

Hazardous Waste



Recent changes in the hazardous waste program include the following:

- Universal Waste (UW) Lamp Crushing Regulations
- Definition of Solid Waste Rule
- Generator Improvements Rule

UW Lamp Crushing



Crushing of UW lamps has been allowed in Virginia since March 2002.

However, Virginia had not received authorization from the EPA for these regulations.

To obtain authorization, Virginia must demonstrate that crushing can be done safely and that risk of exposure from crushing is not greater than that at a facility that does not crush.

UW Lamp Crushing



The VHWMR regulatory amendment that will support the equivalency determination that UW lamp crushing in Virginia meets the federal standards became effective in 2017.

It includes new compliance requirements for UW lamp generators who crush at their facility, and for UW lamp recyclers in Virginia.

UW Lamp Crushing



VHWMR Amendment 18 contains Lamp Crushing

January 1, 2017 – Regulation effective date

January 31, 2017 – Notification due for crushers in operation on January 1, 2017

Within 30 days of commencing crushing –
Notification due for new crushing operations

April 1, 2017 – Existing crushers must demonstrate compliance with the new regulations

UW Lamp Crushing



Effective on January 1, 2017, generators of waste lamps opting to manage the lamps as universal wastes are allowed to crush these lamps **on the site of generation** provided that certain requirements are met.

UW Lamp Crushing



Small Quantity Handlers (less than 5,000 kg of universal waste accumulated at any one time) that desire to crush on site must do the following:

- Notification by January 31, 2017, or within 30 days of commencing, that crushing is taking place on site;
- Development of training plans for crusher operations;
- Mechanical crusher requirements

UW Lamp Crushing



(SQH Requirements continued):

- Secondary filtration requirements
- Emissions sampling, testing and monitoring requirements
- Recordkeeping requirements.

UW Lamp Crushing



Large Quantity Handlers (greater than 5,000 kg accumulated at any one time) who want to crush UW lamps on site must meet the following requirements:

- Same as for SQH, but also:

 - Closure requirements.

 - Financial assurance requirements.

UW Lamp Crushing



Crushing of UW lamps can be performed at facilities that are “under the control of the generator” even if these facilities are not contiguous provided that:

- Both the generating and crushing facility are controlled by the same person;
- The generator provides the appropriate certification regarding common control;
- The crushed lamps are going to be recycled, not disposed.

UW Lamp Crushing



Prohibition:

No mobile crushing of UW lamps is allowed.

Permitting requirements for Designated Facilities that receive UW Lamps from off-site for crushing have not changed.

Exception: Off-site facilities meeting “under the control of the generator” allowance discussed previously

UW Lamp Crushing



Within fifteen days of making a change to any information in the original notification – Re-notification must be submitted.

See UW lamp crushing guidance at:

http://www.deq.virginia.gov/Portals/0/DEQ/Land/Guidance/VA_DEQ_Universal_Waste_Lamp_Crushing_Guidance.pdf?ver=2016-12-06-084820-970

Definition of Solid Waste Rule (DSW)



2008 DSW Final Rule (EPA): 10/30/2008 but EPA was sued

2015 DSW Final Rule (EPA): January 13, 2015

Federal Effective Date: July 13, 2015

Virginia adopted the 2015 DSW regulation on 12/4/2015. The rule became effective in Virginia on 1/27/2016, with one exception. But once again, EPA has been sued.

DSW



2015 DSW rule was more stringent than the 2008 DSW rule. States that had adopted the 2008 DSW rule had to modify their programs to be as stringent as the federal. **Virginia had not adopted the 2008 DSW rule.**

Virginia and other states were required to adopt at a minimum the 2015 DSW rule portions that were more stringent than the current HW program.

Exclusions contained in the 2015 final rule were not effective in states until adopted.

DSW



Major Provisions of 2015 Final Rule:

- Retained generator-controlled exclusions with strengthened requirements
- Replaced 2008 transfer-based exclusion with verified recycler exclusion.
- Codified definition of legitimate recycling, requiring four legitimacy factors be met
- Finalized remanufacturing exclusion for high-value spent solvents
- Strengthened existing variance and non-waste determination provisions

DSW



2015 Legitimacy Factors:

1. Hazardous Secondary Material (HSM) must provide a useful contribution to the recycling process or to a product or intermediate;
2. Recycling must produce a valuable product or intermediate;
3. Hazardous secondary materials must be managed as valuable commodities;
4. The product of recycling must be comparable to a legitimate product or intermediate.

DSW



BUT...

EPA was sued over the 2015 DSW final rule.

Oral arguments took place in November 2016.

Final Decision issued on July 7, 2017.

DC Court of Appeals, upheld the 2015 DSW Final rule in part and vacated the rule in part.

The court decision won't go into effect until the court mandate is issued

DSW



As part of the decision, the Court vacated the verified recycler exclusion except for two provisions and ordered EPA to reinstate the transfer-based exclusion with the addition of two provisions.

Because these two exclusions are very similar, most companies currently recycling under the VRE will be able to recycle under the reinstated TBE without changing their operations (except for spent petroleum catalysts).

DSW



EPA plans to publish a Federal Register notice to reflect the final decision so that the new regulation is effective when the court mandate vacating the VRE is issued.

Virginia does not have a provision in state law requiring that should a federal regulation be vacated, the corresponding state regulation is automatically vacated as well.

Generator Improvements Rule (GIR)



Most requirements for generators had not changed much since largely adopted in 1986.

The GIR took a close look at all generator requirements as found predominantly in Part 262.

November 28, 2016 – EPA Promulgated Final Rule

May 30, 2017 – Effective in states that are not authorized (Alaska and Iowa)

GIR



As part of the federal implementation, more stringent requirements of the rule must be adopted by authorized states. The rule allows for state adoption of those requirements by July 1, 2018, or July 1, 2019 for states that must change state law.

GIR IS NOT EFFECTIVE IN VIRGINIA UNTIL IT IS ADOPTED INTO OUR REGULATIONS!!

GIR



The GIR makes the following changes to the regulations:

- Consolidated generator requirements in Part 262
- Preamble provides significant guidance and BMPs for generators
- VSQG replaces CESQG
- Separation of conditions for exemption vs. independent requirements
- Addition or change of numerous requirements for generators

GIR



Less Stringent Requirements contained in the GIR:

- Episodic Generation once/year without changing generator requirements
- Ignitable/Reactive HW less than 50' from property line for LQGs
- Consolidation of VSQG waste off-site at LQG under same control as VSQG

GIR



Virginia is not required to adopt the less stringent requirements, and Virginia MAY NOT adopt the three less stringent requirements.

It should be noted that this rule has also been challenged. The American Chemistry Council filed a petition for review with the US Court of Appeals for the District of Columbia Circuit on March 2, 2017.

GIR



Some ways folks can stay abreast of program news and regulatory changes include:

- Sign up for the News Feed “Land Protection Program Updates – News You Can Use” (<http://www.deq.virginia.gov/ConnectWithDEQ/NewsFeeds.aspx>)
- Sign up as a registered Town Hall Public User to receive email updates regarding regulatory actions (<http://townhall.virginia.gov/L/Register.cfm>)
- Periodically check the DEQ Public Calendar for Waste Board Meeting dates (<http://www.deq.virginia.gov/ConnectWithDEQ/PublicCalendar.aspx>)

The EPA website for the final rule is: <https://www.epa.gov/hwgenerators/final-rule-hazardous-waste-generator-improvements>