



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

November 19, 2014

CERTIFIED MAIL

Mr. Gary Hantz
Operations Manager
Alcon Industries, Inc.
7990 Baker Avenue
Cleveland, Ohio 44102

Re: Final Findings and Orders for permit
violations at 7990 Baker Avenue in
Cleveland, Ohio.

Dear Mr Hantz:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,



James Kavalec, Manager
Compliance/Enforcement Section
Division of Air Pollution Control

xc: Carol Hester, PIC
Carol Butler, Fiscal Office
Marcus Glasgow, Legal Office
John Paulian/Tan Tran, DAPC
Valencia White/Linda Kimmy, Cleveland Division of Air Quality

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I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: [Signature] Date: 11-19-14

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Alcon Industries, Inc.	:	<u>Director's Final Findings</u>
7990 Baker Ave.	:	<u>and Orders</u>
Cleveland, Ohio 44102	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Alcon Industries, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a heat and corrosion resistant alloy foundry and fabrication facility located at 7990 Baker Avenue in Cleveland, Ohio. Ohio EPA identifies the facility as ID 1318007755. At this facility, Respondent operates/operated the following emissions units ("EUs"): P002 (core making process), P003 (core making process), P009 (Pouring and Cooling Operation), P010 (Wheelabrator Blast Abrasion Operation), P013 (Sand Storage Silo), P015 (core making process), P016 (Palmer), P017 (Cookie Dough Core Making Process), and P020 (Shake-out). Each of these above-referenced EUs is/was an "air contaminant source" as defined in OAC Rules 3745-15-01(C) and (W), and 3745-31-01(I), and ORC § 3704.01(C).

2. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA.

3. OAC Rule 3745-78-02(A) requires owners or operators of sources that are subject to OAC Rule 3745-77-02 to submit an annual fee emission report that quantifies actual emissions of particulate matter, sulfur dioxide, organic compounds, nitrogen oxides, and lead. This required fee emission report is to be submitted by owners or operators of affected facilities April 15 of each year, indicating actual emissions for the previous calendar year.

4. OAC Rule 3745-15-03 requires the owners or operators of sources to keep and periodically submit records and reports, including but not limited to information on air contaminants, emissions or fuel from any or all potential sources for purposes of maintaining an air pollution emission inventory or any other reasonable purpose as determined by the Director of Ohio EPA.

5. OAC Rule 3745-19-03(A) prohibits any person or property owner from open burning in a restricted area except as provided in OAC Rule 3745-19-03(B) and (D) and in ORC § 3704.11. These exceptions to the open burning prohibition do not include the open burning of waste materials on a commercial property in restricted area.

6. From April 15, 2011 to April 13, 2012, Respondent was in violation of OAC Rule 3745-78-02, ORC § 3704.05(G), and ORC § 3745.11 for its failure to submit the 2010 Synthetic Minor Title V Fee Emissions Report and Emissions Inventory Summary (SMTV-FER and EIS) for its facility.

7. From November 15, 2011 to April 13, 2012, Respondent was in violation of OAC Rule 3745-15-03, ORC § 3704.05(G), and ORC § 3704.05(C) for its failure to submit the 2011 Annual Permit Evaluation Reports (PER) for EUs P002, P003, P009, P010, P013, P015, P016, P017, and P020.

8. On December 12, 2011, Respondent was in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G) for allowing a composite wood container to be open burned.

9. From September 17, 2011 to June 18, 2012, Respondent was in violation of ORC § 3704.05(C) and the special terms and conditions of PTIO #P0107363 for EUs P002 and P003, the special terms and conditions of PTIO #13-04715 for EUs P015, P016 and P017 for its failure to track combined volatile organic compound ("VOC")/Hazardous Air Pollutant ("HAP") daily and annual emissions.

10. From September 17, 2010 to April 16, 2012, Respondent was in violation of ORC § 3704.05(C) and the special terms and conditions of PTIO #P0107363 for EUs P002 and P003, and the special terms and conditions of PTIO #13-04715 for EU P015 for its failure to provide annual usage rates for resins, hardener, and sand. Respondent also failed to document and provide the monthly and rolling, 12-month records of particulate, VOC, organic compound, and HAP emissions for the emissions units.

11. From September 17, 2010 to April 16, 2012, Respondent was in violation of ORC § 3704.05(C) and the special terms and conditions of PTIO #P0107363 for EUs P002 and P003.

12. From September 17, 2010 to October 23, 2012 [September 17, 2010 to July 31, 2012 for P015], Respondent was in violation of ORC § 3704.05(C) and the special terms and conditions of PTIO #P0107363 for EUs P002 and P003 and the special terms and conditions of PTIO #13-04715 for EUs P015, P016 and P017 for its failure to install, operate and maintain equipment to monitor and record the pressure drop across the baghouses serving these emissions units on a daily basis.

13. From September 17, 2010 to June 14, 2012, Respondent was in violation of ORC § 3704.05(C) and the special terms and conditions of PTIO #P0107363 for EUs P002 and P003 and the special terms and conditions of PTIO #13-04715 for EUs P015, P016 and P020 for its failure to submit the quarterly deviation reports for these emissions units.

14. From September 17, 2010 to April 16, 2012, Respondent was in violation of ORC § 3704.05(C) and the special terms and conditions of PTIO #P0094807 for EUs P009 and P010 and the special terms and conditions of PTIO #13-04715 for EU P016 for its failure to maintain daily records of the number of hours of operation for these emissions units.

15. From March 2, 2011 to April 16, 2012, Respondent was in violation of the special terms and conditions of PTIO #P0094807 and ORC § 3704.05(C) for conducting the daily visible emissions ("VE") checks for EU P009 when the emissions unit was not in operation.

16. From June 4, 2010 to June 18, 2012, Respondent was in violation of the special terms and conditions of PTIO #P0105730 and ORC § 3704.05(C) for EU P013 for its failure to provide manufacturer's specifications for the acceptable pressure drop range across the baghouse.

17. From September 17, 2010 to April 16, 2012, Respondent was in violation of the special terms and conditions of PTIO #13-04715 and ORC § 3704.05(C) for its failure to provide monthly records of VOC emissions and rolling, 12-month records of VOC emissions for EU P016.

18. From September 17, 2010 to April 16, 2012, Respondent was in violation of the special terms and conditions of PTIO #13-04715 and ORC § 3704.05(C) for its failure to maintain the rolling, 12-month summation of operating hours for EU P020.

19. From September 17, 2010 to April 16, 2012, Respondent was in violation of the special terms and conditions of PTIO #13-04715 and ORC § 3704.05(C) for its failure to record the amount of resin used by EU P016 on a monthly basis for the purpose of determining compliance with the annual resin usage restriction based upon a rolling, 12-month summation of the usage rates.

20. On January 9, 2012, The Cleveland Division of Air Quality ("CDAQ"), the representative of Ohio EPA in Cuyahoga County, issued a notice of violation letter to Respondent for the violations that are identified in Findings 6 through 19.

21. On July 31, 2012, Respondent permanently shut down EU P015.

22. On October 23, 2012, Respondent submitted applications to modify the permits covering EUs P002, P003, P016, and P017 to revise, among other things, the monitoring, record keeping, and reporting requirements for the baghouses serving these EUs.

23. On February 21, 2013, Ohio EPA issued modified PTIOs for EUs P002, P003, P016, and P017 to address the revised requirements for the baghouses serving these EUs.

24. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of twenty-five thousand dollars (\$25,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within 30 days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty thousand dollars (\$20,000) of the total amount. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration

50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining five thousand dollars (\$5,000) of civil penalty to Ohio EPA, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$5,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,000. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to James Kavalec, Manager, Division of Air Pollution Control or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe in Order 2, Respondent shall immediately pay to Ohio EPA \$5,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks, as required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the demolition of this facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and

regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Cleveland Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114-1839
Attention: Valencia White

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Robert Hodanbosi, Chief

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specially waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions and service of these Orders, and Respondent hereby waives any and all rights

Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig W. Butler
Director

11/17/14
Date

IT IS SO AGREED:

Alcon Industries, Inc.

 VP/CFO

Signature

October 28, 2014
Date

Frank J. Pillari
Printed or Typed Name

VP/CFO
Title