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JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF TRANSPORTATION  
LANSING

KIRK T. STEUDLE  
DIRECTOR

November 10, 2009

Mr. Victor Mendez, Administrator  
Federal Highway Administration  
1200 New Jersey Avenue SE  
Washington, D.C. 20590

Dear Mr. Mendez:

We are writing you on behalf of the Michigan Department of Transportation (MDOT) 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 material. It is our understanding that your agency, per a request from the Office of Management and Budget, is reviewing potential EPA determinations that these materials warrant regulation as hazardous waste.

MDOT relies 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 United States for decades as it improves longevity, increases strength, enhances durability, and improves cost-effectiveness. The types of infrastructure projects where fly ash has tremendous benefits include highway pavements, highway and railroad bridges, 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 is also a greenhouse gas savings that is realized with the use of fly ash in concrete mixtures. A more complete discussion of the beneficial use of fly ash can be found in the joint Federal Highway Administration (FHWA)-EPA publication titled *Using Coal Ash in Highway Construction: A Guide to Benefits and Impacts* EPA-530-K-05-002 April 2005.

Our agency is concerned about our continued ability to beneficially reuse this material in the construction and rehabilitation of our nation's critical infrastructure. We 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 the 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 for our 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 me at your convenience if we can be of any help to you or your staff in this matter. I can be reached at (517) 373-4656

Sincerely,

Gregory C. Johnson, P.E.  
Chief Operations Officer

cc: John Horsley, Executive Director, AASHTO