

1. More Stringent Provisions

There are aspects of the Massachusetts program which are more stringent than the Federal program. All of these more stringent requirements are or will become part of the federally enforceable RCRA program when authorized by the EPA, and must be complied with in addition to the State requirements which track the minimum Federal requirements. These more stringent requirements include the following:

- Massachusetts does not follow the EPA interpretation allowing Large Quantity Generators and Small Quantity Generators to conduct treatment without permits in accumulation tanks and containers.

- Massachusetts imposes various requirements regarding storage of hazardous wastes by generators which are more stringent than Federal requirements. For example, Massachusetts requires that labels on tanks and containers include identification of the hazardous wastes and the type of hazards associated with the wastes, as well as tracking the Federal requirement that the labels include the words "hazardous waste."

- In addition, Massachusetts specifies recordkeeping requirements to document compliance with requirements in some circumstances where the recordkeeping is not expressly required under the Federal regulations, *e.g.*, the keeping of an inspection log for container area inspections.

- Massachusetts imposes spill containment requirements for container areas (not just for tanks as in the Federal regulations), including a requirement that indoor containers be located on an impervious base and a requirement that outdoor containers have full secondary containment.

- Massachusetts requires security measures and posting of signs at hazardous waste storage areas, in addition to the labeling of individual tanks and containers as required by the Federal regulations.

- Massachusetts does not allow any storage of hazardous wastes in open tanks, whereas the Federal regulations allow such storage except when otherwise required by the 40 CFR parts 264 and 265, subpart CC hazardous air emission rules.

- Massachusetts specifies requirements for Very Small Quantity Generators ("VSQGs") (Federal Conditionally Exempt Small Quantity Generators) which go beyond the Federal requirements for conditional exemption. For example, Massachusetts

specifies safe storage practices for VSQGs whereas the Federal regulations regarding tank and container storage apply only to Large Quantity Generators ("LQGs") and Small Quantity Generators ("SQGs").

- In addition, Massachusetts prohibits VSQGs from generating or accumulating any acutely hazardous wastes, whereas the Federal regulations allow such generators to accumulate up to one kilogram of such wastes.

- Finally, VSQG hazardous wastes may be sent to municipal solid waste landfills under the Federal program but not under the Massachusetts program.

2. Broader in Scope Provisions

There also are aspects of the Massachusetts program which are broader in scope than the Federal program. The State requirements which are broader in scope are not considered to be part of the Federally enforceable RCRA program. However, they are fully enforceable under State law and must be complied with by sources within Massachusetts. These broader in scope requirements include the following:

- As further discussed in part II, below, Massachusetts designates and regulates as hazardous many recyclable materials not regulated as hazardous wastes under the Federal RCRA program, in addition to regulating those hazardous recyclable materials that are regulated as hazardous wastes in the Federal program.

- Massachusetts regulates both Centers and Events which collect household hazardous wastes and VSQG hazardous wastes. In contrast, household hazardous wastes are not regulated as hazardous wastes under the Federal program even when collected at centers and events. In addition, under the Federal regulations, VSQG hazardous wastes may be sent to facilities authorized by the State to manage such wastes, but there are no Federal regulations specifying the standards to be followed at facilities which are centers and events.

3. Different but Equivalent Provisions

As noted in part I.C. above, there also are various Massachusetts regulations which differ from but have been determined to be equivalent to the Federal regulations. These State regulations which are different from but equivalent to the Federal regulations are or will become part of the Federally enforceable RCRA program when authorized by the EPA. These different but equivalent requirements include the following:

- The Massachusetts regulations regarding satellite storage allow more

than one container in a satellite area (so long as there is only one container per waste stream) whereas the Federal regulations contemplate that there will be only one 55 gallon container in each satellite area. Unlike the Federal regulations, however, the State regulations impose requirements to ensure that multiple containers will be stored safely, including aisle spacing requirements, requirements for separation of containers with incompatible wastes and formal inspection requirements.

- The Massachusetts satellite storage regulations require containers to be moved from satellite areas to central storage areas within three days of a container being filled (whereas this three-day period begins to run under the Federal regulations only when more than 55 gallons has been accumulated in the satellite area), but the Massachusetts regulations also provide that the time allowed for storage in the central storage areas begins to run only when the container is moved to the central storage area or no later than three days after the container is filled. In contrast, under the Federal regulations, the time allowed for storage in central storage areas begins to run as soon as the container is required to be moved (*i.e.*, at the beginning of the three-day period).

- The Massachusetts regulations specify that while hazardous wastes placed into satellite storage must be counted when determining a generator's rate of generation, they need not be counted when determining the amount of hazardous waste stored on site (for purposes of determining whether a generator is a LQG, SQG or VSQG). In contrast, under the Federal regulations, wastes in satellite storage are counted both when determining a generator's rate of generation and when determining the amount of hazardous waste stored on site.

- The Massachusetts regulations contain the same exemption from hazardous waste requirements for certain chromium wastes as is found in the Federal regulations at 40 CFR 261.4(b)(6). However, under the EPA regulation, a generator seeking to claim the exemption for other than specifically listed waste streams must petition the EPA and obtain a determination that its particular wastes are exempt. In contrast, Massachusetts is proposing to allow a generator to make this determination for itself provided that the generator documents compliance with the criteria listed in the State (and Federal) regulations. Of course, a generator is responsible for making the correct determination, and the EPA encourages generators who