



State of Ohio Environmental Protection Agency

Northwest District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

**RE: Paschal Bihn & Sons
Excavating
Lucas County
DHWM, NWDO
Return to Compliance**

December 16, 2009

Mr. Dayne Bihn
Paschal Bihn & Sons Excavating
221 North Lallendorf Road
Oregon, Ohio 43616

Dear Mr. Bihn:

Thank you for sending the documentation in response to the Ohio Environmental Protection Agency's (Ohio EPA's) Notice of Violations (NOVs) dated September 10, 2009, and October 20, 2009. The documentation was received by Ohio EPA on October 1, 2009, and November 25, 2009, and includes information pertaining to used oil management.

After review of the submitted material, Paschal Bihn & Sons Excavating (PB&SE) will remain a non-generator of hazardous waste and a generator of used oil.

My review of the submitted information reveals that PB&SE has abated all violations discovered during the August 19, 2009, compliance evaluation inspection as outlined below.

Violations:

- 1. Ohio Administrative Code (OAC) Rule 3745-279-22 (C)(1), Used oil storage requirements for generators:** "Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words 'Used Oil'".

PB&SE failed to mark one 55 gallon used oil drum and one used oil drip pan located in the building with the words "Used Oil."

This violation was abated on August 19, 2009.

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2. OAC Rule 3745-279-24, Off-site Shipments of Used Oil by Generators:

"...generators must ensure that their used oil is transported only by transporters who have obtained U.S. EPA identification numbers." Used oil generators have three options for handling their used oil: 1) Generators must have their used oil transported by an entity that has a U.S. EPA identification number and ensure their used oil is recycled; 2) Generators may transport less than 55-gallons of their own used oil to a registered used oil collection center; or 3) Generators may burn its own used oil in an on-site space heater as long as all applicable requirements are met.

PB&SE gave used oil to businesses and homeowners to burn for heating purposes. PB&SE failed to ensure that the used oil was transported by a transporter who had obtained a U.S. EPA identification number.

On November 25, 2009, Ohio EPA received a letter that stated that PB&SE plans to purchase a used oil burner and heat the building with the used oil burner. The letter also states that "Once we purchase the oil burner, we will send you all the corresponding paperwork that you need."

Ohio EPA will determine compliance with this violation at a later date through additional inspections.

Therefore, this violation is considered abated on November 25, 2009.

General Concerns:

A. **Spent Lamps:** During the inspection PB&SE stated that spent lamps have not been generated at the site. Ohio EPA contacted the building owner, KLT Investment Group (KLT) on August 10, 2009, to discuss the building maintenance agreement between the owner and renters. KLT informed Ohio EPA that it was up to the renter to perform building maintenance such as changing spent lamps. Therefore, PB&SE will become a generator of spent lamps if PB&SE changes any spent lamps at the building.

This general concern serves as a reminder to PB&SE and is considered addressed.

B. **Used Oil Filters:** During the inspection Ohio EPA observed two used oil filters draining used oil into a drip pan. It is unclear if PB&SE recycles the used oil filters or if they throw them into the trash as solid waste.

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Ohio EPA would like to remind PB&SE that OAC Rule 3745-52-11 states that any person who generates a waste must determine if that waste is a hazardous waste. Therefore, PB&SE must evaluate the used oil filters to determine if they are hazardous waste prior to disposing of them in the trash as solid waste.

This general concern serves as a reminder to PB&SE and is considered addressed.

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

Sincerely,



Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management

/lb

cc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO

~~DHWM, NWDO Lucas County File: "Paschal Bihn & Sons Excavating"~~

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.