



**HOUSE SMALL BUSINESS
SUBCOMMITTEE ON
RURAL DEVELOPMENT, ENTREPRENEURSHIP AND TRADE**

July 22, 2010

**STATEMENT BY
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**ON BEHALF OF
THE NATIONAL READY MIXED CONCRETE ASSOCIATION (NRMCA)**

Chairman Shuler, distinguished Members of the Subcommittee, thank you for the invitation to testify on behalf of the National Ready Mixed Concrete Association (NRMCA), and thank you for holding this important hearing on Coal Combustion Byproducts (CCBs): Potential Impact of a Hazardous Waste Designation on Small Businesses in the Recycling Industry. I am Robert Garbini, the President of the NRMCA. Founded in 1930, NRMCA's mission is to provide exceptional value to our members by responsibly representing and serving the entire ready mixed concrete industry through leadership, promotion, advocacy, education and partnering. For the committee, as a matter of scale, ready mixed concrete consumes 75% of all of the portland cement used in this country. We represent over 1,500 manufacturers of concrete and the 50 state affiliate organizations. It is important to note that approximately 85% of NRMCA's members are small businesses with less than \$30 million in sales annually. Many of our small business members are the classic family-owned and run ready mixed concrete companies that represent the vast majority of this industry.

Concrete is the most widely used construction material in the world and is produced and consumed in every part of our country. In fact, no construction takes place without use of some concrete products. Based on NRMCA's latest Industry Data Survey, it is estimated that U.S. ready mixed concrete industry revenues exceeded \$25 billion in 2009, a down year; and an estimated 130,000-145,000 people directly derived their livelihood from the ready mixed concrete industry. The manufacturing of ready mixed concrete is part of the larger concrete construction industry which employs over two million people. Seasonally adjusted annual construction spending is currently \$869 billion.

With regard to fly ash the ready mixed concrete industry is the largest beneficial user of fly ash. The use of fly ash in concrete is widespread, and has been for years. In 2008 alone, the concrete industry used 15.8 million tons of fly ash in the manufacturing concrete; fly ash is by far the most widely used supplementary cementing material (SCM). A 1998 survey of ready mixed concrete producers by the Portland Cement Association (PCA) and NRMCA showed that over 55% of all ready mixed concrete contained fly ash at an average of 20% by weight of total cementitious content.

Fly ash is used in combination with portland cement to impart beneficial qualities to concrete. The environmental benefits of using these industrial byproducts 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. The overall carbon footprint of ready mixed concrete containing fly ash is considerably reduced and it is an important factor supporting sustainable construction practices. There are also economic benefits to using fly ash in concrete. Fly ash is significantly less expensive than portland cement and therefore reduces the materials cost of concrete while providing enhanced performance. Although the concrete industry uses significant amounts of fly ash, it is estimated that there is still about 42 million tons of all fly ash land filled annually. Although not all fly ash that ends up in landfills is of sufficient quality for use in concrete, it is estimated that the concrete industry could increase its current use to above 30 million tons per year by 2020 which would reduce the concrete industry's carbon footprint by 20%. This would help the ready mixed concrete industry attain the Environmental Protection Agency's (EPA) and Obama administration's desired goal of reducing, in part, CO₂ emissions by at least 17% by 2020. This however, assumes that the

distribution system exists to maintain its use as an economically viable option and evolving regulations on power generation facilities do not adversely impact the ability of fly ash to meet current standards for use in concrete.

Based on the ready mixed concrete industry's extensive use of and reliance on fly ash in concrete and, after examining EPA's proposed rule, we have determined that a Resource and Conservation Recovery Act (RCRA) Subtitle C designation for coal combustion byproducts bound for disposal while retaining the Bevill exemption for beneficial use will lead to the following unintended consequences for small ready mixed concrete businesses:

1. Increased production costs: The cost of making concrete will likely increase whether or not fly ash is beneficially used in concrete. If a concrete producer chooses to continue to use fly ash despite the risks, they will likely pay more for the fly ash since both EPA and the electric utilities have suggested the additional cost for disposal will be passed onto consumers, including concrete producers. For those producers who choose to discontinue the use of fly ash, they will be forced to use more costly portland cement and other SCMs. In both cases, the cost of making concrete will likely rise. If fly ash is replaced with cement, the material costs of concrete are expected to increase by an average of 10%. Unemployment among small business concrete producers is currently around 20%. The resulting increased material costs will make it harder for small businesses to maintain their current staffing levels.
2. Increased liability: Ready mixed concrete producers are unsure about the regulatory status of small amounts of fly ash that ultimately will be comingled within their waste stream during the day-to-day operations of manufacturing ready mixed concrete or the

cost associated with handling the fly ash. The industry is averse to taking risks due to potential liability of handling a labeled hazardous waste and therefore may choose to no longer use fly ash. A possible remedy for this would be a liability exemption for beneficial users. Without an exemption the potential costs associated with such liability will likely have devastating consequences on the small businesses in the ready mixed concrete industry.

3. Stricter state laws for beneficial use: We suspect that many states will establish new laws that further limit the beneficial use of fly ash. For example, the state of Maryland, in a recent proposed rule, requires any product containing fly ash to be disposed of in a facility authorized to accept fly ash. If the EPA declares fly ash disposal as subtitle C, then states may change their regulations to force concrete crushed after its service life from demolition of buildings and pavements, or from waste stream of new construction, to be handled in this manner. In their proposed ruling, EPA has stated that waste streams from beneficial use will be characterized for disposal based on its characteristics. However, there is no assurance that states will follow this line of thinking. If fly ash concrete bound for disposal is classified as hazardous or special waste, then ready mixed concrete producers are unlikely to use fly ash in their concrete.
4. Eliminating the use of fly ash concrete: It has taken several decades of education to convince engineers and architects to specify fly ash in concrete. We suspect that the stigma and fear of liability will drive specifying engineers, architects and end users to disallow the use of fly ash in concrete. We also fear that the perception of the general public will not distinguish the difference between the characterization of a waste bound for disposal and that diverted for beneficial use. There is no amount of proper education

or marketing that will relieve beneficial users and specifiers and/or consumers of concrete from the negative impact or stigma associated with manufacturing or using a product that incorporates an ingredient that is characterized as a hazardous waste. Our concern is that fly ash use will significantly decrease in concrete, and result in driving up the cost in the manufacturing process for small businesses.

5. Impact to durable infrastructure: From the 1920s, fly ash has been recognized as a valuable addition to ready mixed concrete to enhance the service life of our nation's dams, highways, bridges, homes and buildings. It is recognized as the most effective means of ensuring durable infrastructure and to support the use of some marginal regional materials with enhanced performance. The current state of our failing infrastructure would be increased at least two fold without the judicious use of fly ash in concrete. This will result in concrete construction that is less durable, less sustainable and lead to higher life-cycle costs.

Due to the complexity of EPA's proposed rule on disposal of CCB's, NRMCA currently is surveying its members to get a broader view of possible implications. We anticipate having the survey responses completed and returned by the end of August. NRMCA has respectfully requested EPA extend their comment period by 120 days to provide ample time for our members to complete the survey and also give us time to analyze and compile survey responses. NRMCA anticipates responding to EPA's proposed rule with evidence derived from our survey results from those who understand the issue most on behalf of the largest segment of beneficial users – the ready mixed concrete small businesses. The survey will quantify the potential path the industry will take based on the perception of a stigma associated with the proposed classification

of fly ash for disposal as a special waste and the unintended consequences on beneficial use in ready mixed concrete.

In summary, NRMCA believes that a Subtitle C designation is only to the detriment of the ready mixed concrete industry, especially its small businesses. Thank you for hearing my concerns, on behalf of the ready mixed concrete industry. NRMCA looks forward to working with the distinguished Members of the Subcommittee on this and other important issues related to small businesses.