



# **OFFICE OF WASTE PERMITTING & COMPLIANCE**

## **REGULATORY AND PROGRAM UPDATE**

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**VIRGINIA MANUFACTURERS ASSOCIATION  
SEPTEMBER 16, 2009**

# *Areas of today's focus*

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- Definition of solid waste rule (DSW)
- Emission comparable fuel (ECF) expansion
- Amendment 7 Virginia's solid waste rules
- Hazardous waste rules update
- Tier II and TRI update
- OWPC program update

# *Definition of solid waste*

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- Federal Rule Change Not Yet Adopted by Virginia, Currently Being Re-Looked at by EPA
- Developed to Encourage Legitimate Recycling of Hazardous Secondary Materials
- Excludes From Subtitle C Regulation, Materials Being Reclaimed by Generators and Off-Site Recyclers
- Eliminates Potential Permitting Requirements

# *What materials are eligible for the final rule?*

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Hazardous secondary materials sent for reclamation are eligible for this rule.

Materials that are NOT eligible include:

Materials recycled by 'use constituting disposal' and burning for energy recovery

Inherently waste-like materials

Materials already excluded from the definition of solid waste under 40 CFR 261.4

Spent lead-acid batteries

Spent petroleum catalysts (K171 and K172)

# *What exactly is in the DSW final rule?*

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## ***Four major components of final rule:***

1. ***Under the Control of the Generator Exclusion***  
Self-implementing exclusion for materials generated and reclaimed under the control of the generator.
2. ***Transfer-based Exclusion***  
Self-implementing exclusion for materials generated and transferred to another company for reclamation.
3. ***Non-waste Determination Procedure***  
Materials that are non-wastes (determined through a petition process)
4. ***“Legitimate” Recycling Provision***

# How does the DSW rule compare to the existing Subtitle C regulations for Generators?

Subtitle C Regulation Requirements	DSW Exclusion Requirements
- Cannot accumulate waste for more than 90 days without a permit	- Must meet speculative accumulation limits
- Must meet specific storage standards for tanks and containers.	- Hazardous secondary materials must be contained.
- Must have emergency coordinator, test and maintain emergency equipment, and have emergency plan.	-----
- Must have personnel training plan.	-----
- Waste must be packaged according to DOT regulations prior to transport.	- Hazardous secondary materials must be packaged according to DOT regulations prior to transport.
- Manifest required	-----
- Recordkeeping <ul style="list-style-type: none"> <li>o Biennial Reporting</li> <li>o Exception Reporting</li> <li>o Three-year record retention</li> </ul>	- Recordkeeping: <ul style="list-style-type: none"> <li>o Notifications</li> <li>o Records of off-site shipments &amp; confirmations of receipt</li> <li>o Three-year record retention</li> </ul>
-----	- Reasonable Efforts
- Exports <ul style="list-style-type: none"> <li>o Notice &amp; consent</li> <li>o Annual reports</li> <li>o Manifesting</li> <li>o Exception Reports</li> </ul>	- Exports <ul style="list-style-type: none"> <li>o Notice &amp; consent</li> <li>o Annual reports</li> </ul>

# *Virginia's position on the DSW rule*

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While DEQ supports the goal of this rulemaking, modifications are needed to ensure that sham recycling and mismanagement of waste materials is minimized.

DEQ not willing to invest limited resources in a Virginia version of the rule until the “dust settles” from US EPA’s review and possible revisions are completed.



# Revision to the Comparable Fuels Exclusion

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- 40 CFR 261.38: Hazardous spent materials, sludges, and by-products that are comparable to commercial fuels are not solid waste if burned.
- To prove that such secondary materials are comparable to commercial fuels, the generator must show that the materials meet heating value, viscosity, and contaminant concentration specifications.

# Revision to the Comparable Fuels Exclusion

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- Revision effective January 20, 2009
- Revisions created a new type of RCRA-excluded material called “emission-comparable fuel” (ECF)
- When burned in an industrial or utility boiler, an ECF must generate emissions comparable to those from burning fuel oil (for which it would substitute)
  - ECFs must be comparable to fuel oil from an emissions standpoint
  - More commodity-like than waste-like and will be treated as such from the point of generation through all phases of management



# Revision to the Comparable Fuels Exclusion

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This rule has NOT been adopted by  
Virginia

For more information:

[http://www.epa.gov/epawaste/hazard/tsd/  
td/combust/compfuels/exclusion.htm](http://www.epa.gov/epawaste/hazard/tsd/td/combust/compfuels/exclusion.htm)

# *Tier II Reporting- Amendment to Emergency Planning Notification*

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- EPA has finalized reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA); Emergency Release Notification and Hazardous Chemical Reporting. These changes include clarification on how to report hazardous chemicals in mixtures. Revised regulation now requires facilities to report their North American Industry Classification System (NAICS) code on the Tier I or Tier II Form
- Annually VA DEQ receives about 3,200 Emergency and Hazardous Chemical Inventory Tier II report submissions

# *Tier II Reporting- Amendment to Emergency Planning Notification*

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- Virginia is participating in the Department of Homeland Security (DHS) initiative for E Plan, a web based tool developed by the University of Texas at Dallas.
- E Plan is the nation's largest database of chemical and facility hazards data with over 200,000 facilities and 22,000 unique chemicals. It utilizes emergency contact and hazardous material information submitted under the U.S. Environmental Protection Agency (EPA) regulations. This hazardous material emergency management system will provide on-site hazardous chemical information for facilities in United States, which will prove to be an effective data management tool for emergency management officials and the first-responder community as they plan for and respond to incidents involving hazardous materials

# *Toxic Release Inventory (TRI) Update*

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- Omnibus Appropriation Act Of 2009 changes Toxics Release Inventory (TRI) Reporting Requirements
- Reporting requirements will change back to pre December 2006 rules. These changes affect the TRI burden Reduction Rule, which allowed facilities the ability to use the simplified reporting form A compared to the more detailed form R, if they did not exceed certain threshold requirements for TRI chemicals

# TRI State Data Exchange

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- Virginia was one of four states participating in the pilot program for online data collection of TRI reports.
- State Data Exchange - Virginia is now one of 14 states participating in the State Data Exchange (SDX) for online TRI submissions. The State/EPA Exchange Network program allows facilities to submit TRI information to both EPA and the States simultaneously through the Central Data Exchange (CDX). By participating in the TRI State Data Exchange, Virginia now saves resources usually spent for data entry and reconciliation by now receiving the entire state's data set electronically via CDX. This includes data that is submitted on diskette or paper or by a first time CDX filer
  - RY2007 VA received 1741 TRI form submissions (95% were CDX submissions)
  - RY2008 VA has received 96% of the TRI submissions via CDX (preliminary data set as of July 2009)
- Since the inception of the TRI program, there has been a downward trend in the amount of TRI chemicals released to the environment and an increase in the amount of TRI chemicals managed by Virginia facilities

# Amendment 7 Of Virginia's Solid Waste Regulations

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The agency proposes to recodify the Virginia Solid Waste Management Regulation (VSWMR) 9 VAC 20-80 into a more cohesive and concise regulation. The recodified regulation will be 9 VAC 20-81. This proposed regulation includes the incorporation of the Vegetative Waste Management and Yard Waste Composting Regulation, 9 VAC 20-101.

# Amendment 7 Of Virginia's Solid Waste Regulations

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Substantive changes include:

- provisions for a pre-approved alternate liner design that does not require a variance submission;
- the addition of standards for Centralized Waste Treatment facilities;
- composting and other types of facilities that are higher in the waste hierarchy will have less imposing standards;
- change from full permit to permit by rule status for composting facilities; and removal of operations manual from the permit;
- the regulations are revised to reflect future “streamlined” permits supplemented by more easily updated separate plan documents (operations, etc.).

# *Hazardous Waste Updates*

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- Currently developing Virginia e-waste guidance
- Conducting an electronic manifest recordkeeping pilot project with Safety Kleen, Virginia will likely begin allowing generators to maintain electronically in lieu of paper copies
- Pursuing authorization from EPA to allow crushing of bulbs per the Universal Waste Rule. Virginia rules allow for bulb crushing, federal rules do not, but do allow states to use the authorization process to seek EPA approval
- Virginia anticipates adopting several federal rules later this fall through the Waste Control Board rule making process.

# *EPA Public Release of Cross Media Data*

## *Enforcement & Compliance History On- Line (ECHO)*

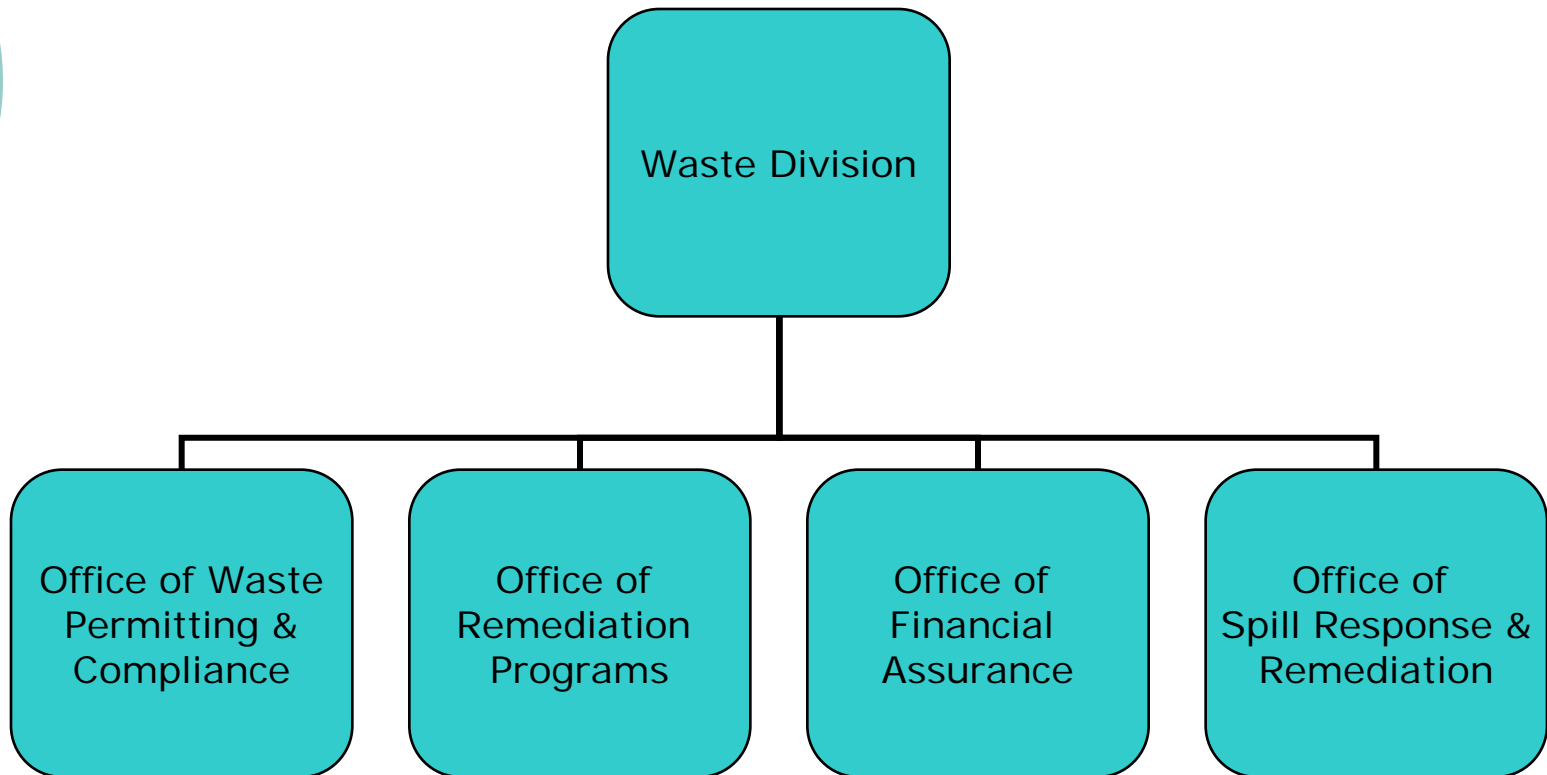
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EPA making several changes to ECHO to provide for greater public access to environmental data.

- ECHO will allow for State Review Framework (SRF) data searches in ECHO (which are exactly the same as the CWA SRF searched that were added in July).
- For all three major media (CAA, CWA and RCRA) our ECHO version of the Detailed Facility Report (DFR) will be enhanced to show facility Toxics Release Inventory (TRI) releases and National Emissions Inventory (NEI) emissions data.
- The CAA query page will now also support searches for facilities with specific TRI release types and NEI emission pollutants and quantities.
- Ability to search and compare enforcement actions across all states.

# Waste Division Organization

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# Questions

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