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**TO: Hazardous Waste Transporters**

**FROM: Richard Chalpin, Acting Assistant Commissioner, Bureau of Waste Site Cleanup**

**DATE: 8/26/2004**

**SUBJ: Guidance Document 2005-01 for the Applicability of the Massachusetts Hazardous Waste Transporter Fee (This document revises Guidance Document 2004-01 dated 12/29/2003)**

**Summary**

The Massachusetts Department of Environmental Protection (DEP) receives a large number of inquiries regarding the Hazardous Waste Transporter Fee. The purpose of this memo is to provide guidance on the applicability of the Massachusetts Hazardous Waste Transporter Fee under the provisions of 801 CMR 4.07 promulgated by the Executive Office of Administration and Finance (EOAF).

M.G.L. c. 21C, s.7 (as amended) required the Secretary of Administration and Finance, in consultation with the Commissioner of the Department of Environmental Protection, to establish a fee to recover the Commonwealth's costs for assessing, containing, and removing releases and threats of release of oil and hazardous materials to the environment pursuant to M.G.L. c. 21E. Current regulations require each transporter to pay a fee of 26.4 cents per gallon or 2.64 cents per pound (with several exceptions as noted below) for each gallon or pound of materials manifested or logged for transport in Massachusetts on or after July 1, 2004.

## Fee Exceptions

1. Please refer to the “Clarification and Reminders” section of this guidance document for changes to the exemption for the retail sale of automotive oil.
  
2. Hazardous wastes manifested for transport out of a licensed Massachusetts treatment, storage and disposal facility (TSDF) are fee-exempt because the fees are payable by the transporter who hauls the hazardous wastes into the TSDF. Note: Hazardous wastes generated internally at a TSDF are subject to the fee.  
 (Fee code 2)\* 801 CMR 4.07(2)
  
- 3.a. Wastes that are not required to be manifested, but are shipped using a manifest for the convenience of the generator under the following Massachusetts series of MA90 waste codes, are fee-exempt. These include:
  - MA95 – MA Universal Wastes [See 310 CMR 30.130]
  - MA97 - Class A Regulated Recyclable Materials, and  
 Specification Used Oil Fuel [See 310 CMR 30.130]
  - MA99 – Wastes that are not Hazardous Wastes in Massachusetts, and  
 Shipped using a hazardous waste manifest [See 310 CMR 30.130]
  
- b. Hazardous wastes that are approved for recycling or reuse, but which must be manifested under Massachusetts MA90 series waste codes are fee-exempt. This exemption applies only to MA98 Off-Specification Used Oil Fuel [See 310 CMR 30.130] collected and transported with a manifest by transporter/marketers authorized pursuant to 310 CMR 30.255.  
 (Fee code 3)\* 801 CMR 4.07(7)
  
- 4.a. Hazardous wastes generated and transported in the course of a response action (21E) undertaken by DEP or the United States Environmental Protection Agency (EPA), or by a contractor employed by the Department or EPA for this purpose, are fee-exempt. **This exemption does not apply in cases where the Department and/or EPA is not responsible for contractor costs.**
  
- b. Hazardous waste (21E) generated by other Massachusetts state or federal agencies where a Licensed Site Professional (LSP) has been employed to oversee the analysis and removal of the waste is exempt from the transporter fee.  
 (Fee code 4)\* 801 CMR 4.07(4)

5. Household hazardous wastes, including waste oil from households, generated or collected at household hazardous waste collection programs sponsored by a county, town, city, or an agency/authority of the Commonwealth, are fee-exempt. Household waste that is generated from sources outside of Massachusetts and delivered into a Massachusetts TSDF is subject to the fee.  
(Fee code 5)\* 801 CMR 4.07(6)
  
6. Hazardous wastes that have been approved for reuse or recycling pursuant to recycling permits issued to hazardous waste generators by DEP (including presumptive approval permits and notifications), and that are not subject to manifesting requirements, are fee-exempt. This is limited to Class A regulated recyclable materials with a Massachusetts waste code of MA97 and Specification Used Oil fuel, coded MA97.  
(Fee code 6)\* 801 CMR 4.07(5)
  
7. Wastes generated by response actions performed as part of the Central Artery/Third Harbor Tunnel project are exempt from the transporter fee, pursuant to a Memorandum of Agreement between DEP and the Massachusetts Highway Department.  
(Fee code 7)\*
  
8. Wastes generated by the MBTA and transported after July 1, 2000 are exempt from the transporter fee, pursuant to MGL c. 161A, section 24.  
(Fee code 8)\*

\* Fee codes refer to entry numbers used in Electronic Monthly Operating Reports (EMORs) that indicate the types of exempted wastes as provided above.

### Clarifications and Reminders:

- **There is no longer an exemption for waste oils transported from a service station or other business that has a Massachusetts Division of Standards Permit for the retail sale of automotive lubricating oil. This exemption expired on June 30, 2003. All such oils will now be subject to the fee unless another exemption is applicable.**

**Please be advised that, effective July 1, 2003, all waste oils manifested for transport in Massachusetts, which are or should be coded MA01, are subject to the Massachusetts Hazardous waste transporter fee.**

- The fee is paid by the licensed Massachusetts Hazardous Waste Transporter, not the generator of the hazardous waste. In the event of multiple transporters of the same hazardous waste, the fee is paid by the first transporter which collects waste from a Massachusetts generator or the last transporter to deliver waste to a Massachusetts TSDF, as applicable.
- The hazardous waste transporter fee should be paid on the quantity of manifested waste that is transported from the generator and received by the destination facility. The quantity of waste listed on the manifest is subject to revision by the destination facility if the waste is weighed. Therefore, the fee would be due on the revised quantity. The Department recommends that such revisions be noted on the hazardous waste manifest, and be included in all relevant reports submitted by the transporter.
- Wastes generated by response actions performed by Commonwealth of Massachusetts authorities and municipalities are **not exempt** from the transporter fee, except as noted above. Unless an entity is an agency of the Commonwealth of Massachusetts or the federal government, it does not qualify for the exemption under 801 CMR 4.07(4).
- Wastes generated by the Commonwealth of Massachusetts and federal agencies in the course of their normal facility maintenance, fleet maintenance, demolition, and other housekeeping activities are **not exempt** from the transporter fee.
- Waste containing economically recoverable amounts of silver (code DO11) that is properly manifested and transported into a permitted recycling facility, is exempt from the transporter fee. Waste which is coded DO11 and not destined for recycling and is transported to a disposal facility, is **not exempt**.
- Precious metal wastes (with economically recoverable quantities of precious metals) collected by a licensed transporter, destined for recycling and actually recycled to a level deemed non-hazardous, are exempt from the fee. (See definition of Precious Metals at 310 CMR 30.010.)
- Wastes generated from all other sources, transported by a licensed transporter, and not subject to any of the above exemptions, **are subject to the fee.**