COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO CRAFT MACHINE WORKS, INC. EPA ID No. VAD988221024

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Craft Machine Works, Inc. for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1401.

2. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-80-120(A).

3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

4. "Craft" means Craft Machine Works, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Craft Machine Works, Inc. is a "person" within the meaning of Va. Code § 10.1-1400.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

7. "EPA" means the U.S. Environmental Protection Agency.

8. "Facility" or "Site" means the Craft Facility located at 2102 48th Street in Hampton, Virginia.

9. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.

10. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.

11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

13. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.

14. "RCRA Subtitle C" means Resource Conservation and Recovery Act Subtitle C, a federal program to manager hazardous waste from cradle to grave as described in 40 CFR Subtitle C,

15. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.

17. "SQG" means small quantity generator, a hazardous waste generator that generates greater than 100 kilograms (220 pounds) and less than1000 kilograms

(2200 pounds) in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).

18. "Va. Code" means the Code of Virginia (1950), as amended.

19. "VAC" means the Virginia Administrative Code.

20. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Craft owns and operates the Facility, a metal parts machine and fabrication shop ("Facility") in Hampton, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.

2. Craft submitted a RCRA Subtitle C Site Identification Form on August 13, 1992 that provided notice of regulated waste activity at the Facility as a CESQG of hazardous waste. Craft was issued EPA ID No. VAD988221024 for the Facility. In a subsequent form received December 17, 1999, Craft gave notice as a SQG of hazardous waste at the Facility.

3. At the Facility, Craft generates paint related waste which is a solid waste. Paint related waste is also a hazardous waste – EPA designated as D001 ignitable characteristic waste as described in 40 CFR §261.21 or F003 and F005 listed waste as described in 40 CFR §261.31(a).

4. On June 15, June 23 and August 3, 2011, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

    a. Thirty-seven 55-gallon containers located outside of the paint shop at the rear of the Facility building, thirty-six of which had not been marked as to their contents. Subsequently, Craft identified thirty-two 55-gallon containers as hazardous waste (EPA waste codes D001, F003 and F005) and were transported offsite under uniform hazardous waste manifest 005265480JJK ("manifest") on August 4, 2011.

    b. Craft representatives reported that approximately one 55-gallon container of hazardous waste per month is generated at the Facility. A review of Craft records indicated the last previous transport of hazardous waste from the Facility was on January 23, 2008 or 1,290 days between manifests. On August 4, 2011, 1,760 gallons (or

13,979 pounds) of hazardous waste was transported offsite under the manifest. A review of DEQ records indicated that Craft has not applied for a permit from, nor been granted interim status by, the Director for the storage of hazardous waste at the Facility. Furthermore, Craft did not apply for, nor was granted an extension to storage of hazardous waste greater than 180 days (or 270 as applicable).

c. One 55-gallon container labeled 'hazardous waste' was not marked with an accumulation start date and thirty-six 55-gallon containers described by Craft representatives as 'all used, mostly paint' were not labeled as to their contents nor were they labeled with the words 'hazardous waste' or accumulation start dates.

d. Five 55-gallon containers of hazardous waste (one on June 15, 2011, four on June 23, 2011) that had no bung cap and/or secured top yet employees were not adding or removing to the drums at the time of the inspections. Several 55-gallon containers of hazardous waste that were dented, rusted, water pooled on top of the containers, stored haphazardly and/or leaning on pallets, expanded tops and bottoms and were stored outside, exposed to weather with apparent spills of paint on the top and sides of several containers.

e. Craft did not provide DEQ staff records of weekly inspections of the storage area outside of the Facility building.

f. A review of DEQ records indicated Craft did not notify DEQ of the establishment of a hazardous waste accumulation area, including any area outside of the Facility building.

g. One unlabeled 55-gallon container of hazardous waste stored at or near the point of generation with an open funnel in the open bung of the container.

4. 40 CFR § 262.11 and 9 VAC 20-60-262 require a person who generates a solid waste, to determine if that waste is a hazardous waste through testing or applying knowledge of the hazard characteristic of the waste in light of the materials or the process used.

5. 40 CFR 262.34(f) and 9 VAC 20-60-262 state that a SQG of hazardous waste that stores hazardous waste for greater than 180 days (or 270 days as applicable) or accumulates hazardous waste in quantities exceeding 6,000 kilograms (13,227.735 pounds) is an operator of a storage facility and is subject to the permit requirements of 40 CFR part 270.

6. 40 CFR 262.34(d)(4) and 9 VAC 20-60-262 require each container of hazardous waste to be labeled with the words 'hazardous waste' and the date upon which each period of accumulation begins.

7. 40 CFR 262.34(d)(2), 40 CFR 265.171, 40 CFR 265.173(a), 40 CFR 265.173(b) and 9 VAC 20-60-262 require the owner or operator to transfer hazardous waste in containers not in good condition, containers with hazardous waste to always be closed except when it is necessary to add or remove waste, to not open, handle or store containers of hazardous waste in a manner which may rupture the container or cause it to leak.

8. 40 CFR 265.174 requires an owner or operator to conduct weekly inspections of hazardous waste storage areas to look for leaking containers and for deterioration of containers caused by corrosion and other factors.

9. 9 VAC 20-60-262(B)(4) requires a generator of hazardous waste to notify DEQ and document in the operating record that he intends to accumulate hazardous waste prior to or immediately upon the establishment of each accumulation area and to specify the exact location of the accumulation area at the site.

10. 40 CFR 262.34(c)(1) and 9 VAC 20-60-262 require that a container of hazardous waste stored at or near its point of generation must always be closed during storage, except when it is necessary to add or remove waste and marked with the words 'hazardous waste' or other words that identify the contents of the container.

11. On September 12, 2011, based on the inspections and follow-up information, the Department issued a Notice of Violation to Craft for the violations described in paragraphs C(4) through C(10), above.

12. On October 11, 2011, Department staff met with representatives of Craft to discuss the violations noted in the NOV.

13. Between October, 2011 and July, 2013 Department staff were seeking a response from Craft to address the above violations. Department Staff actions included several correspondences by email and letter, provided a draft Consent Order, and provided several meeting dates, one of which resulted in a meeting with Craft representatives on September 6, 2012.

14. On July 24, 2013 Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

    a. Subsequent to the site visit DEQ requested by telephone on July 25, 2013, that Craft provide copies of shipping documents for all waste transported off site between March 2012 and July 2013. Two

uniform hazardous waste manifests ("manifests") were provided: 1) Manifest 009267042JJK, initial transport date March 27, 2012, for 1,045 gallons of hazardous waste (19 x 55-gallon containers), and 2) Manifest 006461765FLE, initial transport date July 3, 2013, for 495 gallons of hazardous waste (nine x 55-gallon containers). According to Craft staff, no other hazardous waste shipping records between March 2012 and July 2013 were located or provided.

b. During a previous inspection on August 8, 2012 of the Facility, DEQ staff observed six 55-gallon containers in the Facility's identified hazardous waste accumulation area (concrete shed). One 55 gallon container was marked as 'hazardous waste paint' with an accumulation start date of May 1, 2012. Five 55 gallon containers were identified to DEQ staff as product by Craft.

c. In written correspondence dated September 26, 2012, Craft noted the five 55-gallon containers previously identified as product would be disposed.

d. One container of hazardous waste was stored at the facility from May 1, 2012 until July 3, 2013 (429 days); the remaining containers of hazardous waste have been stored at the Facility from September 26, 2012 until July 3, 2013 (281 days).

e. A review of DEQ records indicates Craft had not requested from, or been granted by DEQ an extension to the period for the accumulation of hazardous waste onsite nor has Craft submitted an application for, or been issued, a permit for the storage of hazardous waste under the VHWMR and/or the Virginia Waste Management Act.

15. 40 CFR 262.34(f), as adopted by reference at 9VAC20-60-262 of the VHWMR, states that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kilograms or accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless he has been granted an extension [to the 180-day (or 270-day if applicable) period] of up to 30 days at the discretion of the Director.

16. 40 CFR 262.34(b), as adopted by reference at 9VAC20-60-262 of the VHWMR, states that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless he has been

granted an extension (to the 90-day period) of up to 30 days at the discretion of the Director.

17. 40 CFR 270.1(c), as adopted by reference at 9VAC20-60-270 of the VHWMR, states that RCRA requires a permit for the treatment, storage and disposal of hazardous waste during the active life of the unit.

18. § 10.1-1426.A of the Virginia Waste Management Act states that no person shall transport, store, provide treatment for, or dispose of a hazardous waste without a permit from the Director.

19. On September 9, 2013, based on the inspections and follow-up information, the Department issued a Notice of Violation to Craft for the violations described in paragraphs C(14) through C(18), above.

20. On September 19, 2013, Department staff met with representatives of Craft to discuss the violations noted in the NOV.

21. Based on the results of the June 15, June 23 and August 3, 2011 inspections and the October 11, 2011 meeting, the Board concludes that Craft has violated the Regulations, as described in paragraphs C(4) through C(10), and C(14) through C(18), above.

22. Craft has submitted documentation that verifies that the violations in paragraphs C(4) through C(10), and C(14) through C(18) above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code § 10.1-1455, the Board orders Craft and Craft agrees to:

1. Pay a civil charge of $10,000.00 in settlement of the violations cited in this Order.

2. Payment shall be made in accordance with the following schedule:

Due Date	Amount
June 15, 2014	$1,670.00
July 15, 2014	$1,666.00
August 15, 2014	$1,666.00
September 15, 2014	$1,666.00
October 15, 2014	$1,666.00
November 15, 2014	$1,666.00

3. If the Department fails to receive a payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and

owing under this Order, and the Department may demand in writing full payment by Craft. Within 15 days of receipt of such letter, Craft shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

4. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

   Receipts Control
   Department of Environmental Quality
   Post Office Box 1104
   Richmond, Virginia 23218

5. Craft shall include its Federal Employer Identification Number (FEIN) [54 - 0882083] with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Craft for good cause shown by Craft, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For the purposes of this Order and subsequent actions with respect to this Order only, Craft admits to the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Craft consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Craft declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Craft to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Craft does not waive any rights or objections it may have in any enforcement actions by federal, other state or local authorities arising out of the same facts or facts similar to those recited in this Order.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Craft shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Craft shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Craft shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the TRO Regional Director within 24 hours and in writing within three business days, of learning of any condition above, which Craft intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Craft. Nevertheless, Craft agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

a. The Director or his designee terminates the Order after Craft has completed all of the requirements of the Order;

b. Craft petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Craft.

Termination of this Order, or any obligation imposed in this order, shall not operate to relieve Craft from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Craft and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Craft certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Craft to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Craft.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between parties other than those expressed in this Order.

15. By its signature below, Craft voluntarily agrees to the issuance of this Order.

And it is so ORDERED this_____ day of _____, 2014.

_____
Regional Director
Department of Environmental Quality

Craft Machine Works, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/14/14 By: _____, ATTORNEY-IN-FACT
(Person) (Title)

Commonwealth of Virginia
City/County of VIRGINIA BEACH

The foregoing document was signed and acknowledged before me this 14th day of APRIL, 2014, by DONALD L. MOORE who is ATTORNEY-IN-FACT of Craft Machine Works, Inc., on behalf of the corporation.

Deborah C Arnold
Notary Public

247031
Registration No.

DEBORAH C. ARNOLD
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #247031
My Commission Expires 03/31/17

My commission expires: 03/31/17

Notary seal: