

have any questions to seek guidance from the MADEP or EPA. Also, an exemption determination made by a generator under the Massachusetts regulations will apply only within Massachusetts. Petitions will need to be filed with any other authorized State to which shipments are made, or with the EPA if shipments are made to a non-authorized State.

- The Massachusetts regulations contain conditional exemptions for bulk scrap metal items as well as smaller particle scrap metal items being recycled, for whole used circuit boards as well as shredded circuit boards being recycled and for certain mixtures of water and unused gasoline being recycled. The Federal regulations similarly exempt these materials, but under sometimes different categories (e.g., whole used circuit boards under the scrap metal category, certain mixtures of water and unused gasoline under the commercial chemical products category).

- Massachusetts allows VSQs to conduct certain kinds of treatment on site without a permit. The exemption is limited to non-thermal treatment (typically neutralization) of wastes generated on site and is subject to a requirement that the treatment be conducted safely. The Massachusetts program operates somewhat similarly to the EPA interpretation allowing certain kinds of treatment in accumulation tanks and containers without permits, by LQs and SQs. However, Massachusetts allows treatment without permits only by VSQs, whereas the EPA interpretation instead allows it by LQs and SQs. Also, the EPA interpretation allows treatment only within accumulation tanks and containers, whereas the Massachusetts regulation allows treatment in non-accumulation containers (e.g., laboratory containers) at the site where the waste was generated, provided of course that this can be done safely.

- The Massachusetts regulations require that secondary containment systems for outdoor above-ground tanks must have a capacity at least equal to 110% of the volume of the largest tank. This requirement is designed to take the place of the Federal requirement (in 40 CFR 265.193(e)) that such containment systems must have a capacity at least equal to 100% of the volume of the largest tank plus sufficient capacity to contain precipitation from a 25 year, 24 hour storm. The Massachusetts regulations generally track the Federal requirements regarding secondary containment requirements for underground tanks. The Massachusetts regulations are being amended to

require secondary containment for indoor above-ground tanks with a capacity at least equal to 100% of the volume of the largest tank (the Federal standard).

- The Massachusetts regulations specify standards for when tanks will be considered "empty." The EPA regulations specify such standards only for containers, while specifying that tanks must be decontaminated before being disposed or reused. It should be noted that the State's empty tank standard for non-acute wastes is more stringent than the State (and Federal) empty container standard, i.e., it does not allow waste residues to be left in tanks. The State standards will operate similarly to the tank decontamination requirement in the Federal regulations, but the State regulations clarify that generators may be able to determine that tanks are "empty" based on knowledge of the waste (e.g., knowledge that there has been appropriate thorough cleaning of the tanks), without needing to do TCLP testing in every case.

#### *E. What Will Be the Effect of the Proposed Authorization Decision?*

The effect of the proposed authorization decision will be that entities in Massachusetts subject to RCRA will need to comply with the authorized State requirements instead of the Federal requirements, with respect to the matters covered by the authorized State requirements, in order to comply with RCRA. However, until the authorized Massachusetts program is brought fully up to date, there will continue to be a dual state/Federal RCRA program in Massachusetts. RCRA was amended by the Hazardous and Solid Waste Amendments ("HSWA") in 1984. Section 3006(g) of RCRA, 42 U.S.C. 6906(g), provides that when the EPA promulgates new regulatory requirements pursuant to HSWA, the EPA shall directly carry out these requirements in states authorized to administer the underlying hazardous waste program, until the states are authorized to administer these new requirements. The EPA has established various new regulatory requirements pursuant to HSWA which have not yet been authorized to be administered by Massachusetts. There also are various self-implementing requirements directly established by the HSWA statutory amendments themselves. Regulated entities must comply with these HSWA requirements as set out in the Federal regulations and statute in addition to authorized State program requirements. The HSWA requirements that will continue to be administered by the EPA in Massachusetts include all of the Land

Disposal Restriction ("LDR") requirements set out in 40 CFR part 268 (including requirements adopted prior to July 1, 1990), the Corrective Action requirements referenced in 40 CFR 264.101, and the hazardous air emission standards set out in 40 CFR parts 264 and 265, subparts AA, BB and CC. A complete list of HSWA requirements is set out in 40 CFR 271.1, Tables 1 and 2.

With respect to TSDF permitting, Massachusetts will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits it has issued. The EPA also will continue to issue permits or portions of permits covering HSWA requirements for which Massachusetts is not authorized. In addition, the EPA will continue to implement the provisions of 40 CFR 264.1(f)(2) within Massachusetts. That provision specifies that TSDFs must comply with any standards promulgated by the EPA (HSWA or non-HSWA) after a State is authorized, until the State obtains authorization to issue permits covering such newly promulgated standards. The major effect of this provision in Massachusetts is that the EPA will remain responsible for issuing permits for Miscellaneous Units, since the EPA promulgated the Miscellaneous Unit standards in 40 CFR part 264, subpart X after the initial authorization of the Massachusetts base program, and since Massachusetts has not yet applied for and is not now being authorized to carry out these requirements.

Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State (land of the Wampanoag tribe). The proposed action will have no effect on Indian country. The EPA will continue to implement and administer the RCRA program in these lands.

The EPA is proposing to authorize but not codify the enumerated revisions to the Massachusetts program. Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, subpart W for the codification of the Massachusetts' program until a later date.