



July 21, 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 National Ready Mixed Concrete Association (NRMCA), the trade association representing concrete producers in the United States, is opposed to a potential ruling by U.S. EPA that would regulate fly ash as a hazardous waste material. Such regulation could have the perverse impact of limiting beneficial uses of the material, therefore increasing wasted stockpiles that pose the very risks that EPA aims to mitigate.

In 2007, the concrete industry as a whole used approximately 14.5 million tons of fly ash in concrete, as the most widely used supplemental cementing material (SCM). Fly ash works in combination with portland cement to impart beneficial qualities to concrete and is then encapsulated itself.

In fact, supplementary materials such as fly ash contribute both to concrete's exceptional performance and sustainability. When combined with cement in concrete, SCMs improve durability, strength, constructability and economical factors. In the case of highways, streets, parking areas, and ocean-side structures, durability is the number one concern. Fly ash, as well as slag, and silica fume, other SCM'S, are used to enhance the durability of concrete by decreasing permeability and cracking. They help block migration of chloride ions (from deicing chemicals or seawater) to reinforcing steel, the most common cause of corrosion. In the case of buildings, SCMs help to create high strength concrete used to build some of the tallest buildings in the world. For homes, fly ash concrete provides an economical and durable alternative for foundations, patios and driveways.

The environmental benefits of using these industrial by-products in concrete results in longer lasting structures and reductions in the amount of waste materials sent to landfills, raw materials extracted, energy required for production, and air emissions, including carbon dioxide.

We understand that the EPA's proposed new regulations may include a reclassification of fly ash from a non-hazardous waste material to a hazardous waste material for disposal purposes and a non-hazardous waste material when used for beneficial purposes. NRMCA opposes the re-classification of fly ash **in any form** for several reasons.

EPA's primary goals should be to reduce the amount of fly ash wasted and to ensure that whatever fly ash is wasted is managed properly. A hazardous waste designation—while potentially advancing the second goal—would undermine the primary goal. Some states forbid the beneficial reuse of hazardous wastes, which could create a “Catch 22” situation that prevents shedding the hazardous waste designation through reuse. A better solution would be to presume that fly ash is not hazardous unless it is not reused and improperly managed. This will achieve EPA's goals without forfeiting reuse opportunities.

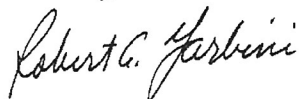
The adverse impact of improperly crafted regulation on the U.S. economy could be enormous. Concrete is used for nearly all forms of construction, including homes, buildings, highways, airports, domestic water systems, local roads, dams, and power generation structures. Inappropriate regulation of fly ash would render the product difficult to manage, transport and store, even for environmentally beneficial purposes, thus rendering the use of fly ash too expensive to justify. It would also be devastating on the concrete industry. The concrete industry supplements nearly 15% of the cementing materials in concrete with fly ash and other SCMs. Eliminating the availability of fly ash in any way would result in cost increases that could render concrete non-competitive.

The use of fly ash in concrete is safe. Once chemically bound in concrete, fly ash does not pose any environmental or health threat. Any ruling that would designate fly ash as hazardous in any form would result in a public perception that it is hazardous in concrete also. This would result in project owners refusing to accept concrete with fly ash in the mixture. It would in effect kill the demand for fly ash in concrete. Fly ash that was once used in a beneficial way would end up in landfills.

The ready mixed concrete industry is relying on the use of fly ash as a key component of its Sustainability Initiative. NRMCA members have set a goal to reduce embodied energy in concrete by 20% by 2020 and 30% by 2030, in addition to reducing the carbon footprint of concrete by 20% by 2020 and 30% by 2030. To accomplish these goals, the industry will have to increase the use of fly ash in concrete to 31 million tons by 2020 and 52 million tons by 2030. A hazardous waste ruling for fly ash in any form would render these goals simply unachievable.

A hazardous waste designation is not supported by science and the negative consequences of doing so would economically harm the fly ash and concrete industries and result in less durable infrastructure. We urge you not to discourage the beneficial reuse in your efforts to ensure proper management of fly ash. Reuse is near the top of the waste management hierarchy and should be encouraged, particularly when it is accompanied by a host of corollary environmental and economic benefits. Please ensure that regulation of fly ash does not create a prohibition or chilling effect on beneficial reuse of the material.

Sincerely,



Robert Garbini
President
National Ready Mixed Concrete Association