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|  <p>air pollution control district SANTA BARBARA COUNTY</p> | Case No / Date | | 2020-12-R | 6/3/2020 |
| | Petitioner | | Imerys Filtration Minerals, Inc. | |
| | Permit # | | 5840-R6 | |
| | Date Rec'd | | 5/11/2020 | |
| | Time Rec'd | | 1731 hours | |
| | FOR OFFICIAL USE ONLY | | | |

BEFORE THE HEARING BOARD OF THE SANTA BARBARA COUNTY AIR POLLUTION CONTROL DISTRICT

In the Matter of the Application of)
Imerys Filtration Minerals, Inc. for a)
Regular Variance from District Rules)
361.D.3, 361.D.4, 361.L.2., 206, and)
Part 70 Permit to Operate 5840-R6,)
Part II, Conditions 9.C.3.a, 9.C.3.b.v.)

*** DRAFT ***

H.B. Case No. 2020-12-R

VARIANCE FINDINGS

AND ORDER

Imerys Filtration Minerals, Inc. filed a Petition for a Regular Variance on May 11, 2020. A hearing of the above-entitled matter was held on June 3, 2020 in accordance with Health and Safety Code §40808. Vindi Ndulute, Jared Watts and Ken Rasmussen represented the Petitioner and Aimee Long represented the Santa Barbara County Air Pollution Control District (District).

This matter having been fully presented and duly considered, the Hearing Board makes the following findings and gives the following reasons for its decision.

1. Notice of the Hearing was duly given in the manner and for the time required by law.
2. Sworn testimony and argument on behalf of the Petitioner and the Air Pollution Control Officer were made, received and considered.
3. The Petitioner operates the equipment described in the Petition at the Celpure Plant at the Imerys Filtration Minerals, Inc. Lompoc Facility.
4. The Petitioner's facility mines and processes diatomaceous earth (DE). The Celpure Plant, within the facility, produces specially treated diatomite for medical use. Currently, the Celpure product plays an important role in the plasma therapeutics industry to develop antibody treatments for COVID-19. This product is only manufactured at the Petitioners facility. To create the final product, use of a boiler is necessary, specifically, APCD Device ID 8923.

5. District Rule 361 requires all AB 617 Industrial Boiler Units to meet new emissions standards for NO_x by June 20, 2020. The Petitioner initially planned to utilize a compliant boiler at another location within the facility. Recently it was discovered this was not a viable option and in order to comply with Rule 361/AB 617 the equipment would need to be replaced. Due to social distancing and sheltering orders in place associate with COVID-19, the Petitioner will not meet the June 20, 2020 deadline for the low NO_x boiler replacement.
6. Without Variance coverage, the Petitioner will be in violation of District Rules 361.D.3, 361.D.4, 361.L.2, 206, and Part 70 Permit to Operate 5840-R6, Part II, Conditions 9.C.3.a, 9.C.3.b.v.
7. Due to conditions beyond the reasonable control of the Petitioner, requiring immediate compliance with the referenced permit conditions and rule would result in an arbitrary or unreasonable taking of property because it would require the Celpure Plant to shut down. This would result in lost revenue and potentially the loss of 19 employees who are considered “essential workers” under the California Governor’s Order. The shutdown could also cause the loss of future business and breach of contracts.
8. The closing or taking would be without a corresponding benefit in reducing air contaminants, due to the air quality benefit associated with curtailing the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143).
9. The Petitioner has considered curtailing operations and will curtail operation of the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143) to the maximum extent feasible during the Variance period.
10. During the period the Variance is in effect, the Petitioner will reduce emissions to the maximum extent feasible by limiting the operation of the Silicates Boiler #2 (APCD Device ID 00082) and the Silicate Plant Conveyer Dryer (APCD Device ID 00143). Downtime from this equipment is expected to result in emission reductions of 8.15 lbs/day NO_x from the Silicates Boiler #2 and 7.97 lbs/day NO_x from the Silicate Plant Convery Dryer.
11. The Petitioner will monitor and record all emissions related to the granting of this Variance. The Petitioner will monitor the operation (e.g., fuel usage, duration, etc.) of the Celpure boiler (APCD Device ID 8923), Silicate Boiler #2 (APCD Device ID 00082) and the Silicate Plant Conveyer Dryer (APCD Device ID 00143). The Petitioner will quantify and report the excess emissions associated with the granting of this Variance. The Petitioner has provided a worst-case scenario for excess emissions, which equates to 1.44 tons NO_x, assuming compliance is achieved on June 19, 2021.
12. If, due to reasons beyond the control of the Petitioner, installation of compliant equipment is not completed during this Variance period, additional relief will be sought.

13. A nuisance as defined in District Rule 303 is not expected to occur as a result of this Variance and continued operation is not likely to create an immediate threat or hazard to public health or safety.

THEREFORE, THE HEARING BOARD ORDERS, as follows:

That a Regular Variance be granted for the operation of the Petitioner's non-compliant Celpure Plant boiler (APCD Device ID 8923) in violation of District Rules 361.D.3, 361.D.4, 361.L.2., 206, and Part 70 Permit to Operate 5840-R6, Part II, Conditions 9.C.3.a, 9.C.3.b.v. from June 20, 2020 through June 19, 2021, or the date compliance is achieved, whichever occurs first, with the following conditions:

1. Petitioner shall submit monthly updates to the Hearing Board and District, to variance@sbcapcd.org, on the 1st of each month the Variance is in effect, starting on July 1, 2020. The update shall include the current compliance status, the number of hours and fuel used each day during the previous month for the Celpure boiler (APCD Device ID 8923), the number of hours and fuel used each day during the previous month for the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143), calculated excess NOx emissions during the previous month for the Celpure boiler (APCD Device ID 8923), calculated NOx emissions reduced during the previous month (as compared to the average monthly NOx emissions for calendar years 2015-2019) for the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143), status of the boiler replacement, and any corrective action(s) taken to date.
2. Petitioner shall submit a final written report to the Hearing Board and District, to variance@sbcapcd.org, by July 6, 2021, or within fifteen (15) days of compliance, whichever occurs first. The report shall include the date compliance was achieved, description of the corrective actions taken, the number of hours and fuel used each day during the Variance period for the Celpure boiler (APCD Device ID 8923), the number of hours and fuel used each day during the Variance period for the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143), calculated excess NOx emissions during the Variance period for the Celpure boiler (APCD Device ID 8923), calculated total of the monthly NOx emissions reduced during the Variance period (as compared to the average monthly NOx emissions for calendar years 2015-2019) for the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143).
3. Petitioner shall curtail operation of the Silicate Boiler #2 (APCD Device ID 00082) and Silicate Plant Conveyer Dryer (APCD Device ID 00143) to the maximum extent feasible during the Variance period.

4. Petitioner shall retain the obligation to comply with all other local, state and federal regulations not specifically referenced in the Order.
5. In accordance with District Fees Rule 210, Schedule F.12.e, the Petitioner shall pay excess emission fees for each additional ton of pollutant emissions or portion thereof allowed as the result of the issuance of this Variance.
6. Failure to abide by all conditions of this Order shall subject the Petitioner to penalties set forth in Health and Safety Code section 42402.
7. Each day during any portion of which a violation occurs is a separate offense.
8. The Environmental Protection Agency does not recognize California's Variance program; therefore, this Variance does not protect the Petitioner from Federal Enforcement actions.

DATED: _____

Chair
Santa Barbara County Air Pollution Control District
Hearing Board