



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

November 13, 2015

Brent Industries, Inc.  
2922 South Avenue  
Toledo, Ohio 43609

**Re: Brent Industries, Inc.  
Director's Final Findings and Orders (DFFO)  
DFFO  
RCRA C - Hazardous Waste  
Lucas County  
OHR 000 019 257**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Brent industries, Inc.

Enclosed are invoices for the total penalty amount of \$8,000.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Elissa Miller at (614) 644-3037.

Sincerely,

A handwritten signature in black ink that reads "D. L. Crumiell-Hagens". The signature is written in a cursive style.

Demitria Crumiell-Hagens, Administrative Professional II  
Division of Materials & Waste Management

Enclosure

cc: Kelly Smith, DMWM, CO  
Mitch Mathews, DMWM, CO  
Elissa Miller, Legal  
Shannon Nabors, DMWM, NWDO  
John Pasquarette, DMWM, NWDO  
Kara Reynolds, DMWM, NWDO  
Colleen Weaver, DMWM, NWDO

OHIO E.P.A.

NOV 13 2015

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ORDER'S JOURNAL

In the Matter of:

**Brent Industries, Inc.**  
2922 South Avenue  
Toledo, Ohio 43609

**Respondent**

**Director's Final  
Findings and Orders**

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Brent Industries, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 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 Respondent or of the Facility 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 3734. and the rules promulgated thereunder.

**IV. FINDINGS**

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).
2. Respondent owns and operates an industrial dry cleaning and laundry business that cleans such items as print towels, shop towels, gloves, and absorbent booms and pads which is located at 2918 South Avenue, Parcel Number 2000341 in Toledo, Lucas County, Ohio (Facility).
3. Ohio EPA has issued U.S. EPA Identification Number OHR000019257 for the Facility.
4. Two processes are employed at the Facility, a dry cleaning process utilizing a Stoddard solvent and a laundering process which uses detergent. The dry cleaning produces a spent solvent which Respondent processes in an onsite refinery.
5. As a result of the refining process, Respondent generates hazardous waste as that term is defined by ORC §3734.01 and OAC rules 3745-50-10(A) and 3745-51-03. Respondent generates non-acute hazardous waste in amounts greater than 1000 kg and therefore is operating as a Large Quantity Generator (LQG) of hazardous waste subject to the requirements in OAC rule 3745-52-34(A).
6. At the Facility, Respondent generates waste which includes, at a minimum, particulates and oils removed from the solvent through the refining process ("heavy ends") and spent solvent from a vent condensing tank in the refining system ("light ends"). These wastes are co-mingled and accumulated in an above ground storage tank (Main AST) at the Facility. Approximately 6,000 gallons of waste is generated from this Main AST each month and shipped offsite as a characteristic hazardous waste due to ignitability (D001), as described in OAC rule 3745-51-21, and the characteristic of toxicity for barium (D005), chromium (D007) and lead (D008) as described in OAC rule 3745-51-24. In addition, Respondent has an additional above ground storage tank (Spare AST) that has been used on at least one occasion in the past to accumulate hazardous waste from the refining process. Respondent also manages universal waste lamps and used oil.
7. On June 6, 2013, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined Respondent, *inter alia*:

Director's Final Findings and Orders

Brent Industries, Inc.

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- a. On May 10, 2012, caused hazardous waste from the Main AST to be transported to a facility that is not a permitted hazardous waste facility, in violation of ORC § 3734.02(F);
  - b. Failed to evaluate several wastes, including but not limited to waste generated from the refining process comprising waste heavy ends, waste light ends, and the waste removed from the Main AST, to determine if these wastes were hazardous waste, in violation of OAC rule 3745-52-11;
  - c. Failed to prepare a manifest for the May 10, 2012, hazardous waste shipment referenced in Finding No. 7.a. of these Orders, in violation of OAC rule 3745-52-20(A)(1);
  - d. Failed to determine if the hazardous waste shipped offsite on May 10, 2012, needed to be treated prior to disposal (on the land), in violation of OAC rule 3745-270-07(A)(1);
  - e. Failed to provide proper documentation regarding treatment standards for the hazardous waste shipped offsite on May 10, 2012, in violation of OAC rule 3745-270-07(A)(2);
  - f. Failed to conduct required inspections of the Main AST which stored the hazardous waste from the refining process, and to conduct required inspections of the Spare AST when it was being used to accumulate hazardous waste, in violation of OAC rule 3745-66-95(A) and (B);
  - g. Failed to comply with applicable hazardous waste tank construction and design requirements, in violation of OAC rules 3745-66-90 through 3745-66-99; and
  - h. Failed to properly manage universal waste spent lamps, in violation of OAC rules 3745-273-13(D)(1), 3745-273-14(E) and 3745-273-15(C).
8. By letter dated July 18, 2013, Ohio EPA notified Respondent of the violations referenced in Finding No. 7. of these Orders. In particular, Ohio EPA requested additional information about the hazardous waste Main AST and Spare AST at the Facility.
  9. By letter dated August 12, 2013, Respondent submitted information addressing the violations in Finding No. 7. of these Orders, including analytical results for waste evaluation. With regard to the Main AST, Respondent provided calculations demonstrating the capacity of the Main AST's secondary containment, details on repairs to the secondary containment and verification that

chemical resistant water stops are in place at all joints. In addition, Respondent provided a Material Safety Data Sheet for the epoxy coating used to seal the secondary containment. Respondent also indicated it had been working with a consultant to perform an assessment of the tank design of the Main AST to determine if it was in compliance with the hazardous waste tank requirements in OAC rule 3745-66-92. With regard to the Spare AST, Respondent indicated it would not be used again to accumulate hazardous waste.

10. By electronic mail on September 20, 2013, Ohio EPA sent Respondent a summary of the status of the violations observed at the Facility during the June 6, 2013, inspection and informed Respondent that Ohio EPA was awaiting a tank assessment for the Main AST.
11. By electronic mail on November 11, 2013, Respondent provided information for the Main AST including the document; March 2001 *Tank System Certification*.
12. By electronic mail on December 17, 2013, Respondent submitted additional information addressing the violations in Finding No. 7. of these Orders. This information included a manifest, a bill of lading and information regarding the unlawful shipment of hazardous waste that occurred on May 10, 2012. The manifest documented that on May 23, 2012, the hazardous waste was shipped from the unpermitted facility referenced in Finding No. 7.a., to a facility authorized to receive hazardous waste. Based on this information, the Director has determined no further action is required by Respondent regarding the violation in Finding No. 7.a. of these Orders.
13. By letter dated February 20, 2014, Ohio EPA notified Respondent that the information provided by Respondent as referenced in Findings Nos. 9., 11. and 12. of these Orders was sufficient to abate the violations listed in Findings Nos. 7.c., 7.d., 7.e., 7.f., and 7.h. of these Orders. Ohio EPA also notified Respondent that it had properly evaluated several of the wastes being generated at the Facility, but had failed to evaluate the waste generated from the vent condensing tank, and had failed to provide documentation that miscellaneous oils being generated at the facility, were being properly managed as "used oil" in lieu of being evaluated to determine if they are hazardous waste. Ohio EPA also informed Respondent that the Spare AST was subject to closure in accordance with OAC rule 3745-52-34(A), if it was no longer going to be used to accumulate hazardous waste.
14. By electronic mail on April 8, 2014, Respondent provided a proposal for upgrades to the Main AST in order for the Main AST to meet the standards in OAC Chapter 3745-66-90 through 3745-66-99 for hazardous waste tanks.

15. By electronic mail on May 29, 2014, Ohio EPA provided comments to Respondent regarding Respondent's proposed upgrades to the Main AST.
16. By electronic mail on June 4, 2014, Respondent requested additional guidance regarding hazardous waste generated at the Facility and proposed upgrades to the Main AST.
17. By electronic mail on July 8, 2014, Ohio EPA provided guidance to Respondent regarding proper management of the ignitable (D001) hazardous waste generated from the refining process, and informed Respondent that additional information was needed regarding its intentions for upgrading or replacing the Main AST.
18. On November 25, 2014, Ohio EPA conducted a follow-up inspection at the Facility to gather additional information regarding where and how waste is generated and also to provide compliance assistance to Respondent regarding the Main AST.
19. By electronic mail on December 19, 2014, Ohio EPA provided correspondence describing Respondent's waste generation processes. By electronic mail on January 20, 2015, Respondent provided clarification regarding the hazardous waste generated at the Facility.
20. By letter dated February 17, 2015, Ohio EPA notified Respondent of the results of the follow-up inspection conducted by Ohio EPA on November 25, 2014. This letter included a detailed description of the processes at the Facility that generate hazardous waste.
21. By electronic mail on March 5, 2015, Respondent contacted DMWM to state that it was having a consultant come to the Facility to provide a quote on recertifying the Main AST and a quote for replacing the tank if it was not possible to certify that the Main AST meets the hazardous waste tank standards.
22. By letter dated July 7, 2015, Respondent submitted analytical results for the waste generated from the vent condensing tank.
23. On August 4, 2015, Ohio EPA met with Respondent to discuss the remaining outstanding violations at the Facility, including the tank violations of OAC rules 3745-66-90 through 3745-66-99 referenced in Finding No. 7.g. and the waste evaluation violation of OAC rule 3745-52-11 referenced in Findings Nos. 7.b. and 13. of these Orders. During this meeting, Respondent indicated that it had not generated any miscellaneous oils since the June 6, 2013 inspection, but that going forward, when Respondent generated used oil, it would be properly

managed as "used oil" in accordance with OAC rules 3745-279-20 through OAC rule 3745-279-24.

24. The Director has determined that based on the information provided by Respondent as referenced in Findings Nos. 22. and 23. of these Orders, the violation of OAC rule 3745-52-11 referenced in Findings Nos. 7.b. and 13. of these Orders is abated.
25. On September 4, 2015, Respondent contacted Ohio EPA and stated that it intends to upgrade and operate the Spare AST in accordance with the hazardous waste tank standards set forth in OAC rules 3745-66-90 through 3745-66-99 and use the Main AST to store clean solvent product.
26. Based upon the information in Finding No. 25. of these Orders, the Director has determined that because the Main AST was used to accumulate hazardous waste, when Respondent ceases operating the Main AST, Respondent must conduct closure of the Main AST in accordance with OAC rule 3745-52-34(A).

## **V. ORDERS**

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Within 90 days after the effective date of these Orders, Respondent shall submit documentation demonstrating that the Spare AST hazardous waste tank, as referenced in Finding No. 25. of these Orders, is in compliance with the hazardous waste tank standards in OAC rules 3745-66-90 through 3745-66-99. This documentation shall include but not be limited to, a written assessment for the tank that addresses the requirements of OAC rule 3745-66-92, and evidence that the secondary containment for the Spare AST hazardous waste tank meets the requirements in OAC rule 3745-66-93. This documentation shall be submitted in accordance with Paragraph X. of these Orders. Compliance with this Order will abate the violations referenced in Finding No. 7.g. of these Orders.
2. Respondent shall pay Ohio EPA the amount of \$8,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28., in accordance with the following schedule:

- a. Within 90 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00;
- b. Within 180 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00;
- c. Within 270 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00; and
- d. Within 365 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00.

Payments shall be made by an official check made payable to "Treasurer, State of Ohio" and shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Facility. A copy of each check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is e.g., a corporate officer, who is in charge of a principal business function of Respondent.

#### **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 operation of Respondent's 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:

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Materials and Waste Management  
347 N. Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: DMWM Manager  
and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
50 West Town Street  
Columbus, Ohio 43215

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 specifically 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

**IT IS SO AGREED:**

**Brent Industries, Inc.**



Signature

10/16/15  
Date

Tara Seibert  
Printed or Typed Name

Plant mgr.  
Title