
From: Winek, Michael [MWinek@bccz.com]
Sent: Monday, December 21, 2009 12:04 PM
To: EP, RegComments
Cc: Van Orden, Dean; Reiley, Robert A; Smith, James M.; Peter Kimmel
Subject: Air Quality Fee Schedules
Attachments: Armstrong Cement Comments to EQB Air Fee Schedules (B0064926).PDF

Attached are comments from Armstrong Cement & Supply Corp. to the proposed rulemaking on Air Quality Fee Schedules published at 39 Pa. Bull. 6049 (Oct. 17, 2009).

The contact person is:

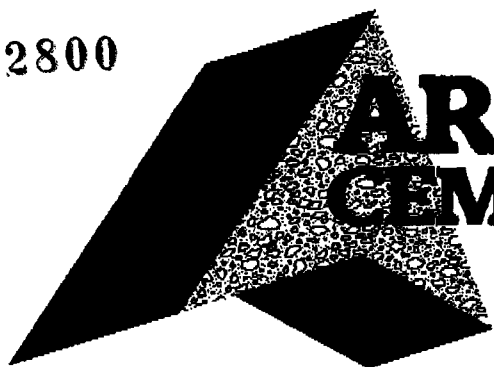
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INDEPENDENT REGULATORY
REVIEW COMMISSION

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ARMSTRONG CEMENT & SUPPLY

December 21, 2009

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Environmental Quality Board
Rachel Carson State Office Building
16th Floor
400 Market Street
Harrisburg, Pennsylvania 17101-2301

INDEPENDENT REGULATORY
REVIEW COMMISSION

RE: Proposed Rulemaking: Air Quality Fee Schedules (25 Pa. Code Chs. 121, 127 and 139); 39 Pa. Bull. 6049 (October 17, 2009)

To Whom It May Concern:

Armstrong Cement & Supply Corp. ("Armstrong Cement") is submitting the enclosed comments to the above referenced proposed rulemaking. Armstrong Cement owns and operates a Title V facility located in Cabot, PA. Armstrong Cement pays Title V emission fees on an annual basis and has done so since the beginning of the Title V program.

Armstrong Cement operates several continuous emission monitors, conducts annual stack tests and periodically has permitting issues (plan approvals, requests for determinations, etc). All of these activities are implicated by additional fees in the proposed rule. These fees are in addition to the Title V fees that are paid annually.

In general, Armstrong Cement is supportive of a reasonable and appropriate fee schedule so that any necessary reviews and approvals are implemented in a timely manner. Armstrong Cement trusts that the increased fees will ensure that all necessary reviews and approvals are accomplished in an efficient and timely manner.

Armstrong Cement offers the following specific comments.

1. The Title V program requires a fee schedule that is sufficient to cover the Title V permit program costs. See 40 CFR 70.9. Armstrong Cement requests that the revised fee schedule not impose duplicative fees on Title V sources. The Title V fees are to be sufficient to cover all program costs. Please consider whether the additional fees for various approvals (e.g., stack test protocols, RFDs, CEMs certifications) are already included in the annual Title V emission fees that are being increased significantly.

2. Armstrong Cement supports the proposed periodic (e.g., at least every 5 years) evaluation of the sufficiency of the fee program. See 25 Pa. Code 127.701(d)(proposed). Armstrong Cement requests that the DEP or EQB make available for public review any more recent assessments or evaluations of the Pennsylvania air program fees, and the Title V fee program in particular. If the DEP or EQB has not

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conducted or had conducted any such assessment or evaluation, then Armstrong Cement questions the basis for the proposed fee schedule and suggests that it is arbitrary.

3. Armstrong Cement requests that the EQB clarify what is covered by the new fee fees for submitting a request of determination for plan approval and/or operating permit. The DEP has published a form entitled "Request for Determination of Changes of Minor Significance and Exemption from Plan Approval/Operating Permit." This form may be used not only to request that the DEP make a determination that a source is of minor significance and therefore, exempt from plan approval. This form also allows for a source to provide a 7 day written notice of a de minimis emissions increase under 25 Pa. Code 127.449 or provide notice of certain physical changes of minor significance under 25 Pa. Code 127.14(c). Moreover, while the DEP has a self-effectuating published list of sources that are exempt from plan approval, some owners and operators provide the DEP a written notice that a source fits within a published exemption and request that the DEP concur with this determination. Armstrong Cement requests that the DEP clarify in the final rule, which of these various types of permitting applicability requests is covered by the new fees.

4. The EQB and DEP should coordinate the changes being made to the plan approval exemption list with the new fee schedule to avoid unnecessary fees. Armstrong Cement understands that the DEP is in the process of updating the plan approval exemption list and is requiring some previously exempted sources to submit an RFD so that the DEP has an inventory and notice of these sources. Armstrong Cement requests that the EQB and DEP consider the new fees that will be imposed in deciding whether to require a RFD to be submitted as a condition of published plan approval exemptions. Armstrong Cement suggest that a pur notice for inventory purposes should not require any detailed evaluation and should not be subjected to a fee.

5. Fees should not be required for review and approval of stack test protocols that have previously been reviewed and approved. Armstrong Cement conducts an annual stack test for NOx. The protocol is generally unchanged. A review and approval fee for the same review and approval should be avoided or at least discounted.

We appreciate the opportunity to provide comments on the proposed regulations and trust that the EQB will give them serious consideration.

Sincerely,



Peter T. Kimmel
V.P. of Operations

cc: Michael H. Winek