



Portland Cement Association



November 2, 2009

The Honorable Victor Mendez
Administrator, Federal Highway Administration
1200 New Jersey AVE SE
Washington DC 20590

Dear Mr. Mendez:

We are writing you on behalf of the Portland Cement Association (PCA) and the American Concrete Pavement Association (ACPA) to express our concerns with an anticipated proposed rule being prepared by the Environmental Protection Agency (EPA) pertaining to the regulation of coal combustion residue (fly ash) as a hazardous waste. It is our understanding that your agency, per request by the Office of Management and Budget, is reviewing a draft EPA proposal regarding fly ash and whether it should be classified as a hazardous waste.

PCA is a trade association representing cement companies in the United States and Canada. PCA's U.S. membership consists of 45 companies operating 106 plants in 35 states and distribution centers in all 50. PCA members account for more than 95% of cement-making capacity in the United States and 100% in Canada.

ACPA is the national trade association for the concrete pavement industry, representing more than 400 member companies, including paving contractors, cement companies, ready-mixed concrete producers, and suppliers of capital equipment, machines, materials, value-added products, and services that are used in the construction and rehabilitation of concrete pavement.

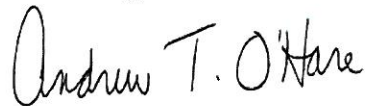
The cement and concrete industries rely on fly ash to enhance the performance and durability of concrete, and is therefore interested in the proposed rule. Fly ash has been a crucial element in infrastructure construction projects across the U.S. for decades as it improves longevity, increases strength, reduces chloride permeability, enhances durability and improves cost effectiveness. The types of infrastructure projects include highway pavements, highway and railroad bridges and tunnels, transit structures, airport runways, and pipelines. Increasing the longevity of our concrete infrastructure alone has huge positive implications for natural resource conservation and energy savings. There are also greenhouse gas savings realized with the use of flyash in concrete mixtures. A more complete discussion of the beneficial use of coal ash can be found in the joint FHWA EPA publication *Using Coal Ash in Highway Construction: A Guide to Benefits and Impacts* EPA-530-K-05-002 April 2005.

Our industries are concerned about the continued ability of the transportation sector to beneficially reuse this material in the construction and rehabilitation of our nation's critical infrastructure, and believe that regulating fly ash as a hazardous waste would have significant unintended negative consequences on its beneficial reuse. Even if EPA plans only to regulate disposal of fly ash as a hazardous waste, the stigma associated with such an approach will have a chilling effect on the use of the material in infrastructure.

We hope that your agency takes our concerns into consideration during your ongoing review of the proposed rule. Please do not hesitate to contact us at your convenience if we can be of any help to you or your staff in this matter. We may be reached at 202.408.9494, or you may contact us via email at aohare@cement.org or lwathne@acpa.org.

Thank you for your attention and consideration.

Sincerely,



Andrew T. O'Hare.
PCA, Vice President, Regulatory Affairs



Leif Wathne.
ACPA, Vice President – Highways and Federal
Affairs

cc: King Gee, Associate Administrator – Office of Infrastructure
Gloria Shepherd, Associate Administrator - Office of Planning, Environment &
Realty