



LATTIMORE MATERIALS COMPANY
P.O. Box 556
McKinney, Texas 75070-0556
972-221-4646 main
972-569-6998 fax
www.lattimorematerials.com

September 9, 2009

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

Re: EPA ruling pertaining to the regulation of fly ash as a hazardous waste material.

Dear Ms. Jackson:

I am writing to express my concern about a potential Environmental Protection Agency ruling pertaining to the regulation of fly ash (a coal combustion product) as a hazardous waste material.

It is my understanding that your agency is considering revisiting previous EPA determinations that these materials do not warrant regulation as hazardous waste materials (1993 and 2000). Since those determinations have been made, all segments of the concrete industry have benefited in terms of producing high quality, increased durability, and more environmentally conscious concrete. Consumers and users have enjoyed lower costs in terms of upfront costs to purchase and use concrete, as well as reduced maintenance and warranty issues because of improved concrete performance.

If the proposed reclassification of fly ash as a hazardous waster moves forward, it could substantially increase the construction costs across the country, virtually overnight, especially for those projects that are currently in progress. Contract pricing would no longer apply to newly regulated materials, and as such, all pricing would have to be renegotiated overnight.

For example, some state regulations prohibit the use of a "hazardous waste" for any beneficial use. I am however aware that many DOTs around the country allow and encourage the use of fly ash for various reasons. Among the numerous benefits derived from using fly ash in concrete are improved longevity, increased strength, enhanced durability and improved cost effectiveness. 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 fly ash in concrete mixtures that are aligned with current EPA initiatives for the reduced emissions.

In my professional opinion, regulating fly ash as a hazardous waste would have significant and direct negative consequences that could potentially undo several decades of advancement in concrete durability and infrastructure longevity, as well as reduced disposal needs. The unintended consequences could potentially cripple several aspects of our industry including transportation haulers, ready-mix concrete producers, and certain market segments such as the residential construction market that relies heavily upon the use of fly ash in concrete.

Additionally, enormous efforts have gone into proving the "green" and sustainable aspect of the use of fly ash as a cement replacement. To take fly ash off the table for use in concrete through reclassification would now leave us with the only option to actually use **more** cement, not less. In turn, we would consequently release more emissions into the atmosphere, and actually decrease the sustainability of our concrete structures.



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Essentially, fly ash is a product that we can consume within concrete to make a better more durable product, minimize the amount of fly ash that has to go to landfills, and reduce emissions all at the same time. If the EPA's reclassification were to go into effect, we would have a 180-degree turn. Concrete becomes less durable and more expensive, we have to create an entirely new disposal method for the newly classified "hazardous" waste.

I am hopeful that many of my colleagues have contacted you regarding this. I am completely for the improvement to our environment. However, I think that in most cases a simple and practical solution can work the best. The reclassification of fly ash as a hazardous waste is neither simple, not practical, and will ultimately create more problems than it philosophically attempts to solve.

Should you or your staff have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "RSZ", written over a circular professional engineer seal.

Richard S. Szecsy, PhD, PE
Vice-President, New Product Development and Risk Management
Lattimore Material Company.

