

OHIO E.P.A.

MAY 17 2012

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the matter of:

BMD Workbench, Inc.
2166 South State Route 231
Tiffin, Ohio 44883-4402

Expedited Settlement
Agreement and
Director's Order

Respondent

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to BMD Workbench, 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. 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 furniture stripping, repairing and refinishing facility located at 2166 South State Route 231, Tiffin, Seneca County, Ohio (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHR000111591 on November 22, 2002.
4. 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. At the time of the inspection, Respondent was generating spent methylene chloride (dichloromethane) solvent which is at a minimum, listed hazardous waste F002 and F003 and characteristic hazardous waste D001, D005, D007, D008, D035, and D038, as described in OAC Chapter 3745-51 and combining it with sawdust prior to disposal. Respondent was also generating hazardous waste spent filters from an air stripping process (F002) at the Facility.

5. On January 14, 2011, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent, *inter alia*:
 - a. 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 hazardous waste spent methylene chloride (dichloromethane) solvent that had been mixed with the sawdust and the spent hazardous waste filters to be transported to County Environmental of Wyandot Landfill in Carey, Ohio; and
 - b. Failed to evaluate waste generated at the Facility to determine if the waste is a hazardous waste, in violation of OAC rule 3745-52-11.
6. By letter dated April 6, 2011, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of this ESA.
7. Respondent submitted information on May 10, 2011, June 14, 2011 and August 9, 2011 in response to Ohio EPA's Notice of Violation letter dated April 6, 2011. This information included analytical data for the hazardous waste spent solvent, a hazardous waste manifest documenting a shipment of the spent solvent to an authorized facility, and revised procedures for how Respondent will manage hazardous waste at the Facility, including no longer mixing the spent methylene chloride (dichloromethane) with sawdust.
8. By letter dated October 28, 2011, Ohio EPA notified Respondent that the violation referenced in Finding No. 5.b. of this ESA had been abated. Furthermore, based upon the information submitted in Finding No. 7. of this ESA, the Director has determined no further action is required with regard to the violation in Finding No. 5.a. of this ESA.
9. By letter dated March 30, 2012, Respondent submitted financial information to Ohio EPA. Subsequent to this submittal, Ohio EPA had discussions with Respondent which provided an updated status of Respondent's financial condition. Upon review of this information, the Director has determined Respondent does not possess the ability to pay the entire civil penalty in the ESA proposed to Respondent on March 19, 2012.
10. In consideration of Respondent's standing as a small business with limited financial resources, its good faith effort to comply in this matter, the benefits of prompt compliance to the public, efficiency in Ohio EPA resources, and 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

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 \$2,500.00 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 both 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

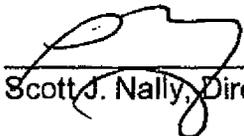
The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

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

May 17, 2012

Date

IT IS SO AGREED:

BMD Workbench, Inc.



Signature

5-7-12

Date

KURT SMITH

Printed or Typed Name

PRESIDENT

Title