



**Environmental
Protection Agency**

**John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director**

**Re: Brent Industries, Inc.
OHR 000 019 257
Lucas County
DHWM, NWDO
Fourth Notice of Violation**

January 13, 2011

Mr. Alan Shepard
Brent Industries, Inc.
2922 South Avenue
Toledo, Ohio 43609

Dear Mr. Shepard:

On July 23, 2008, the Ohio Environmental Protection Agency (Ohio EPA) conducted a compliance evaluation inspection at Brent Industries, Inc.'s (BII's) facility located at 2922 South Avenue, Toledo, Ohio. Notices of Violation (NOVs) were sent to BII on September 4, 2008, April 15, 2009, and July 28, 2009. Outstanding violations from this inspection concern hazardous waste tank certifications.

On April 21, 2010, BII contacted Ohio EPA concerning the hazardous spent solvent that is stored in the hazardous waste tanks. BII proposed shipping the spent solvent off-site as a product to be used as an ingredient at an asphalt facility. In the proposed scenario, the spent solvent would not be considered a waste when it left BII property, therefore, the tanks storing the spent solvent would not be considered hazardous waste tanks and the outstanding violations would be abated due to a material management change.

Ohio EPA held a conference call with BII on May 18, 2010, to discuss the proposed change. During this conference call, BII informed Ohio EPA that the spent solvent would not be used as an ingredient in asphalt but would be sent to an oil refinery for further processing or would be sold as a fuel to fire the boilers used in the production of asphalt. BII also told Ohio EPA during the conference call that the spent solvent may not be a hazardous waste due to a change in the material being laundered.

On June 17, 2010, Ohio EPA requested that BII submit all waste evaluation information on the spent solvent. On July 14, 2010, Ohio EPA received an email from BII that contained a "PCI (Pollution Control Industries) Lab Analysis" for the spent solvent. The information contained in this report is general information and does not contain the detail needed to determine that the spent solvent generated by BII is a non-hazardous waste.

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During a phone call with Marsha O'Malley of PCI on August 5, 2010, concerning the analytical results sent to Ohio EPA, Ms. O'Malley stated that the spent solvent being removed from BII is considered a used oil by PCI.

In a phone conversation with you on October 14, 2010, you stated that the waste would be sampled and analyzed for Toxicity Characteristic Leaching Procedure (TCLP) volatile organic compounds (VOCs), TCLP semi-volatile organic compounds (SVOCs), TCLP Resource Conservation and Recovery Act (RCRA) metals, and flashpoint at the end of October. **To date, Ohio EPA has not received any further information from BII. BII remains in violation of the rules listed below.**

If BII plans to demonstrate that the waste is a non-hazardous waste, and is thus exempt from the rules, then BII must submit sufficient analytical data to prove the waste is non-hazardous. Due to the fact that the waste is generated in batches, BII may be required to conduct additional analyses on the waste stream to determine it is non-hazardous. If BII plans on demonstrating that the waste is a used oil as defined in OAC 3745-279, then BII must demonstrate how they determined the material is a used oil. This would need to include process information from the generators of the industrial laundry they receive. If BII plans to continue to manage this spent solvent as a hazardous waste, then BII must submit the information outlined below in order to abate the outstanding violations.

The following is a summary of the violations observed during the July 23, 2008, compliance evaluation inspection and the facility's compliance with respect to each violation. In an attempt to streamline this letter, details concerning previously abated violations have been omitted. **Please submit the required information within 30 days of receipt of this letter.**

Violations:

1. **Ohio Administrative Code (OAC) Rule 3745-52-11, Hazardous Waste Determination:** *This violation is considered abated on March 25, 2009, per Ohio EPA's April 15, 2009, letter.*
2. **OAC Rule 3745-273-13(D)(1), Waste management-standards for small quantity handlers of universal waste:** *This violation was abated on July 31, 2008, per Ohio EPA's October 28, 2009, letter.*
3. **OAC Rule 3745-273-14(E), Labeling/marketing-standards for small quantity handlers of universal waste:** *This violation was abated on July 31, 2008, per Ohio EPA's October 28, 2009, letter.*

4. **OAC Rule 3745-273-15(C), Accumulation time limits-standards for small quantity handlers of universal waste:** *This violation was abated on July 31, 2008, per Ohio EPA's October 28, 2009, letter.*
5. **OAC Rule 3745-66-93 (E)(1), Containment and detection of releases:** "In addition to the requirements of paragraphs (B), (C), and (D) of this rule, secondary containment systems must satisfy the following requirements...(b) Designed or operated to prevent run-on or infiltration of precipitation...such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event...(c) Free of cracks or gaps...(e) Constructed with chemical-resistant water stops..."

BII failed to provide the required information for the tank certifications of the hazardous waste tanks located behind the facility.

In order to abate this violation, BII must submit the following information within 30 days of receipt of this letter (requested information is numbered according to the January 14, 2009, letter to BII):

- 1) As required by paragraph (E) (1) (b) of OAC Rule 3745-66-93, secondary containment must be designed or operated to prevent run-on or infiltration of precipitation. Otherwise, the secondary containment must be designed with sufficient excess capacity to contain run-on or infiltration from a twenty-five-year, twenty-four-hour rainfall event. The written assessment did not address this requirement. Calculations must be provided to insure adequate capacity is provided.
- 2) The written assessment states that as of March 2001, there were several minor cracks on the floor of the secondary containment area. The assessment states that BII is in the process of repairing, but did not affirm the cracks had been adequately repaired. Pursuant to paragraph (E) (1) (c) of OAC Rule 3745-66-93 and the installation certification requirements of paragraph (B) of OAC Rule 3745-66-92, the written assessment must affirm the secondary containment is free of cracks or gaps.
- 3) Paragraph (E) (1) (e) of OAC Rule 3745-66-93 requires the secondary containment area be "constructed with chemical-resistant water stops in place at all joints." The assessment states that BII is in the process of installing the water stops. An additional assessment must be included to verify that the installation of the chemically-resistant water stops has been completed at all joints.

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6. **OAC Rule 3745-66-93 (C)(1), Containment and detection of releases:** "To meet the requirements of paragraphs (B) of this rule, secondary containment systems must be, at a minimum: (1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system..."

BII failed to provide the required information for the tank certifications of the hazardous waste tanks located behind the facility.

In order to abate this violation, BII must submit the following information within 30 days of receipt of this letter (requested information is numbered according to the January 14, 2009, letter to BII):

- 4) The written assessment states that the concrete containment area will be coated with 10 mils of epoxy phenolic sealant that is compatible with the waste solvent. Pursuant to paragraph (C) (1) of OAC Rule 3745-66-93, the secondary containment must be constructed of or lined with materials that are compatible with the waste to be placed in the tank system. The written assessment must address that the secondary containment area is compatible with the waste solvent.

7. **OAC Rule 3745-66-93 (F), Containment and detection of releases:** "Ancillary equipment must be provided with full secondary containment..."

BII failed to provide the required information for the tank certifications of the hazardous waste tanks located behind the facility.

In order to abate this violation, BII must submit the following information within 30 days of receipt of this letter (requested information is numbered according to the January 14, 2009, letter to BII):

- 5) The written assessment states that all ancillary equipment is above ground piping. As required by paragraph (F) of OAC Rule 3745-66-93, the written assessment must provide secondary containment to all ancillary equipment flanges, joints, valves, and connections of aboveground piping, unless they are welded flanges, joints, or connections. The written assessment must address secondary containment for ancillary equipment.

8. **OAC Rule 3745-66-92(A), Design and installation of new tank systems or components:** "Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections...are adequately designed...The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer..."

BII failed to provide the required information for the tank certifications of the hazardous waste tanks located behind the facility.

In order to abate this violation, BII must submit the following information within 30 days of receipt of this letter (requested information is numbered according to the January 14, 2009, letter to BII):

- 6) As required by paragraph (A) of OAC Rule 3745-66-92, the owner or operator must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with paragraph (D) of rule 3745-50-42. The certification must state "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." This written assessment was certified by a registered professional engineer but did not include certification statement.
- 7) As required by paragraph (A) (1) of OAC Rule 3745-66-92, the written assessment must include "Design standard(s) according to which the tank(s) and ancillary equipment is or will be constructed." The written assessment does not list specific design standard(s) according to which the tank and ancillary equipment were constructed. These design standard(s) must be cited in this assessment or detailed calculations (i.e. thickness, loading pressures, corrosion, etc.) should be provided to demonstrate that the system is constructed in accordance with sound engineering principles and will safely contain the hazardous waste.

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9. **OAC Rule 3745-66-92(A), Design and installation of new tank systems or components:** "The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system..."

BII failed to provide the required information for the tank certifications of the hazardous waste tanks located behind the facility.

In order to abate this violation, BII must submit the following information within 30 days of receipt of this letter (requested information is numbered according to the January 14, 2009, letter to BII):

- 8) Pursuant to paragraph (G) of OAC Rule 3745-66-92, the owner or operator of a new tank system must obtain and keep on file at the facility written statements by those persons required to supervise the installation of the tank system in accordance with the requirements of paragraphs (B) to (F) of this rule. These written statements must also include the certification statement as required in Paragraph (D) of rule 3745-50-42 of the Administrative Code. The written assessment does not contain the certification statement and must contain such a statement on file.

General Concerns:

- A. **Waste Evaluations:** This general concern is considered addressed per the October 28, 2009, letter.
- B. **Contingency Plan:** This general concern is considered addressed per the October 28, 2009, letter.
- C. **Tank Inspections:** This general concern is considered addressed per the October 28, 2009, letter.
- D. **Tank Certifications:** This general concern is considered addressed per the April 15, 2009, letter.

Should you have any questions, please feel free to call me at (419) 373-3065.

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Please send all correspondence **within 30 days of receipt of this letter** to Ohio EPA, Northwest District Office, Attn: Kara Reynolds, 347 North Dunbridge Road, Bowling Green, Ohio 43402.

Sincerely,



Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management

/llr

pc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
^DHWM, NWDO Lucas County File: Brent Industries 2007-2009

NOTICE:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.