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INDEPENDENT REGULATORY
REVIEW COMMISSION

MICHAEL H. WINEK
Attorney at Law
T 412.394.6538
mwinek@bccz.com

March 7, 2008

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Environmental Quality Board
P.O. Box 8477
Harrisburg, Pennsylvania 17105-8477

ENVIRONMENTAL QUALITY BOARD

RE: Proposed Rulemaking: Diesel Vehicle Idling; and Auxiliary Power
Systems (25 Pa. Code Chs. 121 and 126)
38 Pa. Bull. 229 (January 12, 2008)

To Whom It May Concern:

We are submitting these comments on behalf of Armstrong Cement & Supply Corp. ("Armstrong Cement") to the above referenced proposed rulemaking. In addition, we are including a one-page summary of comments for distribution to each of the Environmental Quality Board ("EQB" or "Board") members at the meeting in which the final rule will be considered.

Armstrong Cement's comments focus on the regulation of "owners and operators of locations at which diesel-powered commercial vehicles load, unload or park."

We suggest that the applicability provision (25 Pa. Code 126.601) be revised such that the idling restrictions apply only to the owners and operators of the diesel-powered commercial motor vehicles. Owners and operators of locations at which these vehicles load, unload or park should not be subject to this regulation for several reasons. First, the universe of potentially regulated persons is not well defined. These vehicles could park and idle on the side of public roads, at rest stops, at industrial facilities, and even in a driveway to a residence. In some situations the owner of the location may not even be aware that the vehicle is parked there. As written, the rule is too broad in terms of applicability.

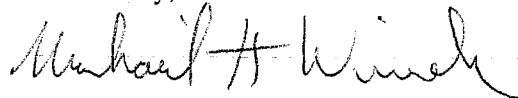
With respect to industrial facilities, diesel-powered vehicles routinely make deliveries and pickups at such facilities. If the rule applies to industrial facilities, the owner and operator of the facility would be liable for violations of the idling restriction even if the owner/operator was unaware of the infraction. Moreover, even if the industrial facility took reasonable measures to advise the vehicle operators of the requirements (e.g., posting signs or otherwise informing the drivers), the facility owner/operator remains liable even if the driver disregards the warning and advice provided by the facility. If the rule is to regulate owners and operators of industrial facilities, the obligations applicable to such facilities should be limited to posting signs or

otherwise advising the vehicle operators of the idling restrictions. Holding the property owner responsible for the transgressions of vehicle operators that happen to locate on the property is casting too broad of a net.

Finally, we urge the EQB to consider the potential unintended consequences of subjecting Title V facilities (as the owner/operator of a location where diesel-powered vehicles load, unload or park) to this additional "applicable requirement." For Title V facilities, we believe that this regulation could be considered an "applicable requirement" that must be included in Title V permits. The ramifications of including this idling restriction in Title V permits is that the facility owner or operator would then be required to monitor compliance with the rule and to certify compliance with it annually. It would be unduly burdensome for Title V facilities to somehow monitor each and every vehicle that loads, unloads or parks at its facility. While it may be possible to certify compliance based on the fact that signs have been posted and/or spot checks of vehicle idling have been conducted, a more reasonable approach would be to avoid this Title V monitoring and compliance certification issue by not subjecting the facility owner to the regulation. We suggest that the EQB consider how Title V facilities would be required to address this regulation and the apparently unintended costs, paperwork and compliance burden.

On behalf of Armstrong Cement, we appreciate the opportunity to provide comments on the proposed regulations and trust that the EQB will give them serious consideration..

Sincerely,



Michael H. Winek

cc: Peter T. Kimmel

Armstrong Cement & Supply Corp.
One-page Summary of Comments to
Proposed Rulemaking: Diesel Vehicle Idling; and Auxiliary Power Systems
(25 Pa. Code Chs. 121 and 126)
38 Pa. Bull. 229 (January 12, 2008)

1. The idling restrictions should not apply to owners and operators of locations where the vehicles load, unload or park.
2. Property owners should not be held liable for the infractions of a vehicle driver who happens to park and idle on the owners' property. At worst, property owners should be required to take reasonable measures to advise the vehicle operators of the existence of idling restrictions (e.g., post signs).
3. The rule may have the unintended consequence of imposing monitoring and compliance certification obligations on Title V facilities. These additional burdens and costs are not discussed and appear to not have been considered.

