

for Massachusetts. The State regulations will be equivalent to, consistent with and no less stringent than these acceptable alternative standards. Allowing the alternative standards is justified for the reasons discussed in part II.B, above. In particular, the EPA has determined that the alternative program is at least as stringent overall as the standard EPA RCRA program. The EPA believes that it has the authority to approve this alternative program under the RCRA statute.

However, the change to the Federal regulations will not itself result in any change to the legal requirements applicable to generators in Massachusetts. Rather, generators will become subject to the proposed revised Class A requirements under State law when they are adopted in final form by the MADEP. These requirements will in turn become part of the Federally enforceable RCRA program when they are authorized by the EPA. For the sake of efficiency, the EPA is proposing to both make the Federal regulation change and to authorize the State regulations in the rulemaking proposed today. Thus in this particular case, the EPA expects that the State requirements will become authorized and federally enforceable at the same time as the Federal regulation change.

Under section 3006 of RCRA, the EPA may authorize a qualified State to administer and enforce a hazardous waste program within the State. (See 40 CFR part 271 for the requirements for authorization). States with final authorization administer their own hazardous waste programs in lieu of the Federal program. Following authorization, the EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013 and 7003.

After authorization, Federal rules written under RCRA provisions which predate the Hazardous and Solid Waste Amendments of 1984 (HSWA) no longer apply in the authorized state. Rather, the authorized State regulations apply in lieu of such Federal requirements. In addition, new Federal requirements imposed by such rules do not take effect in an authorized state until the state adopts the requirements.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized states at the same time that they take effect in non-authorized states. The EPA is directed to carry out HSWA requirements and prohibitions in authorized states until the state is granted authorization to do so.

This proposed rule, if finalized, would be promulgated pursuant to non-HSWA authority. Thus as explained above, the alternative standards contemplated by the rule will take effect in Massachusetts only when adopted by Massachusetts and will become Federally enforceable only when authorized by the EPA. Once they take effect, however, they will apply in lieu of the EPA program with respect to the recyclable materials and matters covered by the authorization. For example, generators storing solvents for recycling in stand alone stills/ distillation units will be able to store such solvents without permits for more than the 90 or 180 days set out in the Federal regulations, so long as they do not engage in "speculative accumulation."

Of course, generators still will need to comply with any other applicable RCRA requirements in addition to the Class A requirements. For example, generators storing some wastes for recycling and other wastes for disposal will need to comply with the authorized State requirements regarding wastes being stored for disposal with respect to those other wastes. In addition, generators will need to comply with any applicable Federal requirements which are being directly implemented by the EPA within Massachusetts pursuant to HSWA, *i.e.*, all HSWA requirements for which the State has not yet been authorized.

In particular, the State has not yet been authorized for and the EPA is continuing to administer within Massachusetts the air emission standards for tanks and containers set out in 40 CFR part 265, subpart CC ("CC regulations"). These regulations are applicable to many large quantity generators storing solvents, among others. Following authorization of the Class A regulations, the EPA plans to administer and enforce these CC regulations within Massachusetts as follows. First, only generators which are classified as large quantity generators under the State regulations will be considered subject to the CC regulations. That is, the EPA will utilize the Massachusetts counting rules when administering the CC rule within Massachusetts. This will avoid generators needing to do two separate State and Federal status calculations. Second, however, any generators which are classified as large quantity generators under the State regulations with respect to any part of their site will be subject to the CC regulations throughout their sites. Large quantity generators storing solvents will need to comply with all applicable requirements imposed by the CC regulations, whether

the solvents are being stored for disposal or recycling. That is, the EPA will not utilize the Massachusetts dual status concept when administering the CC rule within Massachusetts. The EPA expects that any generator which is a LQG will take the steps required under the CC rule to prevent hazardous air emissions, just as such generators are subject to all applicable Clean Air Act requirements whether they dispose of their wastes or recycle.

E. For How Long Will the Proposed Authorization Continue?

Unlike the proposed authorization of the Labs XL project regulations discussed in Part III below, the proposed authorization of the Massachusetts ECOS project regulations will continue indefinitely. The EPA believes this is justified based on the long successful operation of the Massachusetts Class A program, *i.e.*, no further assessment is necessary prior to the permanent authorization of this RCRA program element. Of course, like any other authorized program element, the Massachusetts Class A program will be subject to EPA oversight and possible future revision. But absent future EPA action to modify or rescind the action, the authorization will continue.

If the EPA issues future final regulations changing the status of recyclable materials used in a continuous industrial process under Federal RCRA regulation, portions of the Massachusetts Class A program now proposed to be authorized could then become beyond the scope of Federal regulation. If and when any revised national regulations take effect, the EPA will then address, in connection with a later update of the Massachusetts RCRA program, the effect of the national regulations on the Massachusetts program.

III. Proposed Extension of Site-Specific Regulations for New England Universities' Laboratories XL Project To Enable EPA To Authorize Certain Portions of the Massachusetts Revisions; Proposed Authorization of Massachusetts XL Project Regulations

A. What Is the New England Universities' Laboratories XL Project?

Project XL—"eXcellence and Leadership" was announced in May 1995 as a part of the National Performance Review and the EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop pilot projects to provide regulatory flexibility