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Boral  
Material  
Technologies



October 5, 2009

Lisa Jackson  
USEPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Room 3000  
Washington, D.C. 20460

**BORAL MATERIAL TECHNOLOGIES INC.**

45 Northeast Loop 410, Suite 700  
San Antonio, TX 78216  
Phone (210) 349-4069  
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Dear Lisa Jackson:

Boral Material Technologies Inc. (BMTI) is a marketer of fly ash and coal combustion products, with more than four decades of experience marketing to the concrete industry. In addition, BMTI maintains a standardized, consolidated and proactive approach to ensure that a safe and healthful work environment is preserved, and emphasizes its commitment to being a responsible steward with respect to the safety and health of the environmental impact of its operations and products. BMTI embraces the principle of sustainable development through meeting the needs of the present without compromising the ability of future generations to meet their own needs. We recognize that the community expects responsible environmental, health and safety stewardship.

This letter is regarding the current legislation that is under review that would reclassify coal fly ash from a solid waste to a hazardous solid waste, with the exception of ash applied for beneficial use. Any "hazardous waste" designation of coal ash would create serious negative impacts for our country. Fly ash has been reviewed by the EPA and classified as non hazardous in 1993 and 2000, based on scientific evidence that has not changed. This evidence collected over decades, justifies the exclusion of coal fly ash from RCRA Subtitle C. This includes heavy metals content. In fact, TCLP results, as required by Subtitle C, are often not detectable or are a fraction of the allowable threshold. We strongly urge you to consider the scientific evidence and disregard public perception and emotional opinions when making a final decision over this matter.

Coal ash is a byproduct created by the combustion of coal for generation of electricity. Currently about 50% of the electricity generated in the U.S. comes from the combustion of coal. The most recent data available from the American Coal Ash Association (ACAA) indicate that over 130 million tons of coal ash was produced in 2007.

Labeling coal ash as a hazardous waste, even if for the limited purpose of regulating its disposal, would have severe impacts on our economy and environment without providing material improvement in the protection of public health and safety. Major impacts would include the following:

- Recycling or “beneficial use” of coal ash would virtually stop if it were designated “hazardous.” According to 2007 ACAA data, 43% of the 130 million tons of coal ash was recycled and therefore diverted from disposal in landfills or impoundments. The benefits of fly ash have been shown over decades in both research and field experience. Fly ash physical and chemical characteristics enhance the overall concrete product so that it can resist chemical attack from external sources. It is highly effective in mitigating the deleterious effects of alkali-silica reaction, reducing potential expansion due to sulfate attack, reducing the potential for corrosion of reinforcing steel, and greatly enhancing long term strength. This enhanced durability results in longer service life and reduced replacement and repair cost to tax payers.
- Greenhouse gas emissions would increase as fly ash would not be used to replace portland cement in concrete mixtures. Recent data show that up to 15 million tons of CO<sub>2</sub> emissions were avoided in 2007 because of fly ash use in lieu of portland cement in various applications and nearly 120 million tons avoided since 2000.
- Many state regulations prohibit the use of a material designated as hazardous for beneficial use. It is expected that negative public perception of hazardous materials would virtually halt acceptance of products containing coal ash should they be designated as hazardous wastes. Utilities would be forced to acquire significant amounts of property for disposal of coal ash no longer beneficially used. In addition to land acquisition, permitting new sites has proven to be a lengthy and costly process even for non-hazardous solid waste disposal sites, let alone hazardous wastes. The costs for land acquisition and permitting would be passed on to consumers. Our economy cannot sustain such additional burdens in these times of economic turmoil.

Coal ash disposal standards can be addressed without unnecessarily stigmatizing this resource, which has a track record of safe beneficial use as a preferred alternative to disposal. The decades of coal ash contributions to improving both our environment and economy must be allowed to continue.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Shelton". The signature is written in a cursive, somewhat stylized font.

Gary Shelton  
President