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Sent: Monday, June 23, 2008 4:08 PM
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Subject: NOx Proposed Rulemaking [38 Pa.B. 1831]

2008 JUN 27 AM 10:18

INDEPENDENT REGULATORY
REVIEW COMMISSION

The attached written comments to the reference subject are submitted by Pittsburgh Corning Corporation.

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<<NOx Rulemaking Comments.pdf>>

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2008 JUN 27 AM 10:19

INDEPENDENT REGULATORY
REVIEW COMMISSION

June 23, 2008

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

RE: Proposed Rulemaking – Control of NOx Emissions from Glass Melting Furnaces [38 Pa.B. 1831]

Pittsburgh Corning Corporation submits the following comments for review by the Board.

We believe that the proposed rulemaking, as it is currently drafted, is inconsistent with the general requirements set forth in Executive Order 1996-1. This Executive Order requires state agencies drafting and promulgating new regulations, including the EQB, to adhere to certain requirements, including: (1) the costs of the regulation cannot exceed its benefits; and (2) where there are existing federal regulations covering the subject matter, the State's regulations cannot be more stringent than the federal standards. The EQB does not sufficiently address either of these criteria in its proposed rulemaking.

Based on the proposed rulemaking, there is no way to determine whether the costs of the regulation exceed its benefits. First, the EQB fails to quantify the possible benefits. The rulemaking simply proposes that the "regulations will result in improved air quality." 38 Pa. Bull. 1831 (April 19, 2008). To effectively engage in a cost/benefit analysis, the "improvement" in air quality should be quantified. Secondly, the EQB fails to establish the costs for the industry to come into compliance. It merely states that "[t]here will be compliance costs related to the installation and operation of add-on control technology and NOx emissions monitoring equipment such as CEMS." *Id.* Specifying, funding, purchasing, installing and commissioning CEMS equipment, which appears to be the compliance method of choice under the proposed rule, is an economic hardship both in the initial procurement cost as well as the on-going maintenance expense. The equipment alone is in excess of \$100,000 and requires a significant additional installation expenditure. Yearly maintenance costs are estimated at approximately \$30,000.

Because the EQB failed to quantify the benefits and sufficiently consider the approximate costs of compliance, the proposed rulemaking does not support a conclusion that its costs will not exceed the benefits. To be consistent with Executive Order 1996-1, the cost/benefit analysis should be more thoroughly addressed.

Executive Order 1996-1 also requires that where federal standards exist, state regulations be no more stringent. The EPA promulgated the Clean Air Interstate Rule (CAIR) as a comprehensive regulatory program for the control of NOx emissions at the federal level. To achieve its goal of reducing NOx emissions, the EPA focused specifically on the regulation of electric generating units. Glass melting facilities are not EGUs; thus, under CAIR, specific regulation of the glass manufacturing industry is notably absent. There is no discussion of this element of the Executive Order in either the proposed regulations or the preamble.

The proposed rulemaking also fails to provide the technical support for its determination of the appropriate allowable NOx emissions. As it is currently written, glass melting furnaces are to determine their allowance of NOx emissions "by multiplying the tons of glass pulled by each furnace by: (1) 4.0 pounds of NOx per ton of glass pulled for container glass furnaces; (2) 7.0 pounds of NOx per ton of glass pulled for pressed or blown glass furnaces; (3) 4.0 pounds of NOx per ton of glass pulled for fiberglass furnaces; and (4) 7.0 pounds of NOx per ton of glass pulled for flat glass furnaces." 38 Pa. Bull. 1831 (April 19, 2008). We believe these allowances are arbitrary and do not reflect actual operating conditions.

The proposed rulemaking attempts to justify the allowances in two ways. First, it states that the Commonwealth met with representatives of the glass industry and reached a general agreement. *Id.* Pittsburgh Corning Corporation was neither notified nor consulted on this matter. Second, the proposed rulemaking suggests that the allowances were modeled after the regulatory limits set for the glass manufacturing industry in the San Joaquin Valley in California, but were fashioned to be Pennsylvania specific. *Id.* Other than this blanket statement, there is no indication of how the San Joaquin Valley regulation was modified or "fashioned" to be Pennsylvania specific. At a minimum, the EQB should validate their choice of model by explaining why the California allowances are appropriate in Pennsylvania. It is arbitrary to base Pennsylvania's allowances on a California system with no explanation as to why they are suitable to Pennsylvania.

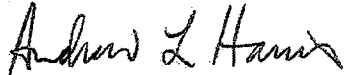
The arbitrary nature of the allowances is also evidenced by the July 26, 2007, Draft Minutes of the Air Quality Technical Advisory Committee Meeting. In this meeting, it was reported that the "NOx Emissions Limitations for flat GMF and pressed and blown GMF was changed from 9.2 lbs/ton of glass pulled (24-hour block averages) to 7.0 lbs/ton of glass pulled." The minutes provide that this change was made in order to "make the regulation consistent with the cement regulation." Although the 9.2 lbs/ton was changed to 7.0 lbs/ton "to make the two regulations consistent, nothing is set forth in the rulemaking materials to indicate that the operations, nature of emissions, and ability to control of cement facilities are analogous to that of the glass manufacturing facilities. If the 9.2 lbs/ton allowance more accurately reflects the actual operating conditions of glass manufacturing facilities, it is arbitrary to alter the allowance merely for the sake of consistency.

Pittsburgh Corning Corporation is a Title V facility that uses stack testing to demonstrate compliance as a condition of RACT. This proposed rulemaking is overly burdensome particularly for those facilities that are in compliance with its operating permit and have not changed its method of operation. To be consistent with the requirements of the CAIR the requirement for CEMS installation should, at the very least, be reserved for furnaces undergoing reconstruction or modification and not simple rebricking.

If the EQB proceeds with its proposed requirement, Pittsburgh Corning Corporation requests that stack test results be used for the determination of NOx emissions as an alternate compliance demonstration method for NOx emissions monitoring. This data is available and already known to DEP. The Proposed Rulemaking states "...the owners and operators of these facilities will be able to apply for an alternate monitoring system or method, which would significantly reduce their monitoring cost under this proposal." *Id.* This provision supports the use of NOx results from stack testing. If new technologies for limitation to 7.0 pounds of NOx per ton of glass become required at the end of the melting furnace campaign, stack testing will continue to be required for demonstration of compliance to the new limitation.

If CEMS becomes mandatory, the installation and initial start-up a system will take at least 6 months to complete. Add to that an additional 6 months to obtain DEP system approval and equipment permitting and clearly there is insufficient time after the anticipated January 1, 2009 publication of the final rule to effect the installation of a CEMS before the planned implementation date of May 1, 2009. May 1, 2010 should be the earliest implementation date to allow adequate time for installation and operation during the 2010 Ozone Season.

Respectfully Submitted,



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Corporate Environmental Engineer

