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SODA ASH ROYALTY REDUCTION ACT OF 2005

FEBRUARY 16, 2005.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 203]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 203) to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 203 is to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes.

BACKGROUND AND NEED

S. 203 would provide a temporary 5-year reduction in the current Federal royalty rate to 2 percent. The original Federal royalty rate was set by statute at not less than 2 percent of the quantity or gross value of the output of sodium compound and other related products at the point of shipment to market. Based on the rapid growth in the export market during the 1980's, the Bureau of Land Management increased the royalty rate from 5 percent to 6 percent in 1993. The combination of global competitive pressures, flat domestic demand and spiraling costs has impacted the U.S. soda ash industry. Up until 2003, the United States was the world's largest producer of soda ash, accounting for 28 percent of total world output. Ninety percent comes from the Green River deposit in Wyoming. Approximately 60% of all U.S. produced soda ash is consumed domestically while the remaining 40% is exported. Despite booming world demand, U.S. export growth since 1997 has been

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flat. The industry has implemented a number of cost reduction initiatives in the past few years that have served to maintain production levels and profitability, but not without impacting employment and economics in southwestern Wyoming. Since 1997, employment has declined from 3,000 jobs to 2,300. To remain competitive, the industry will need to find additional efficiencies to deal with rising energy costs and shipping costs.

LEGISLATIVE HISTORY

S. 203 was introduced by Senator Thomas on January 31, 2005. The Subcommittee on Public Lands and Forests held a hearing on a similar bill, S. 2317, July 14, 2004 (S. Hrg. 108–702). H.R. 4625, introduced by Congresswoman Cubin, passed the House of Representatives on July 19, 2004, and again on October 4, 2004 as Title VII to S. 1521. A Senate amendment to S. 1521, concurring in Title VII but modifying other portions of the bill, passed the Senate on December 7, 2004. At the business meeting on February 9, 2005, the Committee on Energy and Natural Resources ordered S. 203 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on February 9, 2005, by a unanimous vote of a quorum present, recommends that the Senate pass S. 203.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2 provides that, notwithstanding section 102(a)(9) of the Federal Land Policy and Management Act, section 24 of the Mineral Leasing Act, and the terms of any lease under that Act, for a period of five years beginning on the date of enactment, the royalty rate on the quantity or gross value of the output of sodium compounds and related products from Federal land shall be 2 percent.

Section 3 directs the Secretary of the Interior, at the end of a 4-year period, to prepare a study and report to Congress on the effects of the royalty reduction.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

FEBRUARY 11, 2005.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 203, the Soda Ash Royalty Reduction Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll and Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

S. 203—Soda Ash Royalty Reduction Act of 2005

Summary: S. 203 would provide temporary royalty relief for producers of sodium compounds and related products on federal land. CBO estimates that enacting this legislation would increase direct spending by $1 million in 2005 and by $14 million over the following five-year period. Enacting S. 203 would not affect revenues.

S. 203 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The royalty reduction required by the bill would temporarily reduce federal payments to the three states—Wyoming, Colorado, and California—by about $1 million in fiscal year 2005 and a total of $15 million over the 2005–2010 period.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 203 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING											
Estimated Budget Authority	1	3	3	3	3	2	0	0	0	0	0
Estimated Outlays	1	3	3	3	3	2	0	0	0	0	0

Basis of estimate: S. 203 would reduce the federal royalty rate for sodium compounds and related materials produced on federal land over the five-year period following enactment of the bill. Based on information provided by the Minerals Management Service about the amount of royalties expected to be generated by production of these materials under current law, CBO estimates that this bill would reduce federal receipts by $2 million in 2005 and by $30 million over a five-year period. The loss of receipts would be partially offset by a corresponding decrease in direct spending for payments to the states in which they are generated, resulting in a net increase in direct spending under S. 203 of $1 million in 2005 and by $15 million through 2010, assuming that S. 203 is enacted by June 1, 2005.

Intergovernmental and private-sector impact: S. 203 contains no intergovernmental or private-sector mandates as defined in UMRA. The royalty reduction required by the bill would temporarily reduce federal payments to three states—Wyoming, Colorado, and California—by about $1 million in fiscal year 2005 and a total of $!5 million over the 2005–2010 period.

Estimate prepared by: Federal Costs: Megan Carroll and Deborah Reis; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 203. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 203, as ordered reported.

EXECUTIVE COMMUNICATIONS

Views of the administration were included in testimony received by the Committee at a hearing on a substantially similar bill on July 14, 2004.

STATEMENT OF THE DEPARTMENT OF THE INTERIOR

The Department of the Interior submits the following statement for the hearing record on S. 2317, a bill to reduce the royalty on soda ash production from federal lands.

S. 2317 would establish a two percent royalty rate to the United States for sodium minerals mined from Federal lands, (a reduction from six or eight percent) on all current and future sodium leases, for a five-year period. In Section 102(9) of the Federal Land Policy and Management Act (FLPMA), Congress declared that the policy of the United States is to obtain fair market value for the use of the public lands, including royalties from sodium production, unless otherwise provided by statute. The Administration believes a two percent royalty is well below fair market value for the resource, and therefore cannot support the bill.

SODA ASH BACKGROUND

Soda ash is one of several products derived from sodium minerals mined on public lands and is used in many common products, including glass, detergents, and baking soda. The mineral trona is a naturally occurring mixture of sodium carbonate, sodium bicarbonate, and water. Soda ash, or "sodium carbonate," is refined from trona mined at depths between 800 and 1600 feet below the surface.

The chemical soda ash, is either natural or synthetic. Soda ash can be extracted from natural trona deposits that are mined, or it can be manufactured synthetically. Synthetic soda ash production began in this country in the 1880's and increased as the demand for soda ash increased. Although soda ash represented only two percent of the total estimated $38 billion U.S. non-fuel mineral industry in 2003, its use in many diversified products contributes substantially to the gross domestic product of the United States, and the industry is a cornerstone of Wyoming's economy.

In the early 1950s, the modern natural soda ash industry began in the Green River Basin of Wyoming, home of the world's largest natural deposit of trona. Since then five soda ash processing facilities have been constructed in Southwest Wyoming. Natural soda ash production from Wyoming, in an open market, is more competitive than synthetic soda ash produced at plants elsewhere in this country and the world.

SODA ASH—CURRENT PRODUCTION

Currently, the U.S. soda ash industry is made up of four companies in Wyoming operating four plants (a fifth plant is idle); one company in California with one plant; and one plant in Colorado owned by one of the Wyoming producers. The five U.S. producers have a combined annual designed production capacity of 14.5 million tons (16 million short tons). The total estimated value of domestic soda ash produced in 2003 was $750 million.

Ninety percent of the domestic soda ash production occurs in the Green River Basin of Wyoming. Of this, about 44 percent of the production is from Federal lands. The other production in the Basin is on nearby or adjacent State and private lands, which are often in a checkerboard pattern with the Federal lands. Nationwide, the Bureau of Land Management (BLM) estimates that 48 percent of the soda ash production is from Federal lands.

S. 2317

S. 2317 proposes a statutory royalty rate on sodium of two percent. As mentioned, the Department of the Interior believes a two percent royalty rate is below fair market value, which was estimated to be above the current six percent rate. The BLM's policy, as declared by Congress in FLPMA, has been to obtain fair market value for sodium resources. To implement this policy, in 1995, the BLM completed a market study to examine fair market value in the sodium industry in Wyoming. The study reviewed many comparable state and private leases and found that fair market value in Wyoming appeared to be somewhat higher than the five percent being charged by BLM at that time. As a result of the 1995 study, in February 1996, the BLM determined that the royalty for all then-existing leases would be increased from five to six percent at the lease renewal date. The BLM also determined, based on the study, that the royalty rate for all new leases entered into during or after 1996 would be eight percent. In the Green River Basin, the current sodium royalty rate on most private land is eight percent; five percent on State lands.

The bill also would result in significant revenue loss to both the Federal government and the State of Wyoming. In 2001, (the most current year for which publicly available statistics have been published by the Minerals Management Service), $11.1 million in Federal royalties were collected from soda ash production on public lands in Wyoming. Of that amount, pursuant to the Mineral Leasing Act, 50 percent, or $5.5 million, was distributed to the State of Wyoming, 40 percent went to the Reclamation Fund (a fund created by statute in 1901 for the construction and maintenance of irrigation works and reclamation projects) and 10 percent was distributed in miscellaneous receipts to the U.S. Treasury. The bill's reduction of the royalty from six to two percent for soda ash production would mean that total royalties would be reduced from approximately $11.1 million to approximately $3.7 million—a reduction of $7.4 million in one year. Under the bill's reduced royalty rate, the State of Wyoming's share of the Federal royalties would be reduced to $1.8 million, as compared to $5.5 million in 2001. The United States' share also would be reduced by an equal amount.

It should be noted that most of the soda ash mines in the Green River Basin of Wyoming have both Federal and non-Federal ownership of the mineral rights and are within the Union Pacific Railroad land grant corridor which creates a checkerboard pattern of private and Federal mineral ownership, where a section (1 square mile) of federal ownership is surrounded on four sides by private or state ownership. Many of the lease agreements for the mining of soda ash from the privately-held mineral rights specify that the mining company must mine as much soda ash from private mineral rights as mined from adjoining Federal or State mineral rights. These agreements contain financial penalties that discourage mining more than fifty percent from non-private portions of the mines. Therefore, reductions in the Federal royalty rate will not provide a directly proportional incentive to produce more soda ash from Federal leases.

CONCLUSION

The Administration cannot support S. 2317 because the bill reduces government receipts and reduces the fee below fair market value.

The Department of the Interior appreciates the opportunity to submit a statement on S. 2317 and would welcome further opportunities to discuss the bill and related issues with the Committee. The Department would be pleased to answer any questions the Committee may have for the record.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 203, as ordered reported.

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