

WEST VIRGINIA AIR QUALITY BOARD
CHARLESTON, WEST VIRGINIA

RECEIVED

ROXUL USA, INC., d/b/a
ROCKWOOL,

JAN 29 2024

AIR QUALITY BOARD

Appellant,

v.

Appeal No. 23-01-AQB

DIRECTOR, DIVISION OF
AIR QUALITY, DEPARTMENT
OF ENVIRONMENTAL
PROTECTION,

Appellee,

JEFFERSON COUNTY
FOUNDATION, INC., et al.,

Intervenors.

APPELLANT'S AMENDED NOTICE OF APPEAL

ACTION COMPLAINED OF: Appellant Roxul USA, Inc., d/b/a ROCKWOOL, is aggrieved by the following three Conditions in Modification Permit R14-0037A, issued on November 16, 2023 (the "Modified Permit"): (1) Condition 4.1.11 (closure of all exterior doors); (2) Condition 4.1.5a (limits on PM_{2.5}); and (3) Condition 4.1.4(a) (hydrochloric acid limit).

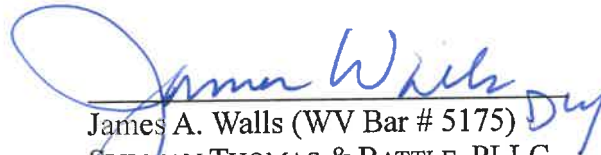
RELIEF REQUESTED: Appellant prays that this matter be reviewed and that the Board grant the following relief: (1) eliminate Condition 4.1.11 of the Modified Permit, except as it applies to the eight exterior doors in the charging building at RAN-5; (2) set a PM_{2.5} limit at the Wet Electrostatic Precipitator of 50.39 tons per year and 12kg per hour; and (3) set a hydrochloric acid limit of 1.24 tons per year for the Melt Furnace (IMF01).

SPECIFIC OBJECTIONS: Appellant's specific objections to the actions, including questions of fact and law to be determined by the Board, are set forth in detail in separate numbered paragraphs in the attached Exhibit A. The specific objections may be factual or legal.

Amendment of this Amended Notice of Appeal may be had by leave of the Board, and only for good cause shown

Dated this 23rd day of January, 2024.

ROXUL USA, INC., d/b/a ROCKWOOL



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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of January, 2024, I caused the foregoing **Appellant's Amended Notice of Appeal** to be served upon the following by e-mail and First Class U.S. Mail:

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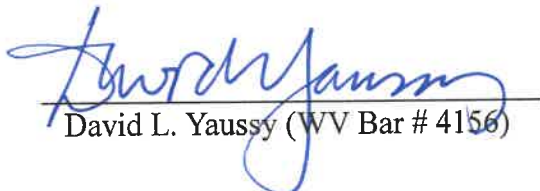

David L. Yaussy (WV Bar # 4156)

EXHIBIT A

To Appellant's Amended Notice of Appeal

I. Statement of Facts

1. ROCKWOOL owns and operates a stone wool¹ insulation manufacturing facility in Ranson, Jefferson County, West Virginia, which is referred to herein as "RAN-5".

2. On April 30, 2018, the West Virginia Department of Environmental Protection's Division of Air Quality ("DAQ") issued a pre-construction major source air pollution control permit to ROCKWOOL for the construction of RAN-5 (the "Pre-Construction Permit").

3. The Pre-Construction Permit allowed ROCKWOOL to burn either coal or natural gas to melt the rock and other materials from which the insulation is made.

4. ROCKWOOL began commercial operations at the Ranson Plant in July of 2021.

5. During construction ROCKWOOL elected to burn natural gas instead of coal, and accordingly the limits and conditions in the Pre-Construction Permit that were predicated on coal burning became unnecessary. Consequently, ROCKWOOL applied for modification of the Pre-Construction Permit to eliminate the limits and conditions that had become irrelevant.

6. The changes to the Pre-Construction Permit that were requested by ROCKWOOL did not result in an increase in Ranson Plant emissions, and as such the revisions could have been done through a Class 1 Administrative Update rather than a modification. *See* 45 CSR 13-4. The DAQ nevertheless required a modification application so that the permit would go through public notice procedures.

¹ Stone wool, sometimes called "rockwool" or "mineral wool", is made from spinning molten basaltic rock into fine fibers which are then formed into a range of cubes, blocks, growing slabs, and granular products.

7. Following a review of the modification application by the DAQ, a draft permit modification was issued, followed by: receipt of written comments; an in-person public hearing in Charles Town at which the DAQ responded to questions, a teleconference at which comments were accepted, and an extension of the comment period.

8. On November 16, 2023, DAQ issued Modification Permit R14-0037A (the “Modified Permit”) to ROCKWOOL.

9. The changes to the Pre-Construction Permit were such that ROCKWOOL is no longer a major source, and is no longer regulated under 45 CSR 14.

10. Among the changes made to the Pre-Construction Permit were the following: (i) Condition 4.1.11, requiring all exterior doors be kept shut when not in use; (ii) Condition 4.1.5.a, which set, among other things, limits PM_{2.5} emissions from the Wet Electrostatic Precipitator (“WESP”) at 33.6 tons per year, and 8.0 kg per hour; and (iii) Condition 4.1.4(a), which set, among other things, a hydrochloric acid limitation for the Melt Furnace (IMF01) at 0.62 tons per year. Those conditions are being appealed by ROCKWOOL.

Doors

11. There are 95 exterior doors at RAN-5. Condition 4.1.11 requires all 95 exterior doors to be kept shut during operations except when needed to enter or exit the building. This condition was imposed based on the comments by some members of the public who expressed concerns that the open doors would allow escape of emissions from the building. ROCKWOOL agrees that the eight exterior doors in the charging building at RAN-5 (the “Charging Building Doors”) might allow emissions to escape if left open. However, none of the remaining 87 exterior doors at RAN-5 have the ability to allow escape of emissions from the curing lines, because air is being drawn into the building, rather than emissions being blown out. As the insulation passes

down the line, ambient air is pulled through the insulation to assist in the cooling of the insulation prior to entering the cutting and packaging area. Residual emissions from the insulation are captured by the hood and are passed through an air pollution control device. Closed doors make it more difficult for the fans to maintain a negative pressure and pull the ambient air through the insulation, providing for proper cooling of the insulation and ensuring any residual emissions are captured by the air pollution control device.

12. Keeping exterior doors closed can result in a hotter workplace for employees, as it interferes with the introduction of cooler outside air when needed. The Occupational Safety and Health Administration has initiated a Heat Illness Prevention campaign to protect workers against excessive workplace heat.

13. Keeping exterior doors closed has two unfavorable effects: it makes the working area hotter and more uncomfortable in the summer, and it interferes with the air flow that is needed for proper operation of the air pollution control equipment. There is no benefit, environmental or otherwise, in requiring closed doors.

PM_{2.5}

14. PM_{2.5} is a measure of particulate that is 2.5 microns or less in size. The Modified Permit contains limits for PM_{2.5} based on a single stack test performed at RAN-5.

15. The DAQ has stated that the revised limits on PM_{2.5} contained in Condition 4.1.5.a of the Modified Permit are based on the DAQ's authority to set "reasonable" conditions, pursuant to 45 CSR 13-5.10. The DAQ's chosen limits of 33.6 tons per year and 8.0 kg per hour are 120% of a single stack test of the WESP. Those limits were set without reference to any standard or requirement in the State Implementation Plan requiring or allowing such a limit, other than 45 CSR 13-5.10.

16. Setting a PM_{2.5} limit close to the measured stack concentration based on a single stack test is unreasonable. The emissions from properly-operated emissions control devices vary to some degree, sometimes greatly, and tests done at different times will provide varying results. The DAQ's PM_{2.5} limit does not allow for likely test variability.

Hydrochloric Acid

17. Condition 4.1.4(a) sets, among other things, a hydrochloric acid ("HCl") limitation for the Melt Furnace (IMF01) at 0.62 tons per year. That is the result of an incorrect application of engineering judgment.

18. In the draft Modified Permit, an HCl limit of 1.24 tons per year was established by use of a concentration of 3.9 mg/Nm³ (milligrams per standard cubic meter) in the Potential to Emit calculations. This is significantly lower than the limit established by Table 2-B of 45CSR7, 210 mg/Nm³ for units constructed after 1970 and 420 mg/Nm³ for units constructed prior to 1970.

19. HCl is one of two mineral acids regulated by WV 45CSR7. The second regulated mineral acid is sulfuric acid (H₂SO₄). During public commenting, DAQ received comment that the H₂SO₄ permit limitation was incorrectly set at 7.85 tons per year. The commenter identified that a concentration of 50 mg/Nm³ was only appropriate for units constructed prior to 1970 and that a limit of 35 mg/Nm³ for units constructed post 1970 was required to comply with the Rule. ROCKWOOL provided comment in agreement with this assessment and submitted to DEP an updated limit for sulfuric acid of 5.49 tons per year.

20. In the Modified Permit, DAQ has incorrectly reduced the HCl limit by a factor of one half. This is based upon an incorrect judgment that HCl limits were set in accordance with pre-1970 standard, which is 2 times larger than the post 1970 limit. DAQ has acknowledged

previously in the draft engineering analysis that ROCKWOOL complies using an HCl concentration of 3.9 mg/Nm³. The update to the HCl limit is an error and should be corrected.

II. Specific Objections

1. Condition 4.1.11 of the Modified Permit interferes with the proper operation of air pollution control equipment at RAN-5, and it presents a possible danger of overheating employees, and should be deleted from the Modified Permit, except as to the Charging Building Doors.

2. The PM_{2.5} limits found at Condition 4.1.5a of the Modified Permit are unlawful, as they establish a limit on emissions that is not reasonable and that was not developed in accordance with the West Virginia State Implementation Plan (SIP). The correct limit should have been 50.39 tons per year and 12 kg per hour.

3. Condition 4.1.4(a) sets, among other things, a hydrochloric acid limitation for the Melt Furnace (IMF01) at 0.62 tons per year. That is the result of an incorrect application of engineering judgment. The HCl limitation for the Melt Furnace should be 1.24 tons per year.

III. Questions of Fact

1. Do open doors in the production building allow escape of unregulated emissions?
2. Are open doors helpful in maintaining reasonable temperatures in the production area?
3. Do open doors contribute to proper operation of the air pollution control system?
4. How did the DAQ calculate the Permit limit for PM_{2.5}?
5. How should the DAQ have calculated the limit for PM_{2.5}?
6. Is a single stack test a reliable predictor of long term PM_{2.5} emissions?

7. What are the variations in emissions that are possible for stack tests of the WESP during normal operation?

8. How was the HCI limit calculated for RAN-5?

IV. Questions of Law

1. Is the requirement that all exterior doors be closed except when in use a reasonable condition?

2. Does the DAQ have authority to require all exterior doors to be kept closed except when in use, in the absence of any evidence that the open doors contribute to statutory air pollution?

3. How are limits for PM_{2.5} properly and lawfully established for facilities like RAN-5?

4. Were PM_{2.5} limits established in accordance with the West Virginia Air Pollution control Act and the West Virginia SIP?

5. Are the PM_{2.5} limits in the Modified Permit reasonable?

6. What is the PM_{2.5} limit that is required by the West Virginia Air Pollution Control Act and the West Virginia SIP?

7. Does 47 CSR 13-5.10 allow the DAQ complete discretion in setting permit limits, and if not, what is the limit on that authority?

8. What is the lawful method of setting HCI limits in the Modified Permit?

9. Are the conditions appealed by ROCKWOOL lawful?