

Date: February 4, 2010

The Honorable Lisa Jackson
Administrator, US EPA
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Re: Fly ash as "hazardous"

Dear Administrator Jackson:

Bode Concrete, a producer of ready mixed concrete in California, strongly opposes the potential ruling by US EPA that would regulate fly ash as a hazardous waste. Such regulation would have the adverse impact of severely limiting the beneficial uses of this material and would be in direct conflict with CalEPA's urging of the greater use of fly ash to counter the impacts of greenhouse 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 mixed 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 highways, transit and rail lines, waterways, bridges, homes, buildings, hospitals, and schools—the backbone of our 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 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 US EPA takes an action to reclassify fly ash as a hazardous material under Subtitle C of RCRA, our ability to meet future GHG emission restrictions or standards would be jeopardized. Accordingly, we encourage US EPA to fully consider the consequences of regulatory actions and seek the correct balance of providing for the safe storage of waste ash, while not discouraging its beneficial uses. Our company and our industry's ability to meet climate change goals will be directly tied to the availability and unrestricted use of fly ash products.

Sincerely,


Dennis Broderick
Chief Operating Officer
Bode Concrete LLC
385 Mendell Street
San Francisco, Ca. 94124

Cc's: Governor Arnold Schwarzenegger, State Capitol Building, Sacramento, CA 95814
CalCIMA

