



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District Office
160 West Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

March 26, 2024

Hal McCord, Site Director
Ascend Performance Materials Operations LLC,
Post Office Box 97
Gonzalez, Florida 32560
HMCCord@AscendMaterials.com

SUBJECT: Department of Environmental Protection v. Ascend Performance Materials
Operations, LLC
OGC File No.: 23-0748
Facility ID 0330040
Escambia County

Dear Mr. McCord,

Enclosed is the executed Consent Order (OGC File No. 23-0748) to resolve air regulation issues relating to the Ascend Performance Materials Operations LLC, Ascend Pensacola Plant, AIR_0330040 located in Escambia County.

Please note the requirements of the Consent Order for which you are responsible and fulfill all pertinent actions accordingly. All Consent Order time requirements begin the date that it is clerked in our Department unless otherwise noted.

Your cooperation in resolving this matter is greatly appreciated. If you have any questions, please contact Carol Melton at (850) 595-0589 or by email at NWDAIR@FloridaDEP.gov.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Mullins Orr".

on behalf of

Elizabeth Mullins Orr
Director
Northwest District

EMO/cm

ec: Melissa Nichols, mnicho@ascendmaterials.com
Adam Sowatzka, Asowatzka@mcguirewoods.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHWEST DISTRICT
)	
)	
)	DOAH CASE NO. 23-4654EF
v.)	OGC FILE NO. 23-0748
)	
ASCEND PERFORMANCE)	
MATERIALS OPERATIONS, LLC)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Ascend Performance Materials Operations, LLC (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department alleges the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (Fla. Stat.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (Fla. Admin. Code). The Department has jurisdiction over the matters addressed in this Order.

2. Respondent is a person within the meaning of Section 403.031(5), Fla. Stat.

3. Respondent is the owner and is responsible for the operation of the Ascend Pensacola Plant (Facility), a facility that manufactures chemicals and products, including adipic acid, nylon fibers and resins, hexamethylene diamine and maleic anhydride, for industrial customers. The Facility is operated under Facility identification Number 0330045 and Title V air operation permit 0330040-077-AV (Permit) issued October 18, 2022. The Facility is located at 3000 Old Chemstrand Road, Cantonment, Florida in Escambia County, Florida.

4. Respondent failed to conduct an annual tune up for emission unit 015 Boiler 5 in 2022, and failed to conduct an annual tune-up for the boiler within 30 calendar days of startup of the boiler after it had not been operating on the required date for a tune-up in 2022, in violation of Specific Condition A.16 of Permits 0330040-071-AV and 077-AV and Title 40 Code Of Federal Regulations, Part 63, Subpart DDDDD, Paragraph 63.7515(d).

Having reached a resolution of the matter, Respondent and the Department mutually agree and it is

ORDERED:

5. Respondent shall comply with the following corrective actions within the stated time periods:

a) Respondent shall pay \$9,250.00 in full by May 29, 2024. This includes \$9,000.00 in civil penalties and \$250.00 for costs and expenses the Department has incurred in investigating this matter and the preparation of this Order.

6. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective, and filed with the Clerk of the Department before ability to make online payment is available.

7. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

8. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. The Department shall voluntarily dismiss the counts pending in Division of Administrative Hearings case 23-4654EF upon receipt of this signed Order. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

9. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

10. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

11. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, Fla. Stat. Further, nothing in this Order shall constitute any admission of fact or law by Respondent including without limitation of any violation of the Permit or Chapter 403, Florida Statutes, and the rules promulgated and authorized in Title 62, Florida Administrative Code. This Order shall not be offered, used, or admitted in evidence in any proceeding or litigation, whether civil or criminal, except for proceedings and matters brought by the Department to enforce this Order. Respondent is entering into said Order without any prejudice to its rights to raise any defense or argument in any future or pending cases before the Department. Respondent retains the right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged herein, do not violate the Permit or Chapter 403, Florida Statutes, and the rules promulgated and authorized in Title 62, Florida Administrative Code. Further, by entering into this Order, Respondent does not admit the

truth of any alleged facts, any of the characterizations of Respondent's alleged conduct or any of the conclusions set forth in the original citation or herein.

12. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

13. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Fla. Stat. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

14. This Order is a final order of the Department pursuant to section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Fla. Stat. Upon the timely filing of a petition, this Order will not be effective until further order of the Department.

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Fla. Stat. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each 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;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;

- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at: Carol Melton, Environmental Consultant, Northwest District, Department of Environmental Protection, 160 W. Government St., Suite 308, Pensacola, Florida 32502. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Fla. Stat. Before the deadline for filing a petition, a person whose substantial interests are affected by this Order may choose to pursue mediation as an alternative remedy under section 120.573, Fla. Stats. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Fla. Stat., and Rule 62-110.106(12), Fla. Admin. Code.

15. Rules referenced in this Order are available at

<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=62-624>

FOR THE RESPONDENT:

Hal McCord

3/18/2024

Hal McCord, Site Director
Ascend Performance Materials

Date

DONE AND ORDERED this 26th day of March, 2024, in Escambia County, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Elizbeth Mullins Orr

on behalf of

Elizbeth Mullins Orr
Director
Northwest District

Filed, on this date, pursuant to section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.

Christina Harla

Clerk

March 26, 2024

Date

Copies furnished to:

Melissa Nichols, Environmental Engineer II, Ascend Performance Materials,
mnicho@ascendmaterials.com

Adam Sowatzka, Partner, McGuireWoods LLP
Asowatzka@mcguirewoods.com

Lea Crandall, Agency Clerk
Mail Station 35