Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In Re:
Petition for Variance
Lockheed Martin Aeronautics Company
Pinellas Park Facility
9300 28th Street North
Pinellas Park, FL 33782-6122

Pinellas County
AIRS ID No.: 1030400
OGC File No.: 16-1456

Mr. André Trotter
General Manager, Lockheed Martin Aero-Pinellas Facility

FINAL ORDER GRANTING VARIANCE

The Department of Environmental Protection (Department) hereby grants to Lockheed Martin Aeronautics Company ("LM Aero-Pinellas" or "Petitioner"), a variance order issued pursuant to the authority of Section 120.542, Florida Statutes (F.S.), from the volatile organic compound (VOC) reasonably available control technology (RACT) requirements of Rule 62-296.513, Florida Administrative Code (F.A.C.) (known as the Surface Coating Miscellaneous Metal Parts and Products [MMPP] RACT Rule), for an existing aerospace parts and components manufacturing facility in Pinellas County, Florida, in accordance with the following Findings of Fact and Conclusions of Law, and under the conditions specified in the Determination herein.

FINDINGS OF FACT

1. On December 12, 2016, the Department received LM Aero-Pinellas's Petition for Variance (Petition), pursuant to Section 120.542, F.S., and Chapter 28-104, F.A.C. The Petition requested a variance from the requirements of Rule 62-296.513, F.A.C. (the MMPP RACT Rule). The Department received additional information from Petitioner via email on December 19, 2016.

2. The Petition requested a renewal of a variance that the Department issued on March 2, 2015, pursuant to Section 403.201(1)(c), F.S., which relieves Petitioner from compliance with the VOC RACT requirements of Rule 62-296.513, F.A.C. A condition of the March 2, 2015 variance was that Petitioner must comply with the VOC limits contained in the United States Environmental Protection Agency (EPA) Aerospace Industry Control Technology Guideline (Aerospace CTG) document titled "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations" (EPA-453/R-97-004).

3. The alternate emission limits required by the Aerospace CTG, which are included as a condition in the previously-issued variances to LM Aero-Pinellas, have been incorporated into Florida's federally-enforceable State Implementation Plan (SIP), as codified in 40 C.F.R. 52.520.

4. Section 120.542(2), F.S., permits the granting of a variance for the following reasons:

> Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

5. A Notice of Receipt of Petition for Variance was published in the Florida Administrative Register (FAR) on December 20, 2016, in Volume 42, Number 245, page 5664. No comments were received.

6. The Petitioner owns and operates a facility (the Facility) located at 9300 28th Street North, Pinellas Park, Florida, in Pinellas County, which operates under Department operating permit 1030400-019-AF, and the associated existing variance, the latter of which expires March 4, 2017.

7. The Facility produces aerospace parts and components, primarily in support of the manufacture and sustainability of military aircraft.

8. Pinellas County is designated as an air quality maintenance area for the pollutant ozone pursuant to Rule 62-204.340(4), F.A.C.

9. Rule 62-296.500(1)(a), F.A.C., specifies that "[t]he specific emission limiting standards and other requirements of Rules 62-296.500 through 62-296.516,

F.A.C., shall apply to existing VOC-emitting facilities in areas designated as air quality maintenance areas for ozone under Rule 62-204.340, F.A.C."

10. Rule 62-296.513(2)(a)3., F.A.C., requires that no owner or operator of a coating line for miscellaneous metal parts and products shall cause, allow, or permit the discharge into the atmosphere of any VOC in excess of 3.5 pounds per gallon of coating (0.42 kilograms per liter), excluding water, delivered to a coating applicator that applies extreme performance coatings.

11. Rule 62-296.513(3), F.A.C., requires that the emission limits in Rule 62-296.513(2)(a), F.A.C., shall be achieved by: (a) the application of low solvent coating technology; or (b) incineration, provided that 90 percent of the volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water.

12. Petitioner requests that the aerospace manufacturing operations at the facility, including the surface coating operations subject to Rule 62-296.513, F.A.C., be regulated according to the guidance presented by EPA in the Aerospace CTG document titled "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations" (EPA-453/R-97-004).

13. The Petitioner has provided the following documentation in support of the extension of variance petition.

(a) The monthly average of the VOC content of the coatings used between November 2015 and October 2016 at the facility ranged between 2.6 and 3.3 pounds per gallon and yielded an average (volume weighted) VOC content of 2.9 pounds per gallon.

(b) The use of low solvent coatings to achieve the VOC emission limits in Rule 62-296.513(2)(a), F.A.C., is not a viable option at the facility because the coatings used are required to meet various United States Department of Defense (DOD) Military Specifications (MILSPECs) and are dictated by the function of the coating and the specific role of each part or component in the completed aerospace vehicle. Hence, the use of aerospace specialty coatings that may not individually meet the VOC content requirement of the MMPP Rule are dictated by the nature of the process, and are not self-imposed.

(c) EPA states in the Aerospace CTG that this control techniques guideline is intended to replace the MMPP RACT Rule for aerospace facilities, as indicated on page 1-1 of the Aerospace CTG:

> This CTG is intended to supersede any potential applicability of the Miscellaneous Metal Parts and Products CTG (RACT) requirements for manufacturing and rework operations of aerospace vehicles and components.

(d) There is a greater breadth of operations at LM Aero-Pinellas subject to the Aerospace CTG requirements than are subject to the MMPP RACT Rule, which only specifies VOC content limits for primers and topcoats (including any solvent cleaner used). The Aerospace CTG applies to surface coating operations, solvent cleaning operations, adhesive and sealant application, other specialty coating materials that are not applied in a paint booth, and waste handling applications, as detailed below.

I. Surface coating operations
   (A) VOC content limits for primers, topcoats, and specialty coatings
   (B) Application method requirement
II. Solvent cleaning operations
   (A) Housekeeping measures
   (B) Hand-wipe cleaning
   (C) Flush cleaning
   (D) Paint gun cleaning
III. Adhesive and sealant application
IV. Other specialty coating materials that are not applied in a paint booth
   (A) Mold release compounds
   (B) Maskants
   (C) Wet fastener insulation coatings
   (D) Solid film lubricants
   (E) Dry film lubricants
V. Waste handling operations

(e) The Aerospace CTG provides category-specific limits for specialty coatings, which are not provided for in the MMPP RACT Rule. Petitioner projects operations under the Aerospace CTG would provide for lower VOC annual emissions at LM Aero-Pinellas than the MMPP RACT Rule allowable limit.

(f) The imposition of the MMPP RACT Rule requirements (Rule 62-296.513, F.A.C.) would likely cause considerable additional operating costs that would make it cost prohibitive for Petitioner to perform work involving MILSPEC surface coating operations. The denial of this petition would likely cause Petitioner to install an add-on control device that would create secondary emissions of criteria pollutants such as nitrogen oxides (NO_x), carbon monoxide (CO), and particulate matter (PM). These secondary emissions are likely to be of the same order of magnitude of the VOC emissions abated, and may cause adverse environmental impacts.

(g) Petitioner asserts that the imposition of the MMPP Rule requirements on surface coating operations would cause a considerable economic expense to the Facility, with little or no environmental benefit. If required to comply with the MMPP Rule requirements, a control device would be required to be

installed and maintained. The estimated initial installation cost of a control device would range from $400,000.00 (thermal oxidizer) to $675,000.00 (regenerative thermal oxidizer), depending on the type of control device used. Corresponding estimated annual operation and maintenance costs would range from $115,000.00 (thermal oxidizer) to $215,000.00 (regenerative thermal oxidizer). For either of these control device installations, estimated annual performance testing costs would be $15,000.00.

14. Although the monthly average of the VOC content of the coatings during the 12-month representative time period from November 2015 through October 2016 is within the 3.5 pounds per gallon limit in the MMPP RACT Rule, the Petitioner has previously reported the necessity to use coatings with VOC content in excess of the 3.5 pounds per gallon limit when required by DOD MILSPEC. Therefore, a variance is necessary to cover those conditions in which the VOC content of coatings cannot meet the MMPP RACT Rule requirements. Because LM Aero-Pinellas anticipates total air emissions to be less under the Aerospace CTG based requirements than the MMPP requirements (Rule 62-296.513, F.A.C.), there is presumed to be less adverse environmental impact associated with granting this variance than with requiring the LM Aero-Pinellas facility to comply with the MMPP RACT rule through the operation of a control device that would cause additional emissions due to fuel usage for a thermal oxidizer.

15. Petitioner has requested variance from Rule 62-296.513, F.A.C., for LM Aero-Pinellas until the MMPP RACT Rule is no longer required in Pinellas County.

CONCLUSIONS OF LAW

1. The Department has jurisdiction to grant this variance pursuant to Section 120.542, F.S.

2. Section 120.542(1), F.S., permits the granting of a variance for any one of the following reasons:

> Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, “principles of fairness” are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

3. Section 120.542(1), F.S. provides that "[a]n agency may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant only to the extent necessary for the purpose of the underlying statute to be achieved."

4. Rule 62-296.513, F.A.C., is part of Florida's SIP and, therefore, is part of a federally-approved program under the Clean Air Act. Section 120.542(1), F.S., states that:

> This section does not authorize agencies to grant variances or waivers to statutes or to rules required by the Federal Government for the agency's implementation or retention of any federally approved or delegated program, except as allowed by the program or when the variance or waiver is also approved by the appropriate agency of the Federal Government.

This limitation on the Department's authority to issue a variance to federally-approved SIP-based rule applies unless a variance has been approved of by EPA. This requirement has been satisfied because a variance from Rule 62-296.513, F.A.C., for LM Aero-Pinellas was approved into Florida's SIP by EPA on November 28, 2006. *See* 40 C.F.R. 52.520.

5. Rule 28-104.002(2), F.A.C., provides that a petitioner for a variance must include:

(a) The caption shall read: Petition for (Variance from) or (Waiver of) Rule (Citation)
(b) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner, if the party is not represented by an attorney or a qualified representative;
(c) The name, address, e-mail address, telephone number, and any facsimile number of the attorney or qualified representative of the petitioner, if any;
(d) The applicable rule or portion of the rule;
(e) The citation to the statute the rule is implementing;
(f) The type of action requested;
(g) The specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner;
(h) The reason why the variance or the waiver requested would serve the purposes of the underlying statute; and
(i) A statement whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

6. Petitioner has provided the information required by rule and sufficient information to enable the Department to evaluate the merits of the Petition for Variance.

7. Petitioner has demonstrated to the satisfaction of the Department that compliance with the MMPP RACT Rule requirement will cause an unnecessary

economic and technical hardship and may cause an adverse environmental impact as an add-on control device would be required that would produce secondary emissions of criteria pollutants such as NO_x, CO, and PM due to the need for supplemental fuels while compliance with the applicable Aerospace CTG regulations is expected to yield lower facility-wide VOC emissions than the rule-specified technology for a considerably lower cost and without producing secondary emissions.

8. These hardships satisfy the requirements of Section 120.542, F.S.

DETERMINATION

The Department grants a variance from the VOC RACT requirements of Rule 62-296.513, F.A.C., under Section 120.542, F.S., to exempt LM Aero-Pinellas from the requirement to restrict the VOC content of surface coatings at LM Aero-Pinellas to 3.5 pounds per gallon of coating (0.42 kilograms per liter).

1. This variance becomes effective January 23, 2017.

2. This variance shall not apply to any other new or existing state or federal rule which may require VOC emission control.

3. LM Aero-Pinellas shall comply with the VOC content limits contained in the Aerospace CTG document (EPA-453/R-97-004) in lieu of complying with the VOC content limits contained in Rule 62-296.513, F.A.C, the MMPP RACT Rule.

4. Authority to operate in compliance with the above referenced CTG in lieu of the MMPP RACT rule requirements is limited to surface coating operations at the facility. For purposes of this variance, the term “surface coating” shall mean a material applied to the surface of an aerospace vehicle or component to form a decorative, protective, or functional solid film, or the solid film itself.

5. LM Aero-Pinellas shall maintain a current list of surface coatings in use, including those not subject to a VOC content limit in the attached Aerospace CTG document, with category, quantity used, VOC content as applied for those coatings subject to the Aerospace CTG, and VOC content as received for those coatings not subject to the Aerospace CTG. LM Aero-Pinellas shall also maintain a current list of cleaning solvents in use with quantity used and VOC content.

6. For each surface coating used which is subject to a VOC content limit in the Aerospace CTG document, LM Aero-Pinellas shall use manufacturer’s supplied data or Method 24 of 40 C.F.R. Part 60, Appendix A to determine the VOC content of the surface coating.

7. For each surface coating used, LM Aero-Pinellas shall record monthly surface coating usage on a 12-month rolling basis.

8. Granting the variance is contingent upon the facility's ability to meet all terms and conditions of this Order.

RIGHT TO APPEAL

A party to this order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within thirty (30) days after this order is filed with the clerk of the Department.

DONE AND ORDERED this 23 day of January, 2017 in Tallahassee, Florida.

Jeffery F. Koerner Digitally signed by Jeffery F. Koerner Date: 2017.01.23 10:02:20 -05'00'

Jeffery Koerner, Director
Division of Air Resource Management
Department of Environmental Protection
2600 Blair Stone Road,
Mail Station 5500
Tallahassee, Florida 32399-2400
Telephone: (850)717-9000

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this ORDER GRANTING VARIANCE was sent by electronic mail, with received receipt requested before the close of business on January 23, 2017 to the person listed:

André Trotter, Lockheed Martin Aeronautics Company, Pinellas Park, Florida

FILING AND ACKNOWLEDGMENT:
The undersigned duly designated deputy agency clerk hereby certifies that this Written Notice of Final Order Granting Variance was sent by electronic mail, with received receipt requested before the close of business on the date indicated below to the following persons.

Emily Harmon, Lockheed Martin Aeronautics Company, Pinellas Park, Florida (Emily.harmon@lmco.com)
Terri Long, DEP Division of Air Resource Management (terri.long@dep.state.fl.us)

Benjamin Melnick, DEP OGC (Benjamin.melnick@dep.state.fl.us)
Steve Morgan, DEP SWD Office (steve.morgan@dep.state.fl.us)
Nancy Gaskin, DEP SWD Office (nancy.gaskin@dep.state.fl.us)
Sherrill Culliver, Pinellas County, Department of Environmental Management (Sculliver@pinellascounty.org)
Michelle Nordwald, Action Engineering (michelle@action-engineering.com)
Mitchell Hait, Mitchell J. Hait, Ph.D., P.E., Inc. (haitinc@gmail.com)

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to Section 120.52, F.S., with the designated agency clerk, receipt of which is hereby acknowledged.

_____
Clerk