



FREQUENTLY ASKED QUESTIONS

Findings in the Case Against Rockwool by Denmark's Mediation and Complaints-Handling Institution for Responsible Business Conduct

1. What are the OECD Guidelines for Multinational Enterprises

The Organisation for Economic Co-operation and Development (OECD) is an intergovernmental economic organization with 38 member countries, founded in 1961 to stimulate economic progress and world trade. The United States and Denmark are both member countries. The [OECD Guidelines for Multinational Enterprises](#) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognized standards. The Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting.

2. What is the Mediation and Complaints-Handling Institution for Responsible Business Conduct (NCP Denmark)?

The [Mediation and Complaints-Handling Institution for Responsible Business Conduct](#) is the OECD National Contact Point (NCP) in Denmark. The institution deals with cases of whether Danish companies, public authorities or civil society organizations act in compliance with the principles set up by the OECD guidelines. The institution is also responsible for raising awareness of what responsible business conduct entails. (The OECD National Contact Point in the United States is housed within the State Department.)

3. When and why was the complaint against Rockwool filed with NCP Denmark?

In July 2017, Rockwool announced that it would build a mineral wool manufacturing facility in Jefferson County, West Virginia. By the summer of 2018, the public had become more aware of the likely environmental and human health impacts of the factory and began organizing to block its construction and operation. The [complaint to the Danish Mediation and Complaints-Handling Institution was filed in October 2019](#) after more than a year of pursuing other legal and political mechanisms to stop or otherwise drastically improve the project. The complainants believe that Rockwool neglected the recommended principles and standards of conduct associated with good corporate citizenship throughout the planning and construction of the factory. After careful review of the OECD Guidelines for Multinational Enterprises, the complainants contend that Rockwool violated several of the General Policies. In sum, these violations create significant risk to the environmental and social wellbeing of Jefferson County, West Virginia and the surrounding region. The complaint focused on three primary areas of concern: 1) Political improprieties, 2) Air quality and 3) Water quality.

More specifically, the complainants raised concerns about Rockwool's siting of the factory, which is located just 2,500 feet from a socioeconomically disadvantaged elementary school and within a 2-mile radius of nearly one-third of the county's school-aged population. The factory is also located on fragile karst topography with dozens of sinkholes forming since the start of construction. The location creates acute risks to the nearby Potomac and Shenandoah Rivers and the larger Chesapeake Bay watershed, as well as to the local drinking water supply.

4. Who are the co-complainants in the case against Rockwool's factory in Ranson, West Virginia?

The complaint to NCP Denmark was co-signed by West Virginia Delegate John Doyle, former West Virginia Delegate Sammi Brown, Jefferson County Commissioner Jane Tabb, former Jefferson County Commissioner Ralph Lorenzetti, Leesburg Town Council Member Neil Steinberg, Friends of the Blue Ridge Mountains, Mid-Atlantic Center for Children's Health and the Environment, Ohio Valley Environmental Coalition, Potomac Riverkeeper Network, Potomac Valley Audubon Society, West Virginia Citizen Action Group, West Virginia Interfaith Power & Light, and West Virginians for Sustainable Development. (In total, more than thirty community organizations and municipalities have formally opposed the Rockwool factory in Ranson since its groundbreaking in the summer of 2018.)

5. What was the full timeline of the complaints-handling process in the case against Rockwool?

NCP Denmark's complaints-handling process includes five distinct phases: 1) Initial assessment, 2) Options for resolving matter independently, 3) Preliminary investigation, 4) Mediation and 5) Actual investigation. The complete timeline in the Rockwool case is as follows:

- October 21, 2019 – Complaint filed with NCP Denmark
- December 5, 2019 – Initial assessment completed by NCP Denmark and case is accepted
- January 2 – March 2, 2020 – Bilateral negotiations between the parties; no agreement reached
- March 27, 2020 – Preliminary investigation begins
- June 15, 2020 – Partial Procedural Decision issued allowing the case to proceed to mediation
- July 30, 2020 – Rockwool rejects NCP Denmark's offer of mediation
- September 17, 2020 – NCP Denmark announces final investigation in the case
- June 3, 2021 – NCP Denmark publishes Final Statement based on its investigation

5. What are the key findings published by NCP Denmark in their Final Statement published on June 3, 2021?

Following its investigation, NCP Denmark has determined that Rockwool failed to comply with two key provisions of the OECD Guidelines in the planning and construction of its factory in Ranson, West Virginia:

Risk-based due diligence: *"NCP Denmark finds that Rockwool has not documented that the company has carried out risk-based due diligence in accordance with the OECD Guidelines in the initial phases of the manufacturing facility project and therefore did not sufficiently observe the OECD Guidelines. The submitted documentation indicates that the initial phases of the project were based on a transactional due diligence approach and thereby too narrowly focused on risks to the company itself rather than identifying potential adverse impacts on people, the environment, and society in accordance with the OECD Guidelines." (NOTE: NCP Denmark is only mandated to review a company's procedural approaches to risk-based due diligence and cannot assess the technical specifications of a host country's national legislative requirements for permit decisions or approved assessments. NCP Denmark is solely mandated to assess Rockwool's business practices in regard to the OECD Guidelines, which in the context of this complaint means whether or not Rockwool has implemented the necessary procedural steps of risk-based due diligence.)*

Stakeholder engagement: *"Furthermore, NCP Denmark finds that Rockwool did not sufficiently observe the OECD Guidelines' expectations to provide meaningful opportunities for the relevant stakeholders to express their views during the planning and decision-making process of the manufacturing facility project."*

6. Is there precedent for such a determination for a multinational company operating in the United States?

The Rockwool case appears to be the first OECD challenge against a company operating in the United States that has resulted in a final ruling that clearly finds non-compliance with the OECD Guidelines. A review of prior such complaints over the past decade indicates that most cases either are handled through mediation without any public finding of compliance or non-compliance or are not accepted into the complaints-handling process at all. It is unusual for these types of complaints to proceed to investigation after a company refuses to mediate and to result in a Final Statement that is critical of the company.

7. Does NCP Denmark’s findings carry any judicial or enforcement mechanisms? Is Rockwool required to respond?

NCP Denmark is a non-judicial institution without enforcement authority in the United States; however, the Institute will publish a report within one year to review whether Rockwool has addressed its non-compliance with the OECD Guidelines. The Final Statement says:

“NCP Denmark will follow up on this statement after one year to assess whether Rockwool has implemented NCP Denmark’s recommendations. Consequently, NCP Denmark requests that Rockwool, no later than one year after the publication of this Final Statement, provides NCP Denmark with a follow-up report on how Rockwool has approached the recommendations made by NCP Denmark.”

West Virginians for Sustainable Development and the co-complainants in the case intend to engage with Rockwool over the next year to urge specific actions and remedies to improve the company’s risk-based due diligence and stakeholder engagement. Furthermore, NCP Denmark’s findings represent a significant reputational risk for Rockwool and directly contradict the company’s promotion of itself as a global sustainability leader. Weak oversight from local regulators does not relieve the company’s responsibilities under the OECD Guidelines.

8. What are the implications for local, state and federal authorities that oversee Rockwool’s operations in Ranson, West Virginia?

It is deeply concerning that U.S. citizens had to appeal to a foreign government to obtain a measure of oversight and accountability that was not otherwise provided through state and local regulatory processes. NCP Denmark’s findings should signal to the U.S. federal government that West Virginia regulators are enabling multinational companies to operate outside the expectations defined by the OECD Guidelines. When state and local jurisdictions allow unacceptable corporate behavior, it not only creates risks to human health and the environment, but it also undermines U.S. leadership and authority internationally on matters of responsible business conduct.