



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

October 30, 2018

Schlabach Wood Design, Inc.  
ATTN: Willis Schlabach  
52567 State Route 651  
Baltic, OH 43804

**Re: Schlabach Wood Design  
Director's Final Findings and Orders  
(DFFO)  
DFFO  
RCRA C - Hazardous Waste  
Coshocton County  
OHR000116848**

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

Dear Sir:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Schlabach Wood Design.

Enclosed is the invoice for the total penalty amount of \$5,400.00 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 Sarah Miles at (614) 644-3037.

Sincerely,

A handwritten signature in black ink that reads "Tonya Andrews". The signature is written in a cursive, flowing style.

Tonya Andrews, Administrative Professional 3  
Division of Environmental Response & Revitalization

Enclosure

cc: Tammy Heffelfinger, DERR, CO  
Zachary Kabelen, DERR, CO  
Scott Bergreen, DERR, SEDO  
Emily Deshaies, DERR, SEDO  
Sarah Miles, Legal  
Willis Schlabach, [willis@schlabachwooddesign.com](mailto:willis@schlabachwooddesign.com)

# Ohio EPA Invoice/Receipt

Date Printed: October 30, 2018

Revenue ID: 1251512

*Please include this Revenue ID with all correspondence.*

Place ID: 275630

Information: Schlabach Wood Design  
52567 State Rte 651  
Baltic, OH 43804-

Due Date:

Amount Due:

Effective Date: October 30, 2018

Revenue Description: DHWM- Findings and Orders - hazardous waste cleanup

Program Name: RCRA C - Hazardous Waste

Reason: Findings and Orders, Civil Penalty, Schlabach Wood Design

*For some Revenues, Interest and/or Penalties may be charged for late payment.*

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

## Remittance Advice

**Detach Here - Please Return This Portion With Your Payment**

Place ID: 275630

Information: Schlabach Wood Design  
52567 State Rte 651  
Baltic, OH 43804-

Due Date:

Amount Due:

Secondary Type/Id: RCRA / OHR000116848

Revenue Type: FFOHW

Amount Enclosed: \$ \_\_\_\_\_

Many Ohio EPA fee invoices are payable online. For online credit card or ACH payment, go to <https://eBiz.epa.ohio.gov>, login or create an account and from the "Available Services" window choose "Pay Ohio EPA Fees Online".

**Please write this number on your check. Revenue ID: 1251512**  
**Make check or money order payable to "Treasurer, State of Ohio"**

Remit to: Ohio Environmental Protection Agency - OFA  
Department L-2711  
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: \_\_\_\_\_  
Check Date: \_\_\_\_\_  
Check Number: \_\_\_\_\_  
Check Amount: \$ \_\_\_\_\_

540000

FFOHW 1251512

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Schlabach Wood Design, Inc.  
52567 State Route 651  
Baltic, Ohio 43804

Respondent

Director's Final  
Findings and Orders

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: Joseph Cassiter Date: 10/30/18

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Schlabach Wood Design, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 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

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of Ohio Administrative Code

(OAC), the Director may, by order, exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.

2. Respondent is a "person" as defined in ORC § 3734.01 (G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Willis Schlabach and Ruth Schlabach own the real property located at 52567 State Route 651, Baltic, Ohio 43804, parcel number 0080000025400 (Facility). The Facility has been assigned U.S. EPA ID number OHR000116848.
4. Respondent is a manufacturer of custom wood cabinets in which the manufacturing process includes the assembly and coating of cabinets located at 52567 State Route 651, Baltic, Coshocton County, Ohio.
5. 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, which is hazardous for ignitability (D001), toxicity (D035 – methyl ethyl ketone) and ignitability for non-halogenated solvents (F003 and F005) as defined under OAC rule 3745-51-21, OAC rule 3745-51-24 and OAC rule 3745-51-31. Respondent is a small quantity generator of hazardous waste subject to the requirements in OAC rule 3745-52-34(A).
6. On April 28, 2003, Ohio EPA conducted an inspection at the Facility. During the inspection, Ohio EPA observed a container leaking its contents to the soil in the former drum storage area. The container held lacquer waste/spent solvent, characteristically hazardous for ignitability and toxicity (F005). Respondent removed, managed and manifested two 55-gallon drums of contaminated soil as a listed waste off-site to an authorized waste disposal facility on June 2, 2003. By a letter dated June 13, 2003, the Facility was returned to compliance as a result of Ohio EPA believing staining of the soil to be caused by used oil rather than the hazardous waste the Facility had determined.
7. On October 27, 2016, Ohio EPA conducted a Compliance Evaluation Inspection of the Facility to determine if they were in compliance with the regulations governing small quantity generators of hazardous waste as a result of a Coshocton County Health Department investigation. During the inspection Ohio

EPA observed the drum storage building where eight 55-gallon containers of hazardous waste were stored. A significant amount of staining and residue were observed on the pavement in and around the drum storage building as well as on the grass and gravel area adjacent to the storage area. Respondent was not able to provide Ohio EPA with copies of hazardous waste inspection logs or emergency contact information during the inspection.

8. On November 1, 2016, via electronic mail, Ohio EPA requested that Respondent provide information regarding weekly inspection logs and required emergency contact information that had not been provided during the inspection referenced in Finding No. 7. of these Orders.
9. Based upon the information described in Finding Nos. 6. and 7. of these Orders Ohio EPA determined that Respondent had *inter alia*:
  - a. Established and operated an unlawful hazardous waste facility without first obtaining a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02(E) and (F), OAC rules 3745-50-40 and 3745-50-45;
  - b. Failed to properly evaluate waste to determine if they were hazardous waste, in violation of OAC rule 3745-52-11;
  - c. Failed to apply for a Generator ID number, in violation of OAC rule 3745-52-12(B);
  - d. Failed to maintain and operate the facility to minimize the possibility of fire, explosion, or release of hazardous waste, in violation of OAC rule 3745-65-31;
  - e. Failed to maintain aisle space to allow the unobstructed movement within the waste storage building, in violation of OAC rule 3745-65-35;
  - f. Failed to conduct inspections of the containers in their storage area, in violation of OAC rule 3745-66-74;
  - g. Failed to comply with multiple small quantity generator requirements in OAC rule 3745-52-34(D).
10. In a Notice of Violation (NOV) dated November 23, 2016, Ohio EPA notified Respondent of the violations described in Finding No. 9. of these Orders.
11. On December 12, December 14, December 21, 2016 and January 11, 2017,

Respondent's environmental consultant provided via electronic mail information to resolve several violations including copies of a manifest for waste shipped offsite, a signed form EPA 9029 to apply for a US EPA identification number, photographs showing that required emergency information had been posted, documentation and sign-in logs for waste handling and emergency training, photographic proof that waste containers were stored with proper aisle space and kept closed, as well as were properly labeled with the words "hazardous waste" and accumulation start dates were included on waste containers, and copies of hazardous waste inspection logs.

12. By letter dated March 24, 2017, Ohio EPA notified Respondent that based upon the information provided as referenced in Finding No. 11. of these Orders, all hazardous waste violations except ORC § 3734.02(E) and (F), OAC rule 3745-52-11, and OAC rule 3745-65-31 had been resolved.
13. Ohio EPA observed Respondent updated the hazardous waste procedures implemented at the Facility. Respondent now fills 55-gallon containers near the point of generation and moves the full drum to the outdoor accumulation area to prevent a release from occurring. Based upon this information, the Director has determined Respondent has resolved the violation of OAC rule 3745-65-31 described in Finding No. 9. d. of these Orders.
14. On April 19, 2017, Respondent submitted a waste determination for the wastes referenced in the November 23, 2016 NOV. Based upon a review of this information, Ohio EPA determined Respondent resolved the violation of OAC rule 3745-52-11 described in Finding No. 9. b. of these Orders.
15. On August 18, 2017, Ohio EPA notified Respondent that based on the information referenced in Finding No. 14. of these Orders, the violation of OAC rule 3745-52-11 had been resolved.
16. On October 18, 2017, Ohio EPA met with Respondent's environmental consultant to discuss the hazardous waste disposal facility outstanding violations. Respondent plans to conduct sampling of the hazardous waste management units referenced in Finding Nos. 6. and 7. of these Orders.
17. On October 27, 2017, Respondent's environmental consultant provided to Ohio EPA via electronic email a proposed screening, sampling and analysis plan of the Facility to address the hazardous waste management units described in Finding No. 7. of these Orders.
18. On January 12, 2018, Ohio EPA contacted Respondent's environmental

consultant via telephone to discuss the sampling and analysis plan. Specifically, Ohio EPA discussed the need to address the hazardous waste unit described in Finding No. 6. of these Orders.

19. On February 12, 2018, Ohio EPA met with Respondent and Respondent's environmental consultant at the Facility to discuss the sampling and analysis plan with regards to the hazardous waste units described in Finding Nos. 6. and 7. of these Orders.
20. Due to Respondent's establishment and operation of a hazardous waste facility as described in Finding No. 9.a. of these Orders, Respondent is required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapter 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.
21. The submittal of a Closure Plan for the hazardous waste units at the Facility where hazardous waste was disposed as described in Findings Nos. 6. and 7. of these Orders, in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. The Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G), provided Respondent meets the conditions set forth in the Orders.

## **V. ORDERS**

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

1. Respondent is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility,

provided that, Respondent complies with the following:

- a. Within 30 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for all hazardous waste storage areas described in Finding Nos. 6. and 7. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Erik Hagen, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;
- b. This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, and OAC rule 3745-56-28, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100;
- c. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan referenced in Order No. 1.a., and provides Respondents with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan;
- d. Upon Ohio EPA's written approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13;
- e. Within 90 days after approval of the Closure Plan pursuant to Order No. 1.a., Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and
- f. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15. Closure certification of the area described in Order No. 1.a. will abate the violation referenced in Finding No. 9.a. of these Orders.



2. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$5,400 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 environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$5,400. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent. A copy of the check shall be sent to the Financial Program Manager, Ohio EPA, Division of Environmental Response and Revitalization, 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 the Chief of Ohio EPA's Division of Environmental Response and Revitalization 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 a [e.g., 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 Respondents 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  
Southeast District Office  
Division of Environmental Response and Revitalization  
2195 Front Street  
Logan, Ohio 43138  
Attn: Hazardous Waste Program 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 Environmental Response and Revitalization  
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 Environmental Response and Revitalization  
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 reserves the rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734, or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondent each reserve all other 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. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive. 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 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**



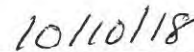
\_\_\_\_\_  
Craig W. Butler  
Director

**IT IS SO AGREED:**

**Schlabach Wood Design, Inc**



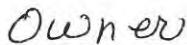
\_\_\_\_\_  
Signature



\_\_\_\_\_  
Date



\_\_\_\_\_  
Printed or Typed Name



\_\_\_\_\_  
Title