



# Florida Department of Environmental Protection

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

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Mimi A. Drew  
Secretary

January 12, 2011

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Steve Cobb  
General Manager  
Lockheed Martin Aeronautics Company  
Pinellas Park Facility  
9300 28<sup>th</sup> Street North  
Pinellas Park, FL 33782-6122

Re: Petition for Extension of Variance  
Lockheed Martin Aeronautics Company  
OGC File No. 10-3711

Dear Mr. Cobb:

The Department of Environmental Protection (Department) has reviewed the petition for extension of variance under Section 403.201, Florida Statutes (F.S.), from Rule 62-296.513, Florida Administrative Code (F.A.C.), for the Lockheed Martin Aeronautics Company aerospace parts and components manufacturing facility located at 9300 28<sup>th</sup> Street North, Pinellas Park, Florida, in Pinellas County. The Department's "NOTICE OF INTENT TO GRANT VARIANCE" and a copy of the proposed "FINAL ORDER GRANTING EXTENSION OF VARIANCE" are enclosed.

Pursuant to Section 403.201, F.S., and Department Rule 62-110.104(3), F.A.C., you (the petitioner for variance) are required to publish at your own expense the enclosed "NOTICE OF INTENT TO GRANT VARIANCE". The notice shall be published one time only in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, publication in a newspaper of general circulation in the affected area means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. You must provide proof of publication to the Department of Environmental Protection, Division of Air Resource Management, Office of Policy Analysis and Program Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400, within 7 days of publication. Additionally, the Department will publish notice of this proposed agency action in the Florida Administrative Weekly (F.A.W.) on February 4, 2011. The Department recommends that you publish the notice in a newspaper of general circulation on February 4, 2011, to be consistent with the Department's publication in the F.A.W.

The Department intends to take final agency action unless a petition for an administrative proceeding is filed pursuant to the provisions of Sections 120.569 and 120.57, F. S. Any person whose substantial interests are affected by the Department's action may file such a petition. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Petitions filed by you, or any of the parties listed below must be filed within 21 days of receipt of this order. Petitions filed by any other person must be filed within 21 days of publication of the public notice or within 21 days of receipt of this order, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. A petitioner must mail a copy of the petition to you at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination

(hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will only be at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

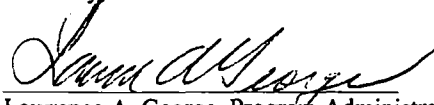
- (a) The name, address, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department final action may be different from the position taken by it in this proposed order. Persons whose substantial interests will be affected by any such final decision of the Department on the petitions have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under Section 120.573, F.S., is not available for this proceeding.

Sincerely,



Lawrence A. George, Program Administrator  
Division of Air Resource Management

LG:thl

cc: Wayne Davis  
Operations Engineering Manager  
Lockheed Martin Aeronautics Company  
Pinellas Park Facility  
9300 28<sup>th</sup> Street North  
Pinellas Park, FL 33782-6122

James L. McDonald  
Air Permitting Engineer  
Florida Department of Environmental Protection  
Southwest District  
3804 Coconut Palm Drive  
Tampa, FL 33619

Gary Robbins  
Environmental Program Coordinator  
Pinellas County Department of Environmental Management  
300 South Garden Avenue  
Clearwater, FL 33756

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In Re:

Petition for Variance  
Lockheed Martin Aeronautics Company  
Pinellas Park Facility  
9300 28<sup>th</sup> Street North  
Pinellas Park, FL 33782-6122

Pinellas County  
AIRS ID No.: 1030400  
OGC File No.: 10-3711

Mr. Steven Cobb  
General Manager, Lockheed Martin Aero-Pinellas Facility

AGENCY ACTION ON PETITION  
FOR VARIANCE UNDER SECTION 403.201, FLORIDA STATUTES (F.S.)

BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants to Lockheed Martin Aeronautics Company ("LM Aero-Pinellas" or "Petitioner"), an extension of variance under Section 403.201, 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.), the Miscellaneous Metal Parts and Products (MMPP) RACT Rule, for an existing aerospace parts and components manufacturing facility located in Pinellas County, Florida.

Section 403.201(1), F.S., permits the granting of a variance for any one of the following reasons:

- (a) There is no practicable means known or available for the adequate control of the pollution involved.
- (b) Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time.
- (c) To relieve or prevent hardship of a kind other than those provided for in paragraphs (a) and (b).

FINDINGS OF FACT

1. On December 21, 2010, the Department received LM Aero-Pinellas's Petition for Variance, pursuant to section 403.201 (1)(c), F.S., and Rule 62-110.104, F.A.C., from the VOC RACT requirements of Rule 62-296.513, F.A.C. the Surface Coating Miscellaneous Metal Parts and Products (MMPP) RACT Rule. The Department also received LM Aero-

Pinellas's \$2,000.00 variance processing fee, in accordance with Rule 62-4.050, F.A.C., on December 21, 2010.

2. The Petitioner owns and operates the LM Aero-Pinellas facility located at 9300 28<sup>th</sup> Street North, Pinellas Park, Florida, in Pinellas County, which operates under Federally Enforceable State Operating Permit (FESOP), 1030400-009-AF, and the Final Order Granting Variance, OGC File No.: 08-2082, effective March 16, 2009, and expiring March 16, 2011.

3. The Final Order Granting Variance, OGC File No.: 08-2082, issued September 16, 2009, relieved the Petitioner from compliance with the VOC RACT requirements of Rule 62-296.513, F.A.C. The final order required the Petitioner to comply with the VOC limits contained in the United States Environmental Protection Agency (U.S. 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).

4. LM Aero-Pinellas produces aerospace parts and components, primarily in support of the manufacture and sustainability of military aircraft.

5. 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 VOCs 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.

6. 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.

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

a. The VOC content of the coatings used between October 2009 and September 2010 at LM Aero-Pinellas ranged between 2.57 and 3.55 pounds per gallon and yielded an average (volume weighted) VOC content of 2.90 pounds per gallon. The Petitioner does not anticipate any considerable change in VOC emissions during the requested variance extension period.

b. The usage 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 LM Aero-Pinellas because the coatings used are required to meet various United States Department of Defense (DOD) Military

Specifications (MILSPECs). As such, the choice of coatings is dictated by the MILSPEC associated with 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 is dictated by the nature of the process, and is not self-imposed.

c. Petitioner requests that the aerospace manufacturing operations at LM Aero-Pinellas, including the surface coating operations potentially subject to Rule 62-296.513, F.A.C., be regulated according to the guidance presented by the U.S. 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).

d. The U.S. EPA states in the Aerospace CTG that this control techniques guideline is intended to replace the MMPP 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."

e. Petitioner asserts that there is a greater breadth of operations at LM Aero-Pinellas subject to the Aerospace CTG requirements than are subject to the MMPP 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 given 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

f. The Aerospace CTG provides category-specific limits for specialty coatings, which are not provided for in the MMPP Rule. Petitioner projects operations under the

Aerospace CTG would provide for lower VOC annual emissions at LM Aero-Pinellas than the MMPP Rule allowable limit.

g. Because Petitioner demonstrated lower VOC emissions under the Aerospace CTG-based requirements than the MMPP requirements (Rule 62-296.513, F.A.C.), there should be less environmental impact associated with granting this variance than with requiring the LM Aero-Pinellas facility to comply with the MMPP RACT Rule.

h. Petitioner asserts that 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 the LM Aero-Pinellas facility to win additional work involving MILSPEC surface coating operations. The denial of this petition would likely cause LM Aero-Pinellas to install an add-on control device that will create secondary emissions of criteria pollutants such as nitrogen oxides (NO<sub>x</sub>), 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.

8. Petitioner asserts that a facility expansion of operations, planned for 2011 and 2012, including staffing, depends upon the granting of this requested variance. This expansion involves the creation of additional employment, currently projected as 20 jobs with a total payroll of approximately \$800,000.00 per year. This additional work would account for approximately \$4 million per year in additional revenue for the facility. LM Aero-Pinellas anticipates the majority of these jobs will be filled through local hiring, directly contributing to additional employment and revenues for the local economy. Because LM Aero-Pinellas anticipates air quality emission 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.

9. Petitioner has requested a variance from Rule 62-296.513, F.A.C., for LM Aero-Pinellas for 24 months or until the MMPP rule is no longer required in Pinellas County, whichever is earlier.

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction to grant this variance pursuant to Section 403.201, F.S.
2. Petitioner has provided sufficient information to enable the Department to evaluate the merits of the Petition for Variance.

3. The Petitioner has demonstrated to the satisfaction of the Department that compliance with the MMPP RACT Rule requirement will cause an unnecessary technical hardship and may cause an adverse environmental impact since an add-on control device would be required that would produce secondary emissions of criteria pollutants such as NO<sub>x</sub>, CO, and PM 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 .

4. This hardship is subject to potential relief under section 403.201(1)(c), F.S.

#### DETERMINATION

The Department grants a variance from the volatile organic compound (VOC) reasonably available control technology (RACT) requirements of Rule 62-296.513, F.A.C., under Section 403.201(1)(c), F.S., to temporarily 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 expires 24 months from the date of signature of this final order.
2. Petitioner intends to seek renewal of this variance, application for renewal shall be made no less than 180 days prior to the expiration date applicable in Condition #1.
3. This variance shall not apply to any other new or existing state or federal rule which may require VOC emission control.
4. LM Aero-Pinellas shall comply with the VOC content limits contained in the attached 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.
5. 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.
6. 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.
7. For each surface coating used which is subject to a VOC content limit in the attached Aerospace CTG document, LM Aero-Pinellas shall use manufacturer's supplied

data or Method 24 of 40 CFR Part 60, Appendix A to determine the VOC content of the surface coating.

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

9. 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 days (30) after this order is filed with the clerk of the Department.

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_ 2011 in Tallahassee, Florida.

\_\_\_\_\_  
Lawrence A. George  
Program Administrator  
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 certified mail before the close of business on \_\_\_\_\_ to the person listed:

Steve Cobb, Lockheed Martin Aeronautics Company, Pinellas Park, Florida

FILING AND ACKNOWLEDGMENT:



FILED, on this date, pursuant to s. 120.52, Florida Statutes, with the designated Agency Clerk, receipt of which is hereby acknowledged. All copies were mailed before the close of business on the date below to the persons listed.

<u>Clerk</u>	<u>Date</u>
Copies furnished to:	
Wayne Davis, Lockheed Martin Aeronautics Company, Pinellas Park, Florida	
Terri Long, DEP DARM	
Patricia Comer, DEP OGC	
Elizabeth Walker, DEP DARM	
James McDonald, DEP SWD Office	
Gary Robbins, Pinellas County, Department of Environmental Management	

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF INTENT TO GRANT VARIANCE

The Department of Environmental Protection (Department) gives notice of its intent to grant a variance under Section 403.201, F.S., from the provisions of Rule 62-296.513, F.A.C., to the Lockheed Martin Aeronautics Company, an aerospace parts and components manufacturing facility located at 9300 28<sup>th</sup> Street North, Pinellas Park, Florida (File No.19-3711) to allow relief from compliance with the volatile organic compound (VOC) reasonably available control technology (RACT) requirements of Rules 62-296.513, Florida Administrative Code (F.A.C.). The final order requires the petitioner to comply with the VOC content limits contained in the United States Environmental Protection Agency (U.S. 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). The Department's file on this matter is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Division of Air Resource Management, Office of Policy Analysis and Program Management, 111 S. Magnolia Drive, Suite 23, Tallahassee, Florida 32301, Telephone: 850-717-9023.

A person whose substantial interests are affected by the proposed variance decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed with (received by) the Department's Agency Clerk in the Office of General Counsel of the Department of Environmental Protection at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000 (Telephone: 850/245-2241). Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), F.S. must be filed within 21 days of publication of this Public Notice or receipt of a written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who made written request for notice of this proposed agency action may file a petition within 21 days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address and telephone number of the petitioner; the name address and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial rights will be affected by the agency determination; (c) A statement of when and how the petitioner received notice of the agency action or proposed decision; (d) A statement of all disputed issues of material fact. If there are none, the petition must so state; (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action including an explanation of how the alleged facts relate to the specific rules or statutes; and, (g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the agency to take with respect to the agency's proposed action. A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Permitting Authority's final action may be different from the position taken by it in this Public Notice of Intent to Issue Air Permit. Persons whose substantial interests will be affected by any such final decision of the Permitting Authority on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

**Mediation:** Mediation is not available for this proceeding.