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## The Real Estate Roundtable

January 17, 2025

The Honorable Bill Cassidy  
455 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Lindsey Graham  
211 Russell Senate Office Building  
Washington, DC 20510

Dear Senators Cassidy and Graham:

Thank you for your efforts to boost America's global competitive edge through your revised discussion draft of the *Foreign Pollution Fee Act* (the "Draft Bill"). The Real Estate Roundtable ("RER") ([www.rer.org](http://www.rer.org)) is pleased to provide perspectives from the nation's leading commercial and residential real estate development, ownership, financing, management, and services firms. The addendum to this letter provides more information on RER and the beneficial impacts the real estate sector delivers for the U.S. economy.

As Senator Cassidy wrote in *Foreign Affairs*: "It is unacceptable for China, or any country, to both freely pollute and export to the United States ... [T]he United States should use its capacity for low-emission manufacturing and energy production for its own geopolitical and economic gain." RER agrees. Companies should not exploit weak foreign environmental and other laws that put the U.S. at a disadvantage and allow cheaper production of goods overseas. RER takes this opportunity to provide feedback to strengthen the Draft Bill's goals to enhance U.S. competitiveness and protect the well-being of the American people. We encourage refinements to:

- Account for the nation's affordable housing shortage;
- Support devastated communities as they seek to rebuild quickly and cost-effectively access global supply chains for construction materials after the President declares a natural disaster; and
- Address data and other challenges to measure "indirect emissions" from electricity used to manufacture "covered products" subject to the pollution fee.

1. **The Draft Bill should consider the nation’s housing affordability crisis.**

The “long-run housing supply shortage is a key driver of housing unaffordability” and while figures vary, our nation is short an estimated 5 million units to meet the shelter demands of the American people.<sup>1</sup> Housing costs have outpaced household incomes. The Treasury Department stated the problem plainly: “Americans are on the brink of being priced out of a basic human need.”<sup>2</sup> “A \$1 million starter home is the norm in 237 cities.”<sup>3</sup> The U.S. Census Bureau reports, “nearly half of renter households are cost-burdened” and spend more than 30% of their income on rent.<sup>4</sup>

One-third of all building materials in the U.S. are imported.<sup>5</sup> Tariffs on construction products will make those materials more expensive, disincentivize businesses from increasing residential supplies, and worsen the affordable housing shortage. “Prices of building materials are still far above their pre-pandemic levels.”<sup>6</sup> Construction loans are hard to get – with interest rates between 10% - 12%<sup>7</sup> – and “[a]dding to the higher cost of capital is the higher cost of materials.”<sup>8</sup> North Carolina’s housing finance agency explained:

More expensive construction has led to increased home purchase prices and higher overall development costs for multi-family rental housing, costs which in turn increase rents. Incomes have not risen to compensate, and consequently, households are paying larger shares of their incomes for housing, becoming cost burdened.<sup>9</sup>

**Recommendations:**

The Draft Bill’s foreign pollution fee on “covered materials”<sup>10</sup> would affect products essential for housing and related construction. RER encourages the following refinements:

- Include the Department of Housing and Urban Development (“HUD”) in the definition of “Relevant Federal Agency” at Section 4691(17) – so HUD can offer perspectives of the pollution fee’s potential impact on housing construction;
- Include two (2) representatives from the construction industry – with at least one having experience in residential construction – to serve with other industries on the “Advisory Committee” authorized under Section 4697 of the Draft Bill;
- Direct HUD to provide official “shortage estimates” on the dearth of single-family and multifamily units accessible to middle- and lower-income families, as well as shelters for the homeless; and

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<sup>1</sup> [Brookings](#) (Nov. 26, 2024).

<sup>2</sup> [U.S. Department of the Treasury](#) (June 24, 2024).

<sup>3</sup> [Zillow](#) (July 25, 2024).

<sup>4</sup> [U.S. Census Bureau](#) (Sept. 12, 2024).

<sup>5</sup> [Construction Dive](#) (Feb. 28, 2023).

<sup>6</sup> [NAHB](#) (July 26, 2024).

<sup>7</sup> [CoStar](#) (Dec. 9, 2024).

<sup>8</sup> [ConnectCRE](#) (Jan. 2, 2025).

<sup>9</sup> [North Carolina Housing Finance Agency](#) (April 17, 2024).

<sup>10</sup> Aluminum, iron, steel, cement, glass, and associated products.

- Allow for temporary suspension of the foreign pollution fee as it pertains to “covered products” for residential construction -- until HUD declares the official “shortage estimates” are substantially reduced (e.g., by at least 50%).

**2. *The Draft Bill should consider the costs of construction materials needed to rebuild after a Presidential disaster declaration.***

Insured property losses from the Los Angeles wildfires are estimated at \$30 billion, with overall rebuilding costs anticipated to run as high as \$275 billion.<sup>11</sup> North Carolina has calculated \$53 billion in recovery needs from the catastrophic flooding caused by Hurricane Helene last year.<sup>12</sup> The current CR passed last month included the *American Relief Act, 2025 (H.R. 10445)*, to provide \$110 billion in federal disaster assistance for efforts in North Carolina, South Carolina, Georgia, Florida, and Oklahoma related to Hurricanes Milton and Helene.<sup>13</sup>

[FEMA](#), [HUD](#), and [SBA](#) grants, loans, and other assistance must reach families and businesses affected by natural disasters rapidly and cost-effectively. Policies must optimize every dollar of taxpayer funds devoted to rebuilding. While well intended, a pollution fee on imports will drive-up prices of construction materials and may obstruct the smooth flow of supply chains needed to bring rebuilding products to U.S. markets quickly after fires, hurricanes, and other disasters. RER recommends that the Draft Bill provide a “safety valve” to suspend the pollution fee to hasten construction of housing, workplaces, and infrastructure in areas covered by a Presidential disaster declaration.

**Recommendations:**

- Allow for temporary suspensions of the foreign pollution fee as it pertains to “covered products” needed to rebuild in communities affected by the President’s disaster declarations;
- Along with HUD (as per previous recommendation), also include FEMA and SBA in the definition of “Relevant Federal Agency” at Section 4691(17) – so these agencies may offer specific considerations regarding the Draft Bill’s potential impact on costs of materials needed to rebuild after a disaster declaration;<sup>14</sup> and
- Include two (2) private sector representatives with expertise in disaster response and recovery to serve with other industry representatives on the “Advisory Committee” authorized under Section 4697.

**3. *The Draft Bill should address data challenges in measuring “indirect emissions” that are a variable to determine the amount of pollution import fees.***

The delta between a foreign product’s emissions above the “baseline pollution intensity” of a U.S. product is key to determining the amount of the Draft Bill’s import fees.<sup>15</sup> The greater the spread, the higher the fee. A covered product’s “pollution intensity,” in turn, includes both “direct” and “indirect”

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<sup>11</sup> [Bloomberg](#) (Jan. 13); [HousingWire](#) (Jan. 13).

<sup>12</sup> [PBS News](#) (Oct. 23, 2024).

<sup>13</sup> House Committee on Appropriations, [press release](#) (Dec. 20, 2024).

<sup>14</sup> The definition of “Relevant Federal Agency” at Section 4691(17) includes the Department of Homeland Security. RER recommends that the Draft Bill also expressly include FEMA as the expert agency responsible for key disaster response programs.

<sup>15</sup> Section 4691(4), (14); Section 4693(a)(1)(B); Section 4694(a), (d).

emissions.<sup>16</sup> Determining “direct” Scope 1 emissions from on-site fuel combustion at a factory in the U.S. may be relatively straightforward. However, calculating “indirect” Scope 2 emissions is a more complicated endeavor for manufacturing facilities, both at home and abroad.

Measuring indirect emissions depends on data regarding the fuel sources used by off-site electric grids and other energy infrastructure that provides power to a manufacturing plant. A U.S. grid region that relies more on fossil fuels to generate electricity will have a higher carbon footprint compared to a grid region that relies on more “clean” power. For example, glass or steel produced in areas where the electricity fuel mix relies to a greater extent on hydropower, solar, wind, or nuclear energy will generate less indirect emissions than glass or steel produced in regions where gas, coal, and oil dominate.<sup>17</sup> Science-based, data-driven, and equitable measurement of the Draft Bill’s “pollution intensity baseline” for domestic “covered products” must consider such variations in the regional U.S. grid fuel mix.

US-EPA’s [Emissions & Generation Resource Integrated Database \(eGRID\)](#) is the most “comprehensive source of data ... on the environmental characteristics of almost all electric power generated in the United States.” EPA also provides regularly updated emissions “factors” – bespoke to the unique fuel characteristics of each eGRID region – to perform mathematical conversions of electricity generation to their CO<sub>2</sub> equivalents.<sup>18</sup> Section 4694(c) of the Draft Bill should specify these EPA resources as the best available data to ensure accuracy of indirect emissions measurements.

In addition, the Advisory Committee should include participants from [Regional Transmission Organizations/Independent System Operators \(RTOs/ISOs\)](#). Regulated by the Federal Energy Regulatory Commission (FERC), these entities operate statewide and multi-state grids in the nation’s competitive electricity markets. RTOs/ISOs have deep familiarity in using eGRID data and corresponding electricity factors to calculate indirect emissions. Their expertise will be useful to establish clear, replicable, and sound methods for carbon tariff calculations. RTO/ISO inclusion on the Advisory Committee is especially important given the skyrocketing demands for electricity – and the increased GHG emissions that will likely result from supplemental “peaker” plants<sup>19</sup> – to accommodate artificial intelligence, cloud computing, and mining of crypto assets over the next decade and beyond.<sup>20</sup>

Foreign nations may not have available grid emissions data at the same level of geographic detail as EPA’s eGRID provides. In such cases, the Draft Bill states that the “pollution intensity” of the imported product would increase *automatically* by a flat 20%. (Section 4694(e)(1)). Rather than establish such a “one size fits all” legislative fiat, the Draft Bill should leverage the special knowledge of experts. The Treasury Secretary should consult with EPA and DOE to determine the appropriate percentage of increase in the “pollution intensity” of indirect emissions embedded in a “covered product” if foreign data is not on par with U.S. data. The Advisory Committee should also weigh-in. A spot on the Committee should be available for an expert from academia, industry, or the NGO community with knowledge on the relevant data that exists, and its usefulness, regarding grid-based emissions in other countries.

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<sup>16</sup> Section 4691(13)(A). The Draft Bill’s definitions of “direct” and “indirect” emissions at Sections 4691(13)(B) and (C) track the well-accepted Scope 1 and Scope 2 emissions definitions, respectively, [used by the US-EPA](#) and standardized by the World Resources Institute’s [GHG Protocol](#).

<sup>17</sup> For example, according to [EPA’s Power Profiler](#), to generate electricity:

- The Pacific Northwest grid region (NWPP) relies on 38.7% hydropower, 24.8% gas, and 16.4% coal.
- The grid region covering most of Louisiana (SRMV) uses 65.2% gas, 22.1% nuclear, and 8.2% coal.
- The Indiana, Ohio, and West Virginia grid region (RFCW) uses 37.8% gas, 28.5% nuclear, and 25% coal.

<sup>18</sup> See Table 6 of the [2024 GHG Emissions Factors Hub](#).

<sup>19</sup> “According to EPA data, peakers operate less frequently overall than non-peakers. But when they do, they emit more pollution.” [GAO report, Information on Peak Demand Power Plants](#) (May 21, 2024).

<sup>20</sup> See, e.g., [Bipartisan House Task Force Report](#) on Artificial Intelligence at p. 162 (Dec. 2024).

Similarly, the Draft Bill provides (at Section 4694(e)(2)) that, if foreign grid emissions data is “unavailable or unverifiable,” the Treasury Secretary may *alone* determine pollution intensity “using an inference that is adverse” to the interests of the country of origin.<sup>21</sup> The Draft Bill provides no standards or criteria to guide the Treasury Secretary’s “negative inference” of a foreign product’s pollution intensity. Again, relevant federal agencies and the Advisory Committee should be consulted to determine what, if any, “inference” against the foreign nation’s interest is appropriate in calculating “pollution intensity.” Furthermore, the Secretary’s determinations under both Section 4694(e)(1) and (e)(2) should be made available for public comment by interested stakeholders.

Recommendations:

- The Draft Bill’s provisions in Section 4694(c), regarding the data used to calculate “baseline pollution intensity,” should identify EPA’s [eGRID data](#) and [Emissions Factors Hub](#) as the exemplary sources necessary to calculate “indirect emissions” from electricity used to manufacture a U.S. “covered product.”
- The Advisory Committee should include a representative from a Regional Transmission Organization/Independent System Operator (RTO/ISO).
- The Advisory Committee should include a representative with special knowledge of available data on the fuel mixes of international energy grids.
- Decisions under subsections 4694(e)(1) and (e)(2) should not be made by the Treasury Secretary alone. He should consult with EPA, DOE, and the Advisory Committee in determining a “pollution intensity” increase or “negative inference” of an imported “covered product,” when insufficient foreign data is available.
- The Treasury Secretary’s “pollution intensity” determinations under subsections (e)(1) and (e)(2) should be subject to public notice and comment.

Thank you for the opportunity to provide comments on your revised discussion draft of the *Foreign Pollution Fee Act*. We look forward to working with your offices to improve this important bill. For more information regarding these comments, please contact Duane J. Desiderio, Senior Vice President and Counsel with The Roundtable ([ddesiderio@rer.org](mailto:ddesiderio@rer.org)).

Sincerely,



Jeffrey D. DeBoer  
President and Chief Executive Officer

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<sup>21</sup> Section 4694(e)(2).

## ADDENDUM About The Real Estate Roundtable

[www.rer.org](http://www.rer.org)

The Real Estate Roundtable brings together leaders of the nation's top publicly-held and privately-owned real estate ownership, development, lending, and management firms with the leaders of major national real estate trade associations to jointly address key national policy issues relating to real estate and the overall economy.

Economic impact of on the U.S. economy: [Commercial Real Estate by the Numbers](#)

### Who We Are



#### Asset Managers

**3%**

#### Financial Services

**20%**

58% Banks (Commercial & Investment)      16% Mortgage Bankers  
26% Insurers

#### Owners

**67%**

55% Private      14% Office      11% Housing  
44% Public      12% Retail      4% Industrial  
46% Mixed      12% Hotel      2% Other

#### Real Estate Trade Organizations

**10%**

American Hotel & Lodging Association (AHLA)      National Apartment Association (NAA)  
American Resort Development Association (ARDA)      National Association of Home Builders (NAHB)  
Association of Foreign Investors in Real Estate (AFIRE)      National Association of Real Estate Investment Managers (NAREIM)  
Building Owners and Managers Association Int'l. (BOMA)      Nareit (NAREIT)  
CRE Finance Council (CREFC)      National Association of Realtors® (NAR)  
CREW Network (CREW)      National Multifamily Housing Council (NMHC)  
International Council of Shopping Centers (ICSC)      Pension Real Estate Association (PREA)  
Mortgage Bankers Association (MBA)      Real Estate Executive Council (REEC)  
NAIOP, the Commercial Real Estate Development Association (NAIOP)      Urban Land Institute (ULI)