

OHIO E.P.A.

MAR 27 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Stan and Sherry Burkhart :
dba Lakeview Woodworking & Finishing :
8848 Cutler Road NE :
Sherrodsville, OH 44675 :

Expedited Settlement
Agreement and
Director's Order

Respondent

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: Danya Lassiter Date: 3/27/12

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Lakeview Woodworking & Finishing (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. FINDINGS

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates a wood furniture finishing facility located at 8848 Cutler Road NE, Sherrodsville, Tuscarawas County, Ohio 44675 (Facility).
3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a conditionally exempt small quantity generator of hazardous waste and has been assigned EPA ID number OHR000164749. Currently, hazardous wastes generated by Respondent at the Facility include hazardous waste lacquer thinner (D001, F003, F005), as described in OAC rules 3745-51-21 and 3745-51-31, from cleaning its topcoat spray lines and spray guns.
4. On June 23, 2011, Ohio EPA conducted a compliance evaluation inspection of the Facility. As a result of this inspection, Ohio EPA determined that

Respondent, *inter alia*:

- a. Failed to evaluate the spent waste lacquer thinner to determine if it is a hazardous waste, in violation of OAC rule 3745-52-11; and
 - b. Disposed of hazardous waste to the air without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F), by allowing the listed hazardous waste spent lacquer thinner, as described in Finding No. 3. of these Orders, to volatilize to the air. Also, Respondent placed rags contaminated with the hazardous waste spent lacquer thinner into Respondent's solid waste container which was transported to a solid waste landfill.
5. Based on the information in Finding No. 4.b. of these Orders, the Director has determined Respondent caused the unlawful transportation of hazardous waste to a facility not authorized to manage hazardous waste, in violation of ORC § 3734.02(F), by allowing the spent rags containing listed hazardous waste solids to be transported to a solid waste landfill.
 6. Respondent was notified of the violations referenced in Finding No. 4. of these Orders by letter dated July 22, 2011.
 7. Respondent submitted documentation in response to the violations referenced in Finding Nos. 4. and 5. of these Orders on August 17, 2011. This documentation acknowledged the waste they generate is a hazardous waste, and demonstrated an arrangement with an authorized facility to manage their hazardous waste.
 8. By letter dated September 7, 2011, Ohio EPA notified Respondent that the violation referenced in Finding No. 4.a. of these Orders is abated. Furthermore, the Director has determined, no further action is required with regard to the violation in Finding No. 5. of these Orders.
 9. The Director has determined that no further action is required with regard to the hazardous waste spent lacquer thinner which was disposed to the air, as described in Finding No. 4.b. of these Orders. Due to the dispersement of the hazardous waste constituents by volatilization, the Director recognizes the impracticability for any remedial injunctive relief activity.
 10. In consideration of Respondent being a small business (two employees), a conditionally exempt small quantity generator of hazardous waste, its good faith effort to comply in this matter, the benefits of prompt compliance to the public, efficiency in Ohio EPA resources, other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

1. Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of \$1,760.00 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of this check shall be submitted to Supervisor, Processing/Records Management Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is 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 comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

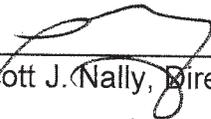
The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

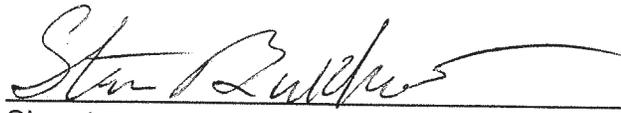


Scott J. Nally, Director

March 27, 2012
Date

IT IS SO AGREED:

Stan and Sherry Burkhardt dba Lakeview Woodworking & Finishing



Signature

3-14-12
Date

STAN BURKHART
Printed or Typed Name

Owner
Title