



**ARIZONA
ROCK
PRODUCTS
ASSOCIATION**



August 6, 2009

The Honorable Lisa Jackson
Administrator, Environmental Protection Agency
Room 3000, Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Jackson:

As you are aware, the Environmental Protection Agency is currently considering new regulations for coal combustion products, including fly ash, as a result of the failure of a wet ash impoundment at the Tennessee Valley Authority's Kingston, Tennessee facility in December 2008. The spill was the result of the failure of the containment structure and had nothing to do with the material therein. As a result the agency is revisiting previous EPA determinations that these materials did not warrant regulation as hazardous wastes. Beneficial use of these materials has grown significantly in the last several years and reclassification would create serious unintended consequences.

At this time it is believed that coal combustion products will be regulated under Subtitle C of the Resource Conservation and Recovery Act (RCRA), or an alternate approach of regulation under Subtitle C for disposal purposes but not as a hazardous waste for beneficial use. The Arizona Rock Products Association believes beneficial use would be severely impacted in either case. For example, some state regulations prohibit the use of a "hazardous waste" for any beneficial use.

There has been dramatic growth in utilization and the growth in supply of fly ash which is indicative of both the increased demand for concrete based construction and the growing acceptance of fly ash as a viable and economical construction material. That said, many DOTs around the country allow and encourage the use of fly ash for use in ready mixed concrete. Among the benefits derived from using fly ash are the following: improved ultimate compressive and flexural strengths, reduced permeability, improved workability and mitigation of alkali aggregate reactivity which protects our vital infrastructure.

A publication titled "Fly Ash Facts for Highway Engineers" provides valuable information regarding the many uses of fly ash. This publication is sponsored by the USDOT through the FHWA, in cooperation with the ACAA and the EPA. The second paragraph in the preface of this publication states, "Fly ash has been used in roadways and interstate highways since the early 1950's. In 1974, the Federal Highway Administration encouraged the use of fly ash in concrete pavement with 'Notice N-5080.4', which urged states to allow partial substitution of fly ash for cement whenever feasible. In addition, in January 1983, the Environmental Protection Agency published federal comprehensive procurement guidelines for cement and

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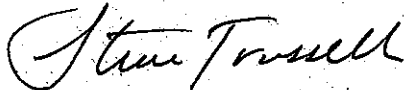
concrete containing fly ash to encourage the utilization of fly ash and establish compliance deadlines". The reclassification and regulation effort does seem contrary to EPA's education efforts to promote the elimination of waste streams and would clearly increase unwanted emissions.

Economic benefits of this material include reduced costs for fly ash disposal, increased revenue from the sale of the ash and savings from using the ash in place of the more costly cement. Conversely, not allowing its use could be devastating to an already strained economy.

Environmental benefits of using fly ash are numerous. First, its use conserves landfill space. Every ton of coal combustion products that is used to improve our nation's highways and buildings is a ton that is not deposited in a landfill. Fly ash is also a recovered resource and reduces depletion of natural resources. Fly ash reduces the energy-intensive manufacturing of other concrete ingredients, leading to savings in both energy usage and emissions of greenhouse gases. Finally, its use in concrete qualifies for credit under the U.S. Green Building Council's popular LEED rating system for sustainable construction and the environmental benefits of fly ash use are frequently cited by numerous government agencies, including the U.S. Department of Energy and the EPA.

The Arizona Rock Products Association appreciates the opportunity to submit comment and requests that the EPA does not regulate or reclassify fly ash as hazardous materials under Subtitle C of RCRA or any alternative approach under Subtitle C.

Sincerely,



Steve Trussell
Executive Director

cc: Ben Grumbles, Director ADEQ
John Halikowski, ADOT Director
John Bogert, ADOT Chief of Operations
Floyd Roehrich, ADOT State Engineer