, rather than make the investments needed to upgrade or expand their facilities.

Free-rein to EPA for unspecified regulation of smaller emitters would be burdensome and expensive for small businesses. While the currently pending bill (H.R. 2454) pre-empts the regulation of GHGs under many detrimental programs in the Clean Air Act (CAA), it empowers EPA to regulate small emitters—as low as 10,000 metric tons per year of CO2 equivalent. In its proposed rulemaking on mandatory reporting of GHG emissions, EPA itself considered requirements for small emitters and determined that the cost and burden would be too great compared to the minor increase in the percentage of emissions reported. Furthermore, the bill gives the EPA power to create these standards under CAA Section 111 *"without regard to any determination of feasibility that would otherwise be required."*

New standards for construction equipment would increase costs, uncertainty. The draft bill directs EPA to set new GHG emission standards for sources not controlled by the allowance system, pointing to a variety of mobile sources used in construction—including <u>new</u> heavy duty trucks and off-road equipment. In addition, it creates special programs to aggressively reduce emissions of black carbon—

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Transitioning to a carbon-constrained economy may present new opportunities for building design and construction to meet growing needs for energy efficient infrastructure. Tax or other incentives in any GHG legislation to reduce energy consumption in the U.S. could provide opportunities for the real estate, design and construction industries to provide new and/or upgrade existing infrastructure to meet the needs of a carbon-constrained economy: renewable energy generating facilities (wind/solar), energy-efficient buildings; efficient electrical transmission and distribution networks (Smart Grid), and other facilities required to support this transition.

By pre-empting the Clean Air Act, the currently pending bill (H.R. 2454) unties the hands of construction firms and public and private entities trying to reduce GHG emissions. Using the CAA to regulate GHGs could halt building construction and renovation. Once EPA controls a GHG under almost any section of the Act, most buildings that emit that "pollutant" would become subject to costly permitting and construction requirements. The bill's pre-emption language would allow construction and renovation to move forward and allow the industry to contribute towards a clean energy economy.