

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

www.deq.virginia.gov

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO NORCRAFT COMPANIES, L.P. EPA ID No. VAD988213153

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 Norcraft Companies, L.P. 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. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.
2. "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.
3. "BRRO-L" means the Blue Ridge Regional Office of DEQ, located in Lynchburg Virginia.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

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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. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "LQG" means large quantity generator, a hazardous waste generator that generates 1,000 kilograms (2,200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(a)-(b) and (g)-(l)).
10. "Norcraft" means Norcraft Companies, L.P., a limited partnership authorized to do business in Virginia, and its affiliates, partners, subsidiaries, and parents. Norcraft is a "person" within the meaning of Va. Code § 10.1-1400.
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.
13. "Site" or "Facility" means the custom kitchen and bath cabinetry manufacturing facility in Lynchburg Virginia that is owned and operated by Norcraft.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(d)-(f)).
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.
18. "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.
19. "VHWMR" or "Regulations" 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 effective 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.

SECTION C: Findings of Fact and Conclusions of Law

1. Norcraft owns and operates a custom kitchen and bath cabinetry manufacturing facility in Lynchburg Virginia.
2. Norcraft submitted a RCRA Subtitle C Site Identification form (received December 15, 1992) that gave notice of regulated waste activity as a SQG of hazardous waste. Norcraft was issued EPA ID No. VAD988213153 for the Facility. In a subsequent form (received June 10, 2010), Norcraft gave notice as a LQG of hazardous waste.
3. At the Facility, Norcraft generates spent solvents, which are a solid waste. The spent solvents generated by Norcraft are also a hazardous waste – a F003 and F005 listed waste as described in 40 CFR § 261.31, and an ignitable characteristic waste (D001) as described in 40 CFR § 261.21. Spent solvents generated at Norcraft may also be a toxic characteristic waste (D035) as described in 40 CFR § 261.24. This hazardous waste is accumulated in tanks and/or containers at the Facility after its generation.
4. At the Facility, Norcraft also generates spent spray booth filters, which are a solid waste. The spent spray booth filters are generated from both stain and topcoat spraying processes. The spent waste stain spray booth filters generated by Norcraft are also a hazardous waste – a toxic characteristic waste (D007) as described in 40 CFR § 261.24. This hazardous waste is currently accumulated in containers at the Facility after its generation.
5. On December 6, 2010, Department staff inspected the Facility for conformity with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff observed that Norcraft had not characterized the spent spray booth filter waste streams. At the time of the inspection, Norcraft was managing both types of spent spray booth filters as a solid waste and disposing of them at a Subtitle D landfill.
6. On January 31, 2011, Norcraft notified DEQ that it had performed an analysis of the waste spray booth filters and the results of that analysis indicated that the waste stain spray booth filters (but not the waste topcoat spray booth filters) are a D007 hazardous waste because they contain chromium at a level exceeding the regulatory threshold. After making this determination, Norcraft began managing the waste stain spray booth filters as a hazardous waste and is currently seeking to substitute a formulation of stain that does not contain chromium.

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7. Pursuant to 40 CFR § 262.11, a person who generates a solid waste, as defined in 40 CFR § 261.2, must determine if that waste is a hazardous waste.
8. On February 24, 2011, based on the inspection and follow-up information, the Department issued NOV No. 11-2-BRRO-L-001 to Norcraft for the violation described in paragraph 5 above.
9. Representatives of DEQ and Norcraft discussed the NOV in a phone conversation on March 4, 2011.
10. Norcraft has submitted documentation that verifies that the violation described in Paragraph C(5), above, has been corrected.
11. Based on the results of the December 6, 2010 inspection, the notification Norcraft provided to DEQ on February 4, 2011, and information discussed during the March 4, 2011 phone conversation between representatives of Norcraft and DEQ, the Board concludes that Norcraft has violated VHWMR and the Virginia Waste Management Act, as noted above. More specifically, as noted above, the Board concludes that the Norcraft has violated the following regulation: 40 CFR § 262.11.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Norcraft, and Norcraft agrees to pay a civil charge of \$6,000.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

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

36-4231718

Norcraft shall include its Federal Employer Identification Number (FEIN) () 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 this Order with the consent of Norcraft for good cause shown by Norcraft, or on its own motion pursuant to the Administrative Process Act after notice and opportunity to be heard.

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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 purposes of this Order and subsequent actions with respect to this Order only, Norcraft admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Norcraft 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. Norcraft declares that 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 Norcraft 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.
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. Norcraft 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. Norcraft shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Norcraft 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;

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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 Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Norcraft 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 Norcraft.

11. This Order shall continue in effect until:

(a) Norcraft petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

(b) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Norcraft.

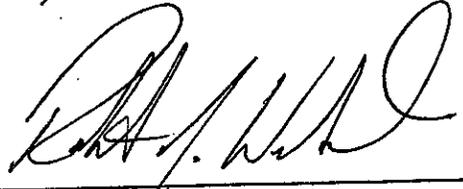
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Norcraft from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. The undersigned representative of Norcraft 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 Norcraft to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Norcraft.

13. 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 the parties other than those expressed in this Order.

14. By its signature below, Norcraft voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5th day of July, 2011.



Robert J. Weld, Regional Director
Department of Environmental Quality

Norcraft Companies, L.P. voluntarily agrees to the issuance of this Order.

Date: 5-12-2011 By: William Steven Woodard

Norcraft Companies, L.P.

Commonwealth of Virginia
City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 12 day of May, 2011, by William Steven Woodard.

Aubrey Scott Baldwin
Notary Public

7318810
Registration No.

My commission expires: 02/28/2014

Notary seal:

