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## **Guidance for Solid Waste Handling And Disposal Facilities on Compliance With MassDEP's Waste Bans**

**In Support of 310 CMR 19.000, Solid Waste Management Regulations  
310 CMR 19.017 Waste Bans**

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**And**

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**Approved**

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**GUIDANCE FOR SOLID WASTE HANDLING AND DISPOSAL  
FACILITIES  
ON COMPLIANCE WITH MASSDEP'S WASTE BANS  
MARCH, 2011**

*This Guidance for Solid waste Handling and Disposal Facilities on Compliance with MassDEP's Waste Bans (Guidance Document) is intended to guide parties in complying with the Waste Bans in the Solid Waste Management Facility Regulations at 310 CMR 19.017. The Waste Ban regulations include bans on disposal or transfer for disposal or contracting for disposal of specific solid waste materials. This Guidance Document summarizes these requirements for solid waste facilities and provides guidance on approaches the Massachusetts Department of Environmental Protection ("MassDEP") considers acceptable for complying with the Waste Bans. Facilities using this Guidance Document should be aware that there may be other acceptable alternatives for achieving compliance with the Waste Bans.*

*This Guidance Document is intended solely as guidance for solid waste management facilities in how to create waste ban compliance plans as required by 310 CMR 19.017(5). This Guidance Document is not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party in any litigation with the Commonwealth. Nothing in this Guidance Document relieves a solid waste management facility from compliance with the facility's MassDEP approved waste ban compliance plan, nor does it limit MassDEP's authority in approving or disapproving any waste ban plan or determining compliance with an existing plan or enforcing an existing plan. MassDEP reserves the right to act at variance with this Guidance Document and change it at any time without public notice.*

**INTRODUCTION**

“Waste Bans” are prohibitions on the disposal, transfer for disposal, or contract for disposal of certain hazardous and recyclable items at solid waste facilities in Massachusetts. The goals of the waste bans are to reduce the impacts of solid waste management on the environmental and to conserve capacity at existing solid waste disposal facilities, minimize the need for construction of new solid waste disposal facilities, and to support the recycling industry by ensuring that large volumes of material are available on a consistent basis. The waste bans also prohibit certain toxic substances or materials that may adversely affect our environment when landfilled or combusted.

This Guidance Document supersedes previous documents published by MassDEP. The changes to this document include the addition of clean gypsum wallboard to the list of materials banned from disposal and clarifies issues such as compliance standards and action level thresholds.

**REMOVAL OF WASTE BAN MATERIAL**

The waste ban regulation states that “no landfill, transfer facility or combustion facility shall accept the restricted material except to handle, recycle or compost the material in accordance with a plan submitted pursuant to 30 CMR 17.017(5) and approved by the Department.”

Pursuant to this regulation, all solid waste management facilities must remove and divert from disposal all waste ban materials in accordance with a waste ban compliance plan (“waste ban plan”) approved by MassDEP.

**GOALS/INTENT**

This Revised Guidance document is intended to assist operators of solid waste management facilities in complying with the waste ban requirements at 310 CMR 19.017. In accordance with the provisions and the timetable set forth in MassDEP's December 10, 2010, amendments to its solid waste facility regulations (General Requirements, Procedures and Permits for Solid Waste Management Facilities, 310 CMR 19.000), acceptance for the purpose of disposal or transfer for disposal of the following materials is prohibited at Massachusetts solid waste transfer stations, landfills, combustors, and construction and demolition debris handling facilities:

- Asphalt pavement, brick and concrete
- Cathode ray tubes
- Clean gypsum wallboard
- Glass containers
- Lead batteries
- Leaves and yard waste
- Metal
- Metal containers
- Recyclable paper
- Single polymer plastics
- Tires
- White goods
- Wood

These materials may, however, be transferred for further processing, reuse or recycling. The waste bans on wood and whole tires do not apply to combustion facilities.

Waste ban plans must demonstrate in detail how the facility operator will not dispose, or transfer for disposal, banned materials. Waste ban plans must demonstrate how the facility will, to the greatest extent possible, separate out from waste loads banned materials for subsequent reuse or recycling. Once MassDEP approves a waste ban plan, it becomes a condition of the facility's permit and the facility must implement it. MassDEP will use a facility's approved waste ban plan and all applicable permits to evaluate compliance with the waste bans and conduct enforcement as necessary.

The plans may be submitted using the forms in Attachment G and should include detailed descriptions of procedures for:

- Monitoring all incoming loads on an ongoing basis;
- Conducting comprehensive inspections of certain loads;
- Responding to failed loads, including written communication that will be sent to responsible parties when they deliver unacceptable amounts of banned materials; and
- Complying with other waste ban plan components such as signage, training and annual reporting.

## **CONTENTS**

This document includes the following sections:

Section I	Definitions of Materials Banned by 310 CMR 19.017
Section II	Facilities Subject to 310 CMR 19.017 Waste Bans
Section III	Compliance Plan Submittal and Approval
Section IV	Waste Ban Compliance Standard and Action Level Thresholds
Section V	Ongoing Waste Stream Monitoring
Section VI	Comprehensive Load Inspections
Section VII	Record Keeping
Section VIII	Facility Response to Failed Loads
Section IX	Other Compliance Plan Elements
Section X	Compliance and Enforcement

Also included are the following attachments:

- Attachment A - Ongoing Monitoring Recording Sheet
- Attachment B - Comprehensive Inspection Recording Sheet
- Attachment C - Sample Facility Letter to Hauler
- Attachment D - Summary of Waste Ban Requirements
- Attachment E - Sample Facility Letter to Municipality
- Attachment F - Sample Signage Language
- Attachment G - Waste Ban Compliance Plan Form

#### **I. DEFINITIONS OF MATERIALS BANNED BY 310 CMR 19.017**

**Asphalt Pavement, Brick, and Concrete:** asphalt pavement, brick and concrete from construction activities and demolition of buildings, roads and bridges and similar sources.

**Cathode Ray Tubes:** any intact, broken, or processed glass tube used to provide the visual display in televisions, computer monitors and certain scientific instruments such as oscilloscopes.

**Clean Gypsum Wallboard:** gypsum wallboard that is not contaminated with paint, wallpaper, joint compound, adhesives, nails, or other substances after manufacture. Gypsum wallboard means a panel (also known as drywall) with a gypsum core and faced with a heavy paper or other material on both sides.

**Glass Containers:** glass bottles and jars (soda-lime glass) but excluding light bulbs, Pyrex cookware, plate glass, drinking glasses, windows, windshields and ceramics.

**Lead Batteries:** lead-acid batteries used in motor vehicles or stationary applications.

**Leaves:** deciduous and coniferous leaf deposition.

**Metal:** ferrous and non-ferrous metals derived from used appliances, building materials, industrial equipment, transportation vehicles, and manufacturing processes.

**Metal Containers:** aluminum, steel or bi-metal beverage and food containers.

**Recyclable Paper:** all paper, corrugated cardboard, and paperboard products, except tissue paper, toweling, paper plates and cups, wax-coated corrugated cardboard, and other low-grade paper products.

**Single Polymer Plastics:** all narrow-neck plastic containers where the diameter of the mouth of the container is less than the diameter of the body of the container. This includes single polymer plastic containers labeled 1 – 6.

**Tires:** a continuous solid or pneumatic rubber covering intended for use on a motor vehicle. Shredded tires, defined as tires that have been cut, sliced or ground into four or more pieces such that the circular form of the tire has been eliminated, are not tires subject to the waste bans.

**White Goods:** appliances employing electricity, oil, natural gas or liquefied petroleum gas to preserve or cook food; wash or dry clothing, cooking or kitchen utensils or related items; or to cool or to heat air or water.

For purposes of the waste bans, white goods include, but are not limited to, refrigerators, freezers, air conditioners, water coolers, dishwashers, clothes washers, clothes dryers, gas or electric ovens and ranges, and hot water heaters. White goods do not include microwave ovens.

**Wood:** treated and untreated wood, including wood waste.

**Wood Waste:** discarded material consisting of trees, stumps, and brush, including but not limited to sawdust, chips, shavings and bark. Wood waste does not include new or used lumber or wood from construction and demolition waste and does not include wood pieces or particles containing or likely to contain asbestos, chemical preservatives such as creosote or pentachlorophenol, or paints, stains or other coatings.

**Yard Waste:** deciduous and coniferous seasonal depositions (e.g., leaves), grass clippings, weeds, hedge clippings, garden materials, and brush 1 (one) inch or less in diameter (excluding diseased plants).

## **II. SOLID WASTE MANAGEMENT FACILITIES SUBJECT TO 310 CMR 19.017 WASTE BANS**

The following facilities must comply with the waste bans:

- Solid waste landfills;
- Solid waste combustors;
- Solid waste transfer stations; and
- Construction and demolition handling facilities (including both construction and demolition processing facilities and construction and demolition transfer stations).

MassDEP will not require plans from ash-only or sludge-only landfills because these facilities do not manage municipal solid waste or construction and demolition debris and therefore do not handle banned materials.

### **Specific Exemptions from Certain Waste Ban Compliance Plan Requirements**

Notwithstanding the following specific exemptions, MassDEP encourages all facilities to establish and implement a program to divert waste ban materials from disposal whenever possible.

1. **Facilities Receiving Only Waste Loads less than or Equal to 5 Cubic Yards.** Solid waste facilities whose approved waste ban compliance plan states that they do not receive any amount of waste in containers or vehicles with a capacity greater than 5 (five) cubic yards do not need to conduct record keeping or comprehensive load inspections. However, these facilities still need to monitor all waste for banned materials as part of their ongoing waste ban monitoring and, for any failed loads discovered during on-going waste ban monitoring, comply with Section VIII - Facility Response to Failed Loads.

These facilities may aggregate loads of 5 cubic yards or less that may contain asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood into any size solid waste container or vehicle whereby the consolidated load may be sent to a permitted solid waste facility for disposal and not be subject to MassDEP waste ban enforcement for asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood disposal. Please note this exemption allowing aggregating waste loads of 5 cubic yards or less for the listed materials does not apply to other banned materials (i.e. cathode ray tubes, glass containers, lead batteries, leaves, metal containers, recyclable paper, single polymer plastics, tires, white goods, and yard waste).

Example: A municipal transfer station whose approved waste ban compliance plan states it does not receive waste in containers or vehicles with a capacity of greater than 5 cubic yards, may consolidate asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood into a container or vehicle, in any amount, for those specific materials. That container or vehicle may then be sent to another solid waste facility for disposal. The generating and receiving solid waste facility will not be subject to MassDEP waste ban enforcement for asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood disposal for that waste load, regardless of the quantity of those materials in the load. However, the municipal transfer station waste ban plan must demonstrate how other banned materials (i.e. cathode ray tubes, glass containers, lead batteries, leaves, metal containers, recyclable paper, single polymer plastics, tires, white goods, and yard waste) will be removed.

MassDEP will post on its website a list of solid waste transfer stations that have approved waste ban compliance plans which state the facility does not receive waste in containers or vehicles with a capacity of greater than 5 (five) cubic yards.

If a facility accepts any loads greater than five (5) cubic yards, this exemption does not apply. In this case, all the requirements for waste ban compliance apply.

2. **Asphalt Pavement, Brick, and Concrete.** Asphalt pavement, brick, and concrete are banned from disposal or transfer for disposal. Therefore, solid waste facilities must comply with these bans. However, because most asphalt pavement, brick, and concrete is already routinely diverted to recycling prior to transfer for disposal, only those solid

waste facilities that routinely receive construction and demolition debris, such as construction and demolition waste handling facilities, need to address asphalt pavement, brick and concrete in their waste ban compliance plans. Therefore, facilities that only receive incidental quantities of construction and demolition debris (e.g. a municipal solid waste combustor, a municipal solid waste transfer station or municipal solid waste landfill) do not need to address asphalt pavement, brick, and concrete in their waste ban plans at this.

If MassDEP believes that asphalt pavement, brick and concrete transfer and/or disposal is occurring to a greater degree than anticipated, MassDEP may require an individual facility, or all facilities, to submit a waste ban compliance plan for these materials.

3. **Tires.** Whole tires may be disposed at solid waste combustion facilities and shredded tires may be disposed at landfills.
4. **Wood.** Wood may be disposed at municipal solid waste combustion facilities.

### **III. COMPLIANCE PLAN SUBMITTAL AND APPROVAL**

#### **A. Deadline for plan submission**

Pursuant to 310 CMR 19.017, facilities are required to submit waste ban compliance plans for MassDEP review at least 90 days prior to the effective date of the ban. The effective date on the waste ban on clean gypsum wallboard is July 1, 2011 which requires facilities to submit waste ban compliance plans on or before April 1, 2011.

However, in recognition of the late date by which MassDEP provided guidance and forms to the solid waste facilities regarding how to update the waste ban plan, MassDEP has extended the deadline for submission of the waste ban compliance plans from April 1, 2011 to April 29, 2011. The effective date of the clean gypsum wallboard disposal ban remains July 1, 2011. The waste ban plans should be addressed to the solid waste section chief at the appropriate MassDEP regional office.

#### **B. Appropriate Permit Application Forms and Approval Process**

Facilities are encouraged to use one of the enclosed Waste Ban Compliance Plan Forms (see Attachment G) to ensure that the key elements of this document are included and speed MassDEP's review and evaluation.

In addition to all other Sections in Attachment G, C&D Handling Facilities must complete Section 4 – Construction and Demolition Handling Facilities.

All facilities must submit a permit transmittal form, permit modification form and fee (if applicable) with their waste ban compliance plan:

- All solid waste transfer and handling facilities permitted at 50 tons per day or greater without an existing approved waste ban plan. (Form BWP SW 07 – Modification of a Large Handling Facility)

- All solid waste transfer and handling facilities permitted at 50 tons per day or greater with an existing approved waste ban plan. (Form BWP SW 21 – Modification of a Small Handling Facility)
- Solid waste landfills (Form BWP SW 22 – Landfills – Minor Modification)
- Solid waste incinerators (Form BWP SW 21 – Modification of a Small Handling Facility)
- Any solid waste transfer and handling facilities permitted at less than 50 tons per day that will undergo construction as a result of implementing its waste ban plan (Form BWP SW 21 – Modification of a Small Handling Facility)
- Solid waste transfer and handling facilities permitted at less than 50 tons per day and not undergoing construction should submit their waste ban compliance plans with a BWP SW 45 application Form. These plans will be presumptively approved if MassDEP does not contact the operator within 45 days of receipt of the plan, in accordance with 310 CMR 19.039(6) – Alternative Review Process for Certain Modifications.

Except for the solid waste transfer and handling facilities permitted at less than 50 tons per day that will not undergo construction as a result of implementing the waste ban plan, MassDEP will review plans from these facilities in accordance with 310 CMR 19.037 – Review Procedure for Permit Modifications, Permit Renewals and Other Approvals and issue a written approval or denial.

**IV. WASTE BAN COMPLIANCE STANDARD AND ACTION LEVEL THRESHOLDS**

All solid waste management facilities must remove and divert from disposal all waste ban materials to the greatest extent possible. Failure to remove waste ban materials to the greatest extent possible may result in enforcement action by MassDEP. While MassDEP may take enforcement for any amount of waste ban materials that MassDEP observes in a shipment destined for disposal, MassDEP intends to use the following enforcement action level thresholds and any other relevant information in deciding to undertake enforcement:

- Lead batteries, white goods, whole tires (except tires that can be disposed of at incinerators) and CRTs are unacceptable in any quantity.
- Unbagged leaves and yard waste are not easily counted and should be estimated as a percentage of the refuse load. The Action Level is 10% by volume. Bagged leaves and yard waste may be counted by the bagful, in which case the following quantities constitute Action Levels established for leaves and yard waste:

<u>Vehicle Type Inspected</u>	<u>Action Levels</u>
Roll-off Container (any size)	20 bags or more
Packer Truck	10 bags or more
Dump Truck or Smaller	5 bags or more

- Recyclable paper, including corrugated cardboard, should be estimated as a percentage of the refuse load volume. The Action Level is 20% by volume for recyclable paper.

- Asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood should be estimated as a percentage of the container load volume. The Action Level is 20% by volume of the cumulative total of the container load.
- The following are the Action Levels for glass containers, metal containers and single polymer plastic containers:
  - Option A: Five (5) refuse bags from each inspected load shall be selected at random and opened and their contents checked. If at least three (3) of the five (5) bags inspected contain five (5) or fewer glass, metal or single polymer plastic container units, then that load has acceptable levels.
  - Option B: Facilities should estimate the aggregate amount by volume. The Action Level is 20% by volume.

When the above action level thresholds are met or exceeded in a waste load, the facility shall take the following actions;

- Notify the haulers and generators of a failed load and;
- if the facility decides to accept the load, reduce/remove the banned materials to the greatest extent possible (See Section VIII – Facility Response to Failed Loads).

### **Removing Materials to the Greatest Extent Possible**

Waste loads that exceed (or meet) an Action Level Threshold (failed loads) that are accepted by the facility require waste ban materials to be removed to the greatest extent possible. Failure of a facility to comply with this standard may result in enforcement against the facility. Complying with this standard is determined by many factors, including but not limited to the following:

- The type of waste ban material;
- The quantity of waste ban material;
- The quality or physical condition of the waste ban material as it may impact recycling/recovery options; and
- The ease of removing the waste ban material;
  - Size;
  - Whether it can be separated from other materials.

Please note that MassDEP may lower the action level thresholds in the future and as noted above reserves the right at any time to undertake enforcement for any amount of waste ban materials destined for disposal.

### **V. ONGOING WASTE STREAM MONITORING/INSPECTION**

To identify the presence of banned materials in waste loads, waste ban plans must provide for ongoing waste stream monitoring. An on-going waste stream monitoring program must provide effective means for the facility to: 1) detect and divert banned materials from disposal or transfer for disposal; 2) identify and notify haulers and generators who are shipping banned materials to the facility; and 3) compare the monitoring results against the results of comprehensive load inspections to see if they are representative of all incoming loads.

Construction and demolition handling facilities (or other types of solid waste management facilities) that are permitted to accept, separate, recycle and/or divert specific waste ban materials

as identified in the facility's approved waste ban plan do not need to keep records of the amounts of those materials in waste loads received but are required to keep records of ongoing waste stream monitoring and follow-up on failed loads for all other banned materials.

#### **A. Load Selection**

The facility must monitor all waste loads to identify banned materials. This includes loads from municipalities with a Department Approved Recycling Program (DARP) and loads in vehicles that do not receive a comprehensive load inspection as described in Section VI below.

#### **B. Inspection Procedure**

At the core of an on-going waste stream monitoring program is the observation and evaluation made by the facility's personnel to identify the types and quantities of waste ban materials in the waste loads the facility handles. Therefore, the waste ban plan should identify each specific activity the facility conducts during its routine/normal operation and what is expected of personnel to implement the on-going inspection program including the types of training needed to implement these goals. Depending on the type of solid waste facility, the facility's operation may include: receiving, tipping, spreading, consolidating and reloading waste. The waste ban plan should include how staff will be trained:

- For their specific waste ban compliance responsibilities;
- To identify waste ban materials as they may appear in the myriad of forms within the matrix of a mixed waste load;
- To quantify the amounts of waste ban material in a waste load;
- To identify which loads, depending on the type of materials involved, the condition of the materials, the distribution of the materials or other factors, should be diverted to remove waste ban materials to the greatest extent possible; and
- To know when failed load letters should be sent to haulers/generators.

### **VI. COMPREHENSIVE LOAD INSPECTIONS**

Comprehensive load inspections ("comprehensive inspections") complement on-going waste stream monitoring by providing a detailed accounting of the types, amounts and sources of material entering the facility in a sample of waste loads each month. In addition, results of comprehensive inspections can be compared with ongoing monitoring results to check for discrepancies. This section provides guidance to facility operators on frequency of inspections, selection of loads for inspections, and inspection procedures. As part of their waste ban plan submittal, operators are encouraged to propose innovative detection methods, such as the use of video monitors or third party "auditors" of waste ban compliance activities.

#### **A. Loads not Subject to Comprehensive Load Inspections**

1. Loads originating from cities, towns or entities included on the MassDEP's list of DARP communities need not be inspected for the presence of glass containers, metal containers, single polymer plastic containers, paper, leaves and yard waste. However, a DARP load may be chosen for inspection as part of the facility's random selection process for comprehensive inspections. When this occurs, the inspection should proceed in a manner that identifies other banned materials, i.e., lead batteries, white goods, whole tires (at landfills), CRTs, clean gypsum wallboard, concrete, metal and wood. The next non-

DARP load should then be comprehensively inspected. Inspections of “DARP loads” shall not count toward the minimum number of comprehensive inspections per month.

2. Comprehensive inspections need not be conducted for vehicles with a capacity of five (5) cubic yards or less. Passenger vehicles and most pick-up trucks have less than five (5) cubic yard capacity.
3. Disposal facility operators need not conduct comprehensive inspections of transfer trailer loads originating from transfer stations because transfer station operators are responsible for monitoring their waste streams and conducting their own comprehensive inspections. However, landfill and incinerator personnel that identify loads with quantities of banned materials above any Action Level through their ongoing waste stream monitoring efforts should document the failed loads on their ongoing monitoring sheets and take appropriate follow-up action as required by Section VIII – Facility Response to Failed Loads.
4. Construction and demolition handling facilities which are required as a condition of their permit and/or waste ban plan approval to separate, recycle and divert specific waste ban materials, may satisfy the comprehensive load inspection requirement for those specific banned materials by complying with their permit condition (and waste ban approval). Such facilities shall conduct comprehensive load inspections for all banned materials not specifically identified in their permit.

#### **B. Load Selection**

The deterrence capability of an inspection program stems from a combination of the number of days each month or year on which comprehensive inspections occur and the percentage of loads comprehensively inspected. Therefore, facilities shall complete a minimum number of inspections per month. The Inspection Frequency Table below provides guidance on the number of inspections MassDEP believes is reasonable to ensure compliance. Facilities must indicate in their Waste Ban Compliance Plan whether they intend to employ Option A or Option B below.

In recognition of the need to provide equitable treatment for all of a facility's waste suppliers, vehicles shall be selected for inspection on a random basis. Random load selection also will ensure inspection of waste from all types and sizes of collection vehicles. Facility operators must keep the random inspection approach employed confidential so as not to allow haulers to evade detection.

<b>Inspection Frequency Table</b>		
<b>Facility Size in Permitted Tons per Day</b>	<b>OPTION A: The contents of at least 5 bags are opened and inspected. Min. # of Vehicles to Inspect per Month (<i>must have capacity greater than 5 cubic yards</i>)</b>	<b>OPTION B: The facility opts NOT to open bags. Min. # of Vehicles to Inspect per Month (<i>must have capacity greater than 5 cubic yards</i>)</b>
<b>Municipal transfer with no private haulers or commercial users</b>	<b>0</b>	<b>0</b>
<b>1-99</b>	<b>2</b>	<b>4</b>
<b>100-299</b>	<b>4</b>	<b>8</b>
<b>300-499</b>	<b>6</b>	<b>12</b>
<b>500-999</b>	<b>8</b>	<b>16</b>
<b>1000 +</b>	<b>10</b>	<b>20</b>

**C. Inspection Procedure**

1. Comprehensive load inspections shall be conducted in a manner that does not endanger the safety of facility or hauler personnel. In general, waste loads designated for inspection shall be spread out in a manner that will allow facility personnel to identify banned material. Facility personnel should then assess the load by following one of the two procedures outlined below:
  - a. Option A Inspection Procedure: Facility personnel first shall visually inspect waste by walking around the load looking for banned materials that are typically not bagged (e.g., tires, lead batteries, white goods, CRTs, corrugated cardboard, asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood). Then, personnel shall randomly select a minimum of five (5) bags of refuse. These five bags must then be opened and examined for levels of banned materials above the Action Level Thresholds as described in Section IV. However, where it is consistent with personnel safety, the inspection of bags may occur before the entire load is tipped.
  - b. Option B Inspection Procedure : Facility personnel shall visually inspect waste by walking around the load looking for banned materials that are typically not bagged (e.g., tires, lead batteries, white goods, CRTs, corrugated cardboard, asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood). Then, personnel shall scan the bagged waste for obvious evidence of banned materials (e.g., clear bags containing paper, leaves, single polymer plastic containers, glass containers, and/or metal containers; paper yard waste bags; plastic bags of leaves that “bounce” off the truck).

2. Once a waste load has been tipped and inspected for banned materials and quantities of banned materials above the Action Level Thresholds are discovered, the entire load is considered to have failed the inspection and must be recorded as such. See Section IV, Waste Ban Compliance Standard and Action Level Thresholds, for descriptions of Action Level Thresholds for banned materials. Guidance on procedures for how the facility must respond to failed loads is outlined in Section VIII, Facility Response to Failed Loads.
3. In the case of transfer stations where it is logistically infeasible to spread out waste loads for inspection, the facility's compliance plan shall describe how banned materials will be identified. Options include visually inspecting the contents of roll-off containers or selecting five or more trash bags for inspection before the load is tipped.

## **VII. RECORD KEEPING**

To implement the record-keeping requirement of 310 CMR 19.017 (5)(b), the facility operator shall record and maintain the following information.

### **On-going Waste Stream Monitoring**

- The same information listed below for comprehensive load inspections shall be recorded for all ongoing waste stream monitoring loads that contain quantities of banned materials that exceed Action Level Thresholds (failed loads).

### **Comprehensive Load Inspections**

- Date and time of inspection
- Number of tons or cubic yards of solid waste received on each day waste ban inspections are performed;
- Hauler's name, address and phone number for each load inspected;
- Load Scale ticket number (or other facility specific load record number);
- Generator's name and address (if known);
- Origin of waste (project site);
- Total tons or cubic yards of waste in each inspected load;
- The quantity of banned materials discovered, separated and diverted from disposal or transferred for disposal by the operator, returned to the hauler, disposed on-site or transferred for disposal.
- Where a failed load is disposed at the facility or transferred for disposal due to difficulties associated with reloading it, the operator's rationale for the decision should be included in the inspection program records;
- Documentation of communication follow-up with haulers and/or generators connected with failed loads as noted in Section VIII; and,
- Disposition of failed loads.

The results of the comprehensive load inspection shall be documented on the comprehensive load inspection-reporting sheet. See Attachment B for suggested format. In addition, the facility's annual report must summarize and incorporate the inspection program data for both on-going and comprehensive load monitoring.

Operators are encouraged to include materials in their reports such as photographs or videotapes to document inspection activities and the detection and handling of failed loads.

## **VIII. FACILITY RESPONSE TO FAILED LOADS**

### **A. Communication**

The facility shall take the following actions when loads containing amounts of banned materials above applicable Action Level Thresholds (a failed load) are received at the facility. The facility's waste ban plan must document how it will address the items below and also include sample letters and other documents that will be used as part of the facility's communication aids.

- Notify the driver that the load is in violation of the waste ban regulations, including the type and amount of banned material found in the load.
- Within 45 days of the observation, send a letter to the hauler (see Attachment C) identifying the generator (as available), which banned materials were in the load and encouraging the hauler to work with its customers to separate banned materials and recycle or dispose of them appropriately. The facility also shall furnish a MassDEP letter and fact sheet (see Attachment D) to the hauler explaining the waste bans.
  - The exception to this notification requirement is if the banned material is identified through the Ongoing Monitoring procedure and the source is a vehicle with a capacity of five (5) cubic yards or less, the facility shall immediately notify the driver that the facility is prohibited from accepting banned material mixed with solid waste.
- If the source of the banned material is a municipally-run or contracted operation, the facility shall send a letter to the municipality within 45 days of the observation (see Attachment E) stating that unacceptable quantities of banned material were found in its waste and encourage the community to contact MassDEP for technical assistance. The facility also shall furnish a MassDEP letter and fact sheet (see Attachment D) to the municipality explaining the waste bans.
- Include in communication sent any photographs or videotapes of the failed loads.

### **B. Failed Load Disposition**

1. A facility's waste ban plan must address how all loads containing lead-acid batteries, white goods, whole tires (at landfills only), and CRTs will be managed, including procedures for failed loads.
2. Facility operators shall also follow the hierarchy listed below for handling failed loads containing waste ban materials not listed in 1. above (including loads from businesses, institutions and multi-family residences from a DARP municipality that do not participate in the municipality's solid waste and recycling program).
  - a. Accept the waste load; then to the maximum extent possible, separate and divert banned materials from disposal (in the case of wood and whole tires, divert from

disposal at landfills as these may be disposed at incinerators), if the facility is permitted to conduct such activities.

- b. Reject or reload if it is safe to do so.
- c. Transfer to facilities that have an approved Waste Ban Compliance Plan that includes separation and diversion of the banned materials for recycling or reuse, or are permitted to accept these materials for transfer to another permitted facility for subsequent diversion of these materials for recycling or reuse.
- d. Dispose (or transfer for disposal) the load, when the waste cannot be recycled, rejected or reloaded because reloading the waste would endanger workers or substantially disrupt facility operations. The facility operator's rationale for disposing a failed load should be recorded.

## **IX. OTHER COMPLIANCE PLAN ELEMENTS**

### **A. Training**

The plan shall include a description of annual training for facility personnel regarding how to monitor waste loads for banned materials, conduct waste load inspections, and keep proper records.

### **B. Signage**

The plan shall include certification that the operator has posted appropriate signs at the facility entrance and at waste receiving areas informing facility users of the waste ban regulations and listing the pertinent materials banned from disposal and transfer from disposal. This signage may also state which materials are permitted to be accepted at the facility for diversion to recycling or reuse. (See Attachment F for examples.)

### **C. Annual Report**

In the plan, the operator shall answer all questions relating to the waste ban plan on the facility's annual reporting form provided by MassDEP. Facilities required by their MassDEP permit to submit reports on another frequency, such as quarterly, must indicate that the required reports will be submitted to MassDEP.

## **X. COMPLIANCE AND ENFORCEMENT**

### **A. Facility Waste Ban Plan Implementation**

To comply with 310 CMR 19.017(7), a facility must implement the actions specified in its waste ban plan as approved by MassDEP and ensure that banned materials are diverted from disposal or transfer for disposal in accordance with the approved plan.

### **B. Department Inspection Program**

MassDEP will conduct facility inspections that will include, but not be limited to, determining whether a facility is employing an ongoing waste stream monitoring program, conducting comprehensive load inspections and diverting banned materials from disposal or transfer for disposal in accordance with the facility's approved waste ban plan and the regulations. In addition, MassDEP personnel may review facility records concerning its monitoring and waste

load inspection program to corroborate facility compliance activities. Records of correspondence between the facility and haulers and/or generators also will be reviewed to determine whether the facility is conducting its ongoing waste stream monitoring and comprehensive load inspections and whether the appropriate parties are notified about failed loads and the opportunities to source separate banned materials.

In addition to observing ongoing waste stream monitoring procedures, MassDEP may request that comprehensive inspections be performed in the presence of a MassDEP inspector, for the purpose of observing and evaluating the facility's comprehensive waste load inspection process, even if such inspections were not scheduled for that day. Such an inspection may count toward the monthly inspection total required by the Inspection Frequency Table in Section VI.

### **C. Non-Compliance with Plan**

In accordance with MassDEP's Enforcement Response Guidance, enforcement actions may include written notices of non-compliance, consent orders, unilateral orders, administrative penalties or referral to the Attorney General. Repeat, pattern, willful or other serious violations may result in daily penalties of up to \$25,000 for each violation. MassDEP may also require a modified waste ban plan be submitted if it determines that banned materials are not being removed to the greatest extent possible in accordance with 310 CMR 19.017(7).