Background
Cement makers are key stakeholders in any legislation intended to preserve the beneficial use of coal ash. Any classification of coal ash as a hazardous waste, or even the regulatory uncertainty related to the stalled EPA rulemaking, would impact recycling of coal ash, including that used by cement makers. If Congress were to take action to pre-empt classification of coal ash as a hazardous waste, then beneficial use would once again increase.

The recycling of coal ash has remained flat in recent years at least in part due to the federal regulatory uncertainty, which legislation would resolve. For example, the amount of coal ash used in concrete production in 2011 was 11.7 million tons, up slightly from 11.0 million tons in 2010 but still below 12.6 million tons in 2008, before the EPA proposal. In addition to the 11.7 million tons of coal ash recycled in the production of concrete, cement makers typically recycle an additional three million tons of coal ash as a raw material in cement making. The coal ash used in the cement manufacturing process serves as a substitute for key ingredients in cement, which would otherwise have to be mined. Coal ash used in concrete production, combined with the amount used by cement manufacturers as a raw material, accounts for more than 10% of the 130.7 million tons of coal ash produced in the country every year.

In 2012, Sens. Hoeven (R-ND) and Conrad (SD) introduced S. 3512, the Coal Ash Recycling and Management Act, a bill similar to the House-passed HR 2273. Like the original McKinley bill (HR 2273), the Senate bill pre-empts potential EPA classification of coal ash as hazardous waste. Legislation pre-empting EPA action will help preserve jobs and incentive recycling, or beneficial use.

PCA Position and Desired Approach
PCA supports legislation that would pre-empt EPA classification of coal ash under RCRA Subtitle C as a “hazardous waste,” which would undermine “beneficial use” of the material. PCA supported the Senate and House versions of coal ash legislation during the 112th Congress. Cement manufacturers continue to work with industry partners to encourage introduction and passage of legislation pre-empting hazardous classification of coal ash during the 113th Congress.