

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND
CONSERVATION**

**IN THE MATTER OF:
ADIENT US LLC**

)
) **DIVISION OF AIR POLLUTION**
) **CASE NO. APC21-0170**
)
)

CONSENT ORDER & ASSESSMENT

This Consent Order and Agreement is entered into between the Tennessee Department of Environment and Conservation and Adient US LLC for the purpose of resolving the issues set forth herein. The parties stipulate and agree as follows:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board (“Board”) and Director of the Division of Air Pollution Control (“Division”), Tennessee Department of Environment and Conservation (“Department”).

II.

Adient US LLC (“Adient US LLC”) is a foreign limited liability company formed in Michigan and authorized to do business in the State of Tennessee. Adient US LLC’s facility address is 1890 Mines Road, Pulaski, Tennessee. According to the Tennessee Secretary of State’s Office, Adient US LLC’s principal business office is 49200 Halyard Drive, Plymouth, Michigan 48170-2481. Adient US LLC’s registered agent for service of process is the CT Corporation System located at 300 Montvue Road, Knoxville, TN 37919-5546.

JURISDICTION

III.

Pursuant to Tennessee Code Annotated section 68-201-116, the Technical Secretary may assess a civil penalty of up to \$25,000 per day for each day of violation of the Tennessee Air Quality Act (“Act”) or any rules or regulations promulgated thereunder (“Division Rules”) against any person who violates said Act or Division Rules, and/or the Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Division Rules are violated. In addition, such person may also be liable for any damages to the State resulting therefrom.

IV.

Adient US LLC is a “person” within the meaning of Tennessee Code Annotated section 68-201-102.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof, as stated in Tennessee Code Annotated section 68-201-102.

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated, as stated in Tennessee Code Annotated section 68-201-102.

VII.

Adient US LLC operates an “air contaminant source” within the meaning of Tennessee Code Annotated section 68-201-102.

FACTS

VIII.

On April 29, 2004, the Technical Secretary issued Title V operating permit number 556316 (“Permit 556316”), to Johnson Controls, Inc. (28-0076) for a polyurethane foam manufacturing operation in Pulaski, Tennessee (the “Pulaski Facility”). Condition E4-2 of Permit 556316 limited the volatile organic compound (VOC) emissions to 248.0 tons during any 12-consecutive months.

IX.

On May 8, 2006, the Technical Secretary issued Minor Modification #2 to Permit 556316, to Johnson Controls, Inc. to increase the allowable VOC emissions from 248.0 to 258.0 tons during any 12-consecutive months. According to the Department, documentation attached to Minor Modification #2, indicates the increase was based on a letter dated January 23, 2006, from Kathy Arnold. The Division has no copy of the January 23, 2006 letter.

X.

On February 18, 2010, the Division received an application from Johnson Controls, Inc. dated February 16, 2010, for a minor modification to Permit 556316, to increase the allowable VOC emissions from 258.0 to 276.7 tons per 12-consecutive months.

XI.

According to the Division, on March 4, 2010, it received a letter from Johnson Controls, Inc. that indicated the baseline emissions used in the February 16, 2010, application were incorrect. The letter stated, “Johnson Controls is requesting an increase in the VOC allowable for the Foam Production Line from 258.0 tons per year to 285.9 tons per year during all intervals of twelve consecutive months.”

XII.

On June 4, 2010, the Technical Secretary issued renewal Title V operating permit number 562120 to Johnson Controls, Inc. which contained condition E4-2 that increased the VOC emission limit to 285.9 tons during any 12-consecutive months.

XIII.

On January 15, 2016, the Technical Secretary issued renewal Title V operating permit number 569269 (“Permit 569269”) to Johnson Controls, Inc. for the polyurethane foam manufacturing operation.

XIV.

On May 26, 2016, the Technical Secretary issued Administrative Amendment #1 to Permit 569269 for the ownership change of the polyurethane foam manufacturing operation from Johnson Controls, Inc. to Adient US LLC, which occurred on May 1, 2016.

XV.

On November 21, 2016, the Technical Secretary issued Minor Modification #1 to Permit 569269, to Adient US LLC, to increase the VOC emissions from 285.9 tons during all intervals of 12-consecutive months to 308 tons during all intervals of 12-consecutive months.

XVI.

On June 15, 2020, the Division received a revised Title V permit renewal application (“Application”) dated June 11, 2020, from Adient US LLC. The Application stated, “During this renewal application process, Adient Pulaski is targeting an increase in Allowable AAP Emissions VOC’s from the current 308 tons per AAP to 346 AAP.”

XVII.

On August 23, 2021, the Division held a conference call with Adient US LLC regarding the request for an increase of the VOC emissions limit.

XVIII.

Division Rule 1200-03-09-.01(4)(a)6. states:

If a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this paragraph shall apply to the source or modification as though construction had not yet commenced on the source or modification.

XIX.

The Department maintains that since the VOC emission limit increase from 248.0 to 258.0 tons per 12-consecutive months in 2006 was not the result of a modification to the source, the facility became a major stationary source solely by relaxation of an enforceable limitation. The VOC emission limit increased to 276.7 tons per 12-consecutive months in 2010 and to 308.0 tons per 12-consecutive months in 2016, further relaxed the enforceable emission limitation that kept the facility from being a major stationary source. Therefore, the Department maintains that the 2006, 2010, and 2016 emissions increases should have been issued in accordance with paragraph 1200-03-09-.01(4), Prevention of Significant Air Quality Deterioration (PSD). Therefore, the Department alleges that Adient US LLC violated Division Rule 1200-03-09-.01(4)(a)6.

XX.

The United States Environmental Protection Agency (“USEPA”) has approved the Department to administer the Title V permit program and the PSD permit program as they pertain to Adient US LLC, and the Department acts as USEPA’s agent in all such permitting activities.

XXI.

The Department submitted all of the above-mentioned permitting actions to USEPA, and the Department did not receive any responsive comments nor objections from EPA on the matters submitted.

XXII.

Adient US LLC maintains it was in material compliance with all requirements, including any air permit requirements since it took ownership of the Pulaski Facility. Adient US LLC and its predecessor, Johnson Controls, were inspected by the Department on at least an annual basis since the time of the first permit issuance in February of 2010. None of the inspections undertaken by the Department indicated any material noncompliance or lack of operating permit by Adient US LLC. In fact, annual inspections by the Department specifically indicated that Adient US LLC was in material compliance and did not identify any unpermitted sources at the facility.

XXIII.

Adient US LLC disputes the violations alleged by the Department herein.

ORDER AND ASSESSMENT

XXIV.

Pursuant to the authority vested by Tennessee Code Annotated section 68-201-116, the Technical Secretary orders and Adient US LLC agrees, as follows:

1. Adient US LLC shall pay a Civil Penalty in the amount of \$8,000.00.
2. Adient US LLC shall pay all additional fees as the Department maintains would have been due under the Permit since 2016. These additional fees are in the amount of \$4,523.87. The requirement to pay these additional fees is not a penalty. This total fee amount is based upon the following annual calculations:

- 2016: \$718.25
- 2017: \$718.25
- 2018: \$718.25
- 2019: \$740.35
- 2020: \$740.35
- 2021: \$888.42

3. Adient US LLC shall pay the assessed Civil Penalty and additional fees in full to the “Treasurer, State of Tennessee” and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. The case number, **APC21-0170**, should be clearly shown on the check or money order to ensure that the payment is properly credited. Payment shall be made on or before the 31st day after receipt of this Consent Order and Assessment.

4. Additionally, Adient US LLC has complied or shall comply with the following requirements:

- Adient US LLC has submitted an Air Quality Construction Permit Application (“PSD Permit Application”) for a PSD major modification to an existing source to the Division and shall work diligently to address incomplete matters noted by the Division in accordance with applicable law; and
- Adient US LLC shall submit a separate amendment to operating Permit 578338 (formerly Permit 569269) containing requirements and conditions acceptable to the Division which shall not be inconsistent with the PSD Permit Application or this Consent Order and Assessment within 360 days of issuance of the PSD Permit.

5. The Technical Secretary does not expressly or implicitly waive the authority pursuant to any provision of the Act or Division Rules by issuing this Consent Order and Agreement.

6. Failure to comply with any of the requirements of this Consent Order and Agreement could lead to further enforcement actions which may include additional civil penalties, assessment of damages and/or recovery of costs.

DEPARTMENT'S RESERVATION OF RIGHTS

In entering this Consent Order and Assessment, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against Adient US LLC. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for enforcement action(s) against Adient US LLC in the future for any violation occurring then.

RESPONDENT'S RESERVATION OF RIGHTS

The Respondent does not admit or deny the factual allegations or the alleged violations of law contained in this Consent Order and Assessment. This Consent Order and Assessment shall not be deemed an admission of any fact, fault, or waiver of rights by the Respondent. The Respondent reserves its rights to contest the factual allegations and alleged violations contained in this Consent Order and Assessment in any proceeding other than a proceeding brought by the Department to enforce the terms of this Consent Order and Assessment.

WAIVER OF RIGHT TO APPEAL

This Consent Order and Assessment fully resolves all matters and alleged violations set forth herein. By signing below, Adient US LLC knowingly and voluntarily waives any right it may have to appeal this Consent Order and Assessment pursuant to Tennessee Code Annotated section sections 68-201-108(a) and 68-201-116(b).

AUTHORITY TO SIGN

The undersigned representatives of the Department and Adient US LLC hereby represent and warrant that they are fully authorized and competent to execute this Consent Order and Agreement on behalf of the entity for which they are signing.

Issued by the Technical Secretary of the Air Pollution Control Board and agreed to by Adient US LLC on this 24th day of February 2022.

THIS CONSENT ORDER AND AGREEMENT SHALL BE EFFECTIVE UPON BEING SIGNED ON BEHALF OF BOTH PARTIES.

**Tennessee Department of Environment
and Conservation**



Michelle Walker Owenby
Technical Secretary
Tennessee Air Pollution Control Board

Adient US LLC

By: 

Name: Ryan Speck

Title: Plant Manager

Reviewed by:



Michael D. Lewis
BPR Number 033408

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