



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114-1639
www.clevelandhealth.org

SERVING OHIO EPA AS AGENCY 18
FOR CUYAHOGA COUNTY

CERTIFIED MAIL 70022030000118087865
RETURN RECEIPT REQUESTED

May 28, 2009

Mr. John Phillips, General Manager
Alcon Industries, Inc.
7990 Baker Avenue
Cleveland, Ohio 44102

FACILITY ID: 13-18-00-7755
RECEIPT OF CORRECTIVE ACTION PLAN: AIR POLLUTION NUISANCE AND
FAILURE TO SUBMIT 2006/2007/2008 CITY PERMIT FEES

Dear Mr. Phillips:

On April 22, 2009, the Cleveland Division of Air Quality (CDAQ) issued a Notice of Violation requesting that Alcon Industries, Inc. (Alcon) adhere to the designated communication timeline in the *Action Item and Timeline Update* dated April 6, 2009, to be notified 7 days in advance when a Town Meeting will be held, requested that Alcon consider CDAQ's comments regarding the brochure and make necessary modifications and submit 2006, 2007 and 2008 city permit fees.

CDAQ is in receipt of a corrective action plan dated May 7, 2009, with an update on the implementation of Alcon's action plan. Also, CDAQ is in receipt of 2006, 2007 and 2008 city permit fees paid dated May 4, 2009. For further information regarding city permit fees please contact David Hearne, CDAQ Chief of Compliance, at 216-664-2178.

You are still expected to adhere to the designated communication timeline in the *Action Item and Timeline Update* dated April 6, 2009, notify CDAQ 7 days in advance when a Town Meeting will be held, and consider CDAQ's comments regarding the brochure and make necessary modifications. Failure to do so may result in referral to Ohio EPA or U.S. EPA for further enforcement action. Fulfillment of your commitments included in the corrective action plan and/or any modifications contained within this letter does not constitute a waiver of CDAQ's ability to refer this matter to Ohio EPA or U.S. EPA for further enforcement action.

CDAQ issues this letter with Ohio EPA's concurrence and does not excuse any violations of local, state and federal laws or regulations regarding air pollution control. Violations of air pollution control laws may be pursued in local court or



referred to Ohio EPA or U.S. EPA for further enforcement action. Should you have any questions, please call Linda Kimmy at 216-664-2985. All correspondence with CDAQ must include the Ohio EPA facility identification number for Alcon: 13-18-00-7755.

Sincerely,

Valencia White
Field Enforcement Manager, CDAQ

VW/LK

cc: Gary Calhoun, Alcon
John Paulian, Ohio EPA Central Office
Lisa Holscher, U.S. EPA Region V
Facility File and L:\Data\Facilities\1318007755\2009 Enforcement\2009-04-22 RCAP.doc

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR. JOHN PHILLIPS, GM
ALCON INDUSTRIES, INC.
7990 BAKER AVENUE
CLEVELAND, OHIO 44102

2. Article Number

(Transfer from service label):

7002 2030 0001 1808 7865

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Desamir Mad* Agent
 Addressee

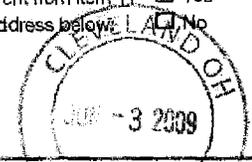
B. Received by (Printed Name)

C. Date of Delivery

Desamir Mad

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No



3. Service Type

Certified Mail Express Mail *44102*
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes



May 7, 2009

Ms. Valencia White
Field Enforcement Manager
Cleveland Department of Public Health
Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114-1839

ALCON INDUSTRIES, INC.
7990 BAKER AVENUE
CLEVELAND OH 44102

**RE: Notice of Violation Response to CDAQ Letter Dated April 22, 2009
Alcon Industries, Inc.
7990 Baker Avenue
Cleveland, Ohio 44102
Facility ID: 13-18-00-7755**

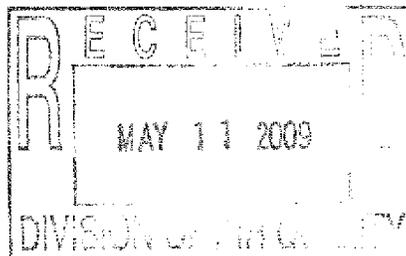
Dear Ms. White:

On behalf of Alcon Industries, Inc. (Alcon) I am pleased to provide you with this letter responding to the Notice of Violation (NOV) issues identified in your letter dated April 22, 2009.

With regard to the nuisance odor complaint, I am providing another update on the implementation of our action plan to address nuisance odors associated with manufacturing operations at the above location.

With regard to the non-payment of fee invoices included with your letter dated April 22, 2009, they have been paid. I would like to mention that Alcon had never received those invoices previously or we would have paid them. I should also point out that we would appreciate a description for each line item in future invoices. Specifically, it would be clearer if, in addition to Source, Source Name and Description, verbiage could be added that describes the type of permit action such as New PTI, New PTO, and PTI Modification etc.

I would like to provide an update on our progress that has occurred since our last communication to your office dated April 6, 2009 which also contained an updated timeline.



T 216.961.1100
F 216.961.5611
W www.alconind.com



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Action Item Number 3 Description from Timeline

Emissions Engineering Control for Sand Molds - Alcon is evaluating emissions engineering controls for sand mold emissions which would also address odors associated with those emissions. There is an evaluation period for this option and, if selected as a viable option, there will be a setup time period and expected implementation target date. Alcon will provide communications to CDAQ on viability and go/no go determination.

Action Item Update: *Alcon met with its air emissions control consultants on April 8, 2009 to identify possible control options. Alcon has two possible options that it is considering for emissions capture and control.*

Action Item Number 6 Description from Timeline

Compliance Assistance – Assistance and/or funding support for professional services to development compliance plans for engineering controls to address odors.

Action Item Update: Ohio EPA Office of Compliance Assistance & Pollution Prevention (OCAPP) was identified as a possible resource and was contacted. It was determined that OCAPP provides information and resources to help businesses achieve compliance with the environmental regulations. This includes a wide range of environmental regulations from air and water pollution to waste management. Another primary goal of the office is to help its customers identify and implement pollution prevention measures.

OCAPP is a not a regulatory program at Ohio EPA. This means that information obtained by the office is not shared with Ohio EPA inspection or enforcement staff. Services of the office include:

- Toll-free hotline
- On-site compliance and P2 assessments
- Compliance and P2 workshops/training
- Library of publications that explain requirements and P2 opportunities in plain English
- Quarterly newsletter
- Assistance in completing air permit application forms



Alcon may take advantage of these services in the future but currently Alcon either has or has applied for the necessary permits with the CDAQ and Ohio EPA. Alcon considers this Action Item complete.

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7. **Financial Assistance - Engineering Controls** - Funding support for purchasing and installation of engineering control equipment.

Action Item Update: Alcon has looked into possible assistance options and has identified the Ohio Air Quality Development Authority and the Ohio Department of Development Ohio Energy Office as possible resources. Alcon has contacted representative from both organizations and will be setting up meetings to discuss the details of how each of their programs work. The following is a summary of information we are exploring further with these organizations.

Ohio Air Quality Development Authority

The Ohio Air Quality Development Authority (OAQDA) provides financing assistance for public and private investment in facilities that contribute to better air quality in Ohio. It does not enforce air quality regulations. In fact, state law prohibits OEPA from using information obtained by CARC in any enforcement action. Eligible projects include investments in air pollution control, air pollution prevention, energy efficiency and conservation and biofuel production facilities. Further, the recently passed Economic Stimulus Package (House Bill 554) defines the projects eligible for OAQDA assistance to include advanced energy projects and advanced energy resources. Eligible advanced energy projects include advanced energy resources (i.e. clean coal technologies, advanced nuclear, fuel cells and distributed and co-generation), renewable energy resources (i.e. solar, wind, hydro, biomass and geothermal) and energy efficiency. Although each project is different, benefits of OAQDA financing include federal and state tax incentives as well as flexibility of financial structuring. *Since 1972 the OAQDA has financed 393 Projects totaling more than \$7.1 billion. Awards ranged from \$14,000 to \$234 million for individual projects.*

1. Energy Generation Incentive Information:

The OAQDA pursuant to Chapter 3706 of the Ohio Revised Code has the authority to issue revenue bonds for the purpose of prepaying Power Purchase Agreements (PPAs). OAQDA financed PPAs are project-specific and therefore not easily summarized. Generally, OAQDA has the ability to finance the



prepayment of power purchase agreements with proceeds from OAQDA bonds issued as either (i) federally tax-exempt bonds for the prepayment of electricity to be delivered to municipally owned electric utilities or (ii) federally taxable bonds for the prepayment of electricity to be delivered to investor owned utilities. Bond proceeds are delivered at closing. Chapter 3706 requires that a portion of the bond proceeds be used in connection with the acquisition or construction of air quality facilities located within Ohio.

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The principal amount of bonds issued to prepay a Power Purchase Agreement is not subject to Ohio statutory limitations.

Several factors are taken into consideration when financing PPAs. Answers to the following questions will assist the OAQDA in determining if a prepayment of a PPA is feasible:

- What is the heat source process?
- What is the availability?
- Where and in what grid is the heat source located?
- What are the company's needs regarding the heat source? I.e., do you need to make steam or electricity for your own use and how much?
- What are the estimated pounds of steam or kilowatts to be produced?
- Is this an existing heat source or is it to be constructed? If constructed, what is the completion date?
- Is the power island already constructed? If not, when will the power island be completed? If construction has not begun, what is the estimated completion time?
- Contact information regarding the engineers who will be able to provide additional information, if needed.

2. Energy efficiency financing: different needs, different models

The key to financing energy efficiency investment is flexibility. Each project has its own criteria and objectives; successful financing must be molded to fit. The OAQDA has developed various models and has used them either alone or in combination for projects. Those benefiting from these structures include businesses, educational institutions, publicly owned facilities and government. In the descriptions below, all beneficiaries are referred to as the "entity."

Models include:

Performance based lease to own (turnkey): Energy efficiency project is leased by the entity from a vendor over an agreed upon term. Debt is carried by either



the vendor or the entity. Lease payments are set based upon the energy cost savings realized by the project. At end of lease, entity takes full ownership of project. (Energy cost savings can either be projected or guaranteed. A guarantee may be provided by the vendor or through an insurance policy.

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Performance based installment purchase: Identical to above, except entity takes proportional ownership as lease payments are made.

Direct purchase: Entity finances a direct purchase of the energy efficiency project. This model is most frequently used when the project entails replacing equipment with more energy efficient models or processes.

Public institution or nonprofit tax exempt: If the end user (final owner) of the project is eligible for tax exempt financing, any of the models can be so structured. This can result in considerable savings in project interest expenses. "Tax exempt financing" is a term used to describe financing for which the interest payments are exempt from federal income tax. Eligibility is determined by federal rules and regulations.

Private sector taxable: Private sector energy efficiency projects rarely qualify for tax exempt status. However, OAQDA financing does provide significant state based tax incentives. These include exemption from assessment of real and personal property, sales and use taxes. In addition, interest payments of OAQDA financings are exempt from state income tax.

Leveraged improvements: Entity chooses to invest in a project whose cost is greater than the anticipated annual savings will support. In this case, the savings allow a larger undertaking than would normally be possible. The most frequent occurrence of this model is in cases in which different components have drastically different pay back times. (For example, new efficient lighting can pay for itself through savings in three years or less; a boiler might require 15-20 years. The entity will choose to finance the project over a period of time less than the longer pay back period.)

Aggregated municipal leases: Local governments investing in energy efficient equipment, e.g., LED traffic signals, can aggregate orders through an OAQDA financing to achieve benefits of scale in interest rate and unit pricing.



Capital investment through operating budgets: Many entities have different internal structures and limitations for capital projects. Energy efficiency investments, through performance based contracts, can result in significant capital improvements paid for through operating budget savings.

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Ohio Department of Development – Ohio Energy Office

Relevant Opportunities

1. Renewable Energy Projects

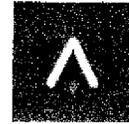
The Ohio Department of Development's (ODOD) Ohio Energy Office (OEO) is seeking applications to implement renewable energy projects limited to solar electric, wind electric, and solar thermal systems for Commercial, Industrial, Institutional and Governmental entities in Ohio. In accordance with the authority provided the Director of the ODOD under Ohio Revised Code §4928.61-63, qualifying applicants will be eligible to apply for grant assistance to cover a portion of the costs of eligible projects located in the service territories of the four investor-owned electric distribution companies listed in Section 1.3. Grant funds are limited, but qualifying applications will be funded until all the funds for this Notice of Funding Available (NOFA) are awarded or the OEO determines the program no longer suits the best interest of Ohio's energy plan.

Wind Electric Systems are Eligible Funding Incentives and Limits

- **\$2.00/kWh**
- Minimum 3,000 kWh Alternating Current (AC)
- Generated annually at the average wind speed for the site
- Maximum incentive as % **40%** of eligible system costs
- Maximum incentive as total **\$200,000** of eligible system costs

2. Advanced Energy Fund Manufacturing Energy Efficiency Incentives NOFA #07-04)

The ODOD Ohio Energy Office is soliciting applications to implement energy efficiency projects in manufacturing facilities in Ohio. In accordance with Ohio Revised Code §4928.61-63, qualifying projects will be eligible to apply for grants to cover a portion of the costs of eligible projects located in the service territories of the four investor-owned electric distribution companies listed in Section 1.5.



Incentive funds are limited, but qualifying applications will be funded until all of the funds for this manufacturing energy efficiency incentive program are awarded. Applicants will be required to have completed an EnVinta diagnostic assessment and contracted for follow-up activities promoting energy plan development and technical assessment utilizing certified EnVinta facilitators.

Eligible Projects and Guidelines This initiative focuses on the utilization of energy efficiency measures/technologies. A sample list of technologies is included as Appendix C (not included). Manufacturing facilities in Ohio are eligible for funding under this NOFA.

Minimum Requirements

Applicant must be in contract for services (or have completed those services) with a certified EnVinta facilitator and utilize the results of the EnVinta or Achiever diagnostic session to develop an energy management plan and technical opportunities assessment or provide documentation of inclusion of the results of the diagnostic session into the facilities energy management practices. Projects to be implemented under the grant agreement must be specified in the energy management plan/technical assessment.

Funding Incentives and Limits

- Energy Efficiency Equipment
- Grant Incentive: 25% of Project Cost
- Maximum Award: \$50,000

Please do not hesitate to contact me with any questions you may have about this response.

Sincerely,
Alcon Industries, Inc.

Andrew V. White
Chief Financial Officer

cc: Scott McCready, ATC Associates Inc.