



October 19, 2009

The Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
Room 3000  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

The California Construction and Industrial Materials Association (CalCIMA), as the trade association representing concrete, aggregate and industrial materials in California, strongly opposes the potential ruling by U.S. EPA that would regulate fly ash as a hazardous waste material. Such regulation would have the adverse impact of severely limiting the beneficial uses of this construction material and would be in direct conflict with CalEPA's urging of the greater use of fly ash to counter the impacts of Green House Gases (GHG).

Fly ash has many important uses, including its contribution to concrete's performance and sustainability. Because of its unique properties, fly ash works in combination with Portland cement to more effectively utilize the Portland cement in the manufacture of ready mix concrete, as well as providing additional durability and impermeability. When used in the manufacture of ready mix concrete, fly ash becomes encapsulated with the hardened concrete. Due to its qualities, the California Department of Transportation requires 25% fly ash in concrete pavements and structures.

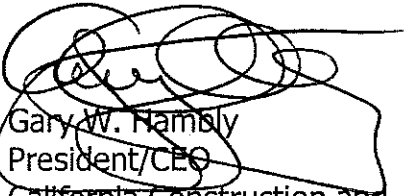
Classifying fly ash as a hazardous waste material could have an enormous impact on the California economy. Concrete is used for nearly all forms of construction, including homes, buildings, highways, and backbone infrastructure. The inappropriate regulation of fly ash would render the product difficult to manage, transport and store thus jeopardizing its beneficial uses.

Importantly the use of fly ash is a key strategy in our industry's efforts to meet California's mandated GHG reduction requirements as mandated under AB 32, The Global Warming Solutions Act of 2006. As part of the implementation of AB 32, CalEPA

is mandating the increased use of fly ash as a supplementary cementitious material (SCM) to replace Portland cement use, and make concrete more "green" and less energy intensive.

If U.S. EPA takes an action to reclassify fly ash as a hazardous material under Subtitle C of RCRA, our ability to meet future GHG emission restriction or standards would be jeopardized. Accordingly we would encourage the U.S. EPA to fully consider the consequences of your potential regulatory actions and seek to the correct balance or providing for the safe storage of waste ash, while not discouraging its beneficial uses. Our industry's ability to meet climate change mandates will be directly tied to the availability and unrestricted use of fly ash products

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Hamby", is written over a rectangular stamp area.

Gary W. Hamby  
President/CEO  
California Construction and  
Industrial Materials Association