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**DRAFT REVISED 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**

**Revised:**

**April 2014 2020 TBD**

## Revised Waste Ban Guidance Document Summary of Changes

- ~~**Define/Revise definition of “commercial organic material”:** Includes businesses and institutions that generate ½ ton or more per week for disposal. ~~Define commercial organic material as a banned material. Add definition of “Residence or residential” in this context to ensure they are not covered by waste bans. See pgs. 4-6 for definitions.~~~~
- ~~**Add definitions for mattresses and textiles:** Additional materials banned from disposal.~~
- ~~**Modify protocols for facility monitoring, inspections, and response to failed loads in Sections V, VI, and VIII.**~~
- ~~**Change action levels for recyclable paper and bottles and cans:** Reduce the action level for each of these materials individually from 20% to 10%. See pages 8-9.~~
- ~~**Add a cumulative action level for all banned materials:** Add a cumulative action level of 30% that applies across all banned materials.<sup>1</sup> If the banned materials combined exceed 30% of a load by volume, that load is deemed a failed load, even if none of the materials exceed an action level for a specific material. See page 8.~~
- ~~**Exempt some loads from comprehensive inspections:** The Department Approved Recycling Program (DARP) was eliminated in July 2012, so there are no longer “DARP loads” that are exempt from comprehensive inspection. However, business recycling certification programs have been added. For example, a load from a location certified under MassDEP’s Supermarket Certification Program, or any other similar certification program that is developed, would be exempt from comprehensive inspections. See page 11.~~
- ~~**Eliminate bag opening option for comprehensive inspections:** Previously, a facility could choose between conducting a lower number of comprehensive inspections per month, including opening bags, or conducting a larger number of inspections per month without opening bags. Because of worker health and safety concerns, conducting inspections without opening bags has become the standard for the industry. Therefore, MassDEP has removed the option of opening bags, which streamlines the guidance. See page 12.~~
- ~~**Revise facility letters to haulers:** The facility sample letter to haulers has been modified to address failed loads for commercial organic material, when applicable. See Attachment C.~~

<sup>1</sup>Includes asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood; commercial organic material; glass, metal, and plastic containers; leaves and yard waste; and recyclable paper.

- ~~**Revise facility letters to generators:** Previously the guidance included a provision for the facility to send a letter to a municipality identified as disposing of banned materials. MassDEP has changed this provision and letter so that a facility would send a letter to any generator known to the facility, and identified as disposing of banned materials. This is in addition to the letter being sent to the appropriate hauler. See Attachment E.~~
- ~~**Simplify submittal and review process:** Solid waste transfer stations that are not construction and demolition waste transfer stations only need to submit a waste ban compliance certification form to MassDEP by July 1, 2014. Other solid waste facilities need to submit their revised Waste Ban Compliance Plan along with a BWP-SW-45 permit application form, which provides for presumptive review.~~

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

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, transfer for disposal or contracting for disposal of specific listed 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 developing waste ban compliance plans as required by 310 CMR 19.017(6). 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 contracting for disposal of certain hazardous, recyclable or compostable items at solid waste facilities in Massachusetts. The goals of the waste bans are to: promote reuse, waste reduction, or recycling; reduce the adverse impacts of solid waste management on the environment; conserve capacity at existing solid waste disposal facilities; minimize the need for construction of new solid waste disposal facilities; and support the recycling industry by ensuring that large volumes of material are available on a consistent basis. The waste bans also prohibit disposal or transfer for disposal of certain toxic substances or materials that may adversely affect our environment when landfilled or combusted.

This Guidance Document supersedes and replaces in its entirety the previous version issued by MassDEP ~~on March 11, 2014~~ in April 2014. The changes to this document include the addition of commercial organic material as a restricted material, changes to action levels for some materials, changes to comprehensive inspection requirements, and other changes. To aid reviewers, a summary of the changes has been provided at the beginning of this document.

### **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 310 CMR 19.017(6) and approved by the Department."

Pursuant to this regulation, every solid waste management facility must remove and/or divert from disposal all waste ban materials in accordance with a waste ban compliance plan (“Waste Ban Plan”) approved by MassDEP.

This Revised Guidance document is intended to assist the operator of a solid waste management facility 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 solid waste facility regulations (310 CMR 19.000), acceptance for the purpose of disposal or transfer for disposal of the following materials is prohibited at a Massachusetts solid waste transfer station, landfill, combustion facility, and construction and demolition debris handling facility:

Asphalt pavement, brick and concrete;  
Cathode ray tubes;  
Clean gypsum wallboard;  
Commercial organic material;  
Glass containers;  
Lead batteries;  
Leaves and yard waste;  
Mattresses  
Metal;  
Metal containers;  
Recyclable paper;  
Single polymer plastics;  
Textiles  
Tires;  
White goods; and  
Wood.

These materials may 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 part 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 310 CMR 19.000 and conduct enforcement as necessary.

The plan should be submitted using the form provided 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 [steps to separate banned materials for recycling and](#) 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

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Section I	Definitions <del>of Materials Banned by 310 CMR 19.017</del>
Section II	<a href="#">Solid Waste Management</a> Facilities Subject to 310 CMR 19.017 and Requiring a Waste Ban Plan
Section III	Compliance Plan Submittal and Approval
Section IV	Waste Ban Compliance Standard and Action Level Thresholds
Section V	Ongoing Waste Stream Monitoring/ <a href="#">Inspection</a>
Section VI	Comprehensive Load Inspections
Section VII	Record Keeping
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Section IX	Other Compliance Plan Elements
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Also included as separate documents 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 Generator
- Attachment F - Sample Signage Language
- Attachment G - Waste Ban Compliance Plan Form

## I. DEFINITIONS

**Asphalt Pavement, Brick, and Concrete (ABC):** asphalt pavement, brick and concrete from construction activities and demolition of buildings, roads and bridges and similar sources. This includes both coated (e.g. painted) or uncoated ABC.

**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.

**Clean Wood:** discarded material consisting of trees, stumps and brush, including but not limited to sawdust, chips, shavings, bark, and new or used lumber. Clean wood does not include:

- (1) wood from commingled construction and demolition waste;
- (2) engineered wood products; and
- (3) wood containing or likely to contain:
  - (a) asbestos;
  - (b) chemical preservatives such as, but not limited to, chromated copper arsenate (CCA), creosote or pentachlorophenol; or
  - (c) paints, stains or other coatings, or adhesives.

**Commercial Organic Material:** effective through September 30, 2021 means food material and vegetative material from any entity that generates more than one ton of those materials for solid waste disposal per week, but excludes material from a residence. Effective beginning October 1, 2021 means food material and vegetative material from any entity that generates more than one-half ton of those materials for solid waste disposal per week, but excludes material from a residence.

~~**Commercial Organic Material:** means food material and vegetative material from any entity that generates more than one ton of those materials for solid waste disposal per week, but excludes material from a residence.~~

**Construction and Demolition Waste (C&D) Processing Facility:** Means a handling facility where construction and demolition waste is brought, stored and processed (usually by sorting, crushing, shredding, screening, etc.) prior to reuse or transport to a solid waste disposal facility or to other types of facilities for recycling, recovery or reuse.

**Construction and Demolition Waste (C&D) Transfer Station:** Means a transfer station permitted by the Department to accept 50 tons per day or more of construction and demolition waste. A C&D waste transfer station may accept other types of solid waste in accordance with its permit.

**Food Material:** material produced from human or animal food production, preparation and consumption activities and which consists of, but is not limited to, fruits, vegetables, grains, and fish and animal products and byproducts.

**Glass Containers:** glass bottles and jars (soda-lime glass). Excludes all of the following: light bulbs, glass 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.

**Mattress:** any resilient material or combination of materials that is enclosed by ticking, used alone or in combination with other products, and that is intended for sleeping upon. Mattress includes any foundation. "Mattress" does not include any mattress pad, mattress topper, sleeping

bag, pillow, car bed, carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper, liquid or gaseous filled ticking, including any water bed and any air mattress that does not contain upholstery material between the ticking and the mattress core, and mattresses in futons and sofa beds.

**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.

**Residence or Residential:** a single, multi-family, or group home, or apartment complex. For purposes of this guidance document, a group home means an establishment, usually resembling a private home, for providing a small group of persons with special needs, such as handicapped or elderly persons or children, with lodging and supervised care. Residence does not include any centralized dining facility.

**Single Polymer Plastics:** ~~all narrow-neck~~ plastic containers including bottles, jugs, jars, and tubs 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.

**Textiles:** clothing, clean footwear, bedding, towels, curtains, fabric, and similar products.

**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.

**Vegetative Material:** plant material.

**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 but not limited to clean wood.

**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 AND REQUIRING A WASTE BAN PLAN

The following facilities must comply with the waste bans and submit a Waste Ban Plan to MassDEP for approval:

- Solid waste landfills;
- Solid waste combustion facilities;
- 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 a Waste Ban Plan from an ash-only or sludge-only landfill as long as 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 every facility to establish and implement a program to divert waste ban materials from disposal whenever possible.

- 1. A Facility That Receives Only Waste Loads less than or Equal to 5 Cubic Yards.** A solid waste facility whose approved waste ban compliance plan states that it does not receive any amount of waste in containers or vehicles with a capacity greater than 5 (five) cubic yards does not need to conduct record keeping or comprehensive load inspections. However, the facility still needs to monitor all waste for banned materials as part of its 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.

A facility that receives only waste loads less than or equal to 5 cubic yards 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. The consolidated load may then 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, commercial organic material, glass containers, lead batteries, leaves, metal containers, recyclable paper, single polymer plastics, tires, white goods, and yard waste).

Example: A municipal transfer station with an approved waste ban compliance plan, which states that 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. In such a case, that container or vehicle would not be subject to MassDEP waste ban enforcement for asphalt pavement, brick, concrete, clean gypsum

wallboard, metal and wood 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 handled.

MassDEP will post on its website a list of every solid waste transfer station that has an approved waste ban compliance plan which states that the facility does not receive waste in containers or vehicles with a capacity of greater than 5 cubic yards.

If a facility accepts any waste load of any type of waste greater than five cubic yards, this exemption does not apply. In this case, all the requirements for waste ban compliance apply.

2. **Tires.** Whole tires may be disposed at a solid waste combustion facility, and shredded tires may be disposed at a landfill.
3. **Wood.** Wood may be disposed at a solid waste combustion facility.
4. **Commercial Organic Material.** This definition does not include food and vegetative material from a residence. Therefore, a solid waste facility is not required to inspect and monitor for commercial organic material in loads collected from residential only routes. Note that these loads must still be inspected for all other banned materials.

### III. COMPLIANCE PLAN SUBMITTAL AND APPROVAL

#### A. Deadline for plan submission

Each solid waste facility must submit either a revised waste ban compliance plan or a waste ban plan certification form, as described below, to MassDEP by July 1, 20~~21~~<sup>14</sup>. The submittal should be addressed to the solid waste section chief at the appropriate MassDEP region.

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

MassDEP encourages every facility to use MassDEP's Waste Ban Compliance Plan Form (see Attachment G) to ensure that the key elements of this document are included in its Waste Ban Plan and to speed MassDEP's review and evaluation.

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

Landfills, municipal waste combustors and construction and demolition waste handling facilities need to submit a revised Waste Ban Compliance Plan with a BWP SW 45 permit application form, which provides for presumptive approval under 310 CMR 19.034. This form is available on <http://www.mass.gov/eea/agencies/massdep/recycle/approvals>. The exceptions to this are if the facility proposes a significant physical modification as part of its waste ban compliance plan or if the plan deviates significantly from MassDEP's waste ban plan template. MassDEP reserves the right to require a different permit application if a significant physical modification of the facility is proposed as part of the waste ban plan submittal and/or if a facility proposes a waste ban plan that deviates from MassDEP's waste ban plan template.

Solid waste transfer stations that are not construction and demolition waste transfer stations need to prepare a revised Waste Ban Compliance Plan. However, under 310 CMR 19.035, they do not need to submit this plan to MassDEP as long as the plan is consistent with the guidance document. The plan must be kept on site and available for MassDEP review. Only a waste ban plan certification form is required to be submitted. This form is available on <https://www.mass.gov/guides/massdep-waste-disposal-bans><http://www.mass.gov/eea/agencies/massdep/recycle/solid/massachusetts-waste-disposal-bans.html#5>.

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

Every solid waste management facility must remove and/or divert from disposal all waste ban materials to the greatest extent possible. Failure to prevent disposal of waste ban materials to the greatest extent possible may result in enforcement action by MassDEP. 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 potential for removing the waste ban material based on the size of the material and whether the material can be separated easily from the solid waste.

While MassDEP may take enforcement for any amount of waste ban materials that MassDEP observes in a shipment destined for disposal, a solid waste management facility is only required to take action in accordance with Section VIII of its approved Waste Ban Plan for unacceptable loads as defined below:

- Lead batteries, white goods, whole tires (except tires disposed of at a municipal waste combustion facility) mattresses, and CRTs are unacceptable in any quantity.
- All banned materials should be cumulatively estimated as a percentage of the waste load. The Action Level is 30 percent by volume for the total of all types of banned materials. (This excludes zero tolerance materials at all facilities, and tires and wood being disposed at a municipal waste combustion facility.)
- Un-bagged leaves and yard waste should be estimated as a percentage of the waste load. The Action Level is 10% by volume, or 10 bags of leaves and yard waste in a load.
- Recyclable paper, including corrugated cardboard, should be estimated as a percentage of the waste load. The Action Level is 10% by volume.
- Textiles should be estimated as a percentage of the waste load. The Action Level is 10% by volume.
- Asphalt pavement, brick, concrete, clean gypsum wallboard, metal and wood should be cumulatively estimated as a percentage of the waste load. The Action Level is 20% by volume.
- In order for construction and demolition handling facilities to maintain compliance with the requirement in approved Waste Ban Compliance Plans to separate clean gypsum wallboard to the maximum extent possible for recycling, the following measures are to be taken:
  - Loads that include clean gypsum wallboard must be sorted, to the extent it can be done safely, to remove clean gypsum wallboard to the greatest extent possible prior to any mechanical processing of the C&D waste load.
  - Facilities will not be allowed to transfer (including transfer to another C&D Handling Facility) mixed C&D waste loads that contain clean gypsum wallboard without first safely separating the clean gypsum wallboard for recycling.

- In order to be eligible to receive mixed C&D waste loads, a C&D handling facility must implement operating procedures to safely and effectively separate clean gypsum wallboard prior to transferring or processing C&D loads.
- Glass containers, metal containers and single polymer plastic containers should be cumulatively estimated as a percentage of the waste load. The Action Level is 10% by volume.
- Commercial organic material should be estimated as a percentage of the waste load. The Action Level is 10% by volume.

A failed load is a load in which the banned materials in the load meet or exceed the above action levels. When a failed load is accepted by the facility (i.e. any load that is not turned away or diverted to another facility), the facility shall comply with the requirements of Section VII and VIII.

## V. ONGOING WASTE STREAM MONITORING/INSPECTION

To identify the presence of banned materials in waste loads, a Waste Ban Plan must provide for ongoing waste stream monitoring. An on-going waste stream monitoring program must provide effective means for the facility to: 1) determine whether a waste load is a failed load (i.e., whether an action level has been met); 2) detect and divert banned materials from disposal or transfer for disposal; 3) identify and notify haulers and generators who are delivering failed loads to the facility; and 4) compare the ongoing monitoring results against the results of comprehensive load inspections to see if they are representative of all incoming loads.

Construction and demolition handling facilities do not need to keep records of the amounts of C&D banned 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

A facility must monitor all waste loads to identify banned materials.

### 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 daily 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. Any facility with a permitted tonnage of > 50 tons per day shall have a dedicated staff person, in addition to the loader operator on the tip floor, assigned to the responsibilities in Sections V, VI, and VIII of this guidance. 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 and generators.

## VI. COMPREHENSIVE LOAD INSPECTIONS

Comprehensive load inspections (“comprehensive inspections”) complement on-going waste stream monitoring by providing a detailed account 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 a facility operator regarding frequency of inspections, selection of loads for inspections, and inspection procedures. As part of its Waste Ban Plan, a solid waste facility is 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

The loads described below are not considered subject to comprehensive load inspections, but are still subject to ongoing monitoring as described in Section V.

1. A load 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.
- ~~2. A load originating solely from a supermarket or other business certified under a MassDEP Certification Program. For a list of certified locations, see the MassDEP web site at <http://www.mass.gov/eea/agencies/massdep/recycle/reduce/stores-with-supermarket-recycling-program-certification.html>.~~
- ~~2.3.~~ A load originating from a transfer station, because a transfer station is responsible for monitoring its waste stream and conducting its own comprehensive inspections.
- ~~34.~~ A load accepted by a construction and demolition handling facility which is 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 plan 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.

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>	
Facility Size in Permitted Tons per Day	Min. # of Vehicles to Inspect per Month (must have capacity greater than 5 cubic yards)
facility only accepting loads of 5 cubic yards or less	0
1-99	4
100-299	8
300-499	12
500-999	16
1000 +	20

### C. Inspection Procedure

1. A comprehensive load inspection shall be conducted in a manner that does not endanger the safety of facility or hauler personnel. In general, a waste load 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 the inspection procedure below. Any facility with a permitted tonnage of > 50 tons per day shall have a dedicated staff person, in addition to the loader operator on the tip floor, assigned to the responsibilities in Sections V, VI, and VIII of this guidance.

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, ~~and~~ mattresses). 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 and textiles; 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 that meet or exceed 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 a failed load is outlined in Section VIII, Facility Response to Failed Loads.

3. For a transfer station where it is logistically infeasible to spread out a waste load for inspection (typically a small transfer station) the facility's compliance plan shall describe how banned materials will be identified.

## **VII. RECORD KEEPING**

To implement the record-keeping requirements of 310 CMR 19.017 (6)(b), the facility should record and maintain the following information. Whenever possible, data should be kept in an electronic format that will be available to the Department on request. Facilities that keep electronic data in this way will not be required to maintain paper copies at the facility.

### **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 meet or exceed Action Level Thresholds (failed loads).

### **Comprehensive Load Inspections**

The following should be recorded for every comprehensive load inspection.

- Date and time of inspection;
- Hauler's name, address and phone number;
- Load Scale ticket number (or other facility specific load record number);
- Generator's name and address (if known);
- Tons or cubic yards of waste in each inspected load;
- Any quantity of banned materials observed;
- Whether or not the load is a failed load;
- Disposition of every failed load including loads that were rejected after tipping and reloaded into the hauler's vehicle;
- When banned materials are separated from a failed load, the disposition of separated banned materials, including the quantity and location where banned materials were diverted from 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; and
- Documentation of communication follow-up with haulers and/or generators connected with a failed load as noted in Section VIII.

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.

The facility is encouraged to include materials in its reports, such as photographs, to document inspection activities and the detection and handling of failed loads. The facility should keep inspection data in an electronic format that can be provided to the Department upon request.

## VIII. FACILITY RESPONSE TO FAILED LOADS

### A. Communication

The facility shall take the following actions when a failed load is 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.

1. 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.
2. 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. Include in the communication any documentation of the failed load. 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; in which case the facility is not required to send a letter to the entity that delivered that material.
3. Whenever the generator can be identified, send a letter to the generator (see Attachment C) within 45 days of the observation. The facility also shall furnish a MassDEP letter and fact sheet (see Attachment D) to the generator explaining the waste bans.

### B. Failed Load Disposition

A facility's Waste Ban Plan must identify how all failed loads will be managed, including addressing the hierarchy listed below. Any facility with a permitted tonnage of > 50 tons per day shall have a dedicated staff person, in addition to the loader operator on the tip floor, assigned to the responsibilities in Sections V, VI, and VIII of this guidance. ÷

1. Reject or reload if it is safe to do so.
2. 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).
3. Transfer the material to a facility with an approved Waste Ban Compliance Plan that includes separation and diversion of the banned materials for recycling or reuse, or is permitted to accept these materials for transfer to another permitted facility for subsequent diversion of these materials for recycling or reuse.

4. As a last resort, dispose (or transfer for disposal of) the load only when the waste cannot be recycled (either at the facility or if transferred to another facility), 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 and retained in facility's operating logs.
5. Loads that contain C&D materials above action levels (asphalt pavement, brick, concrete, clean gypsum wallboard, metal, and wood) should not be accepted and disposed. A facility's waste ban plan should identify procedures for either rejecting these loads, accepting and separating the banned materials in these loads, or transferring them to a C&D processor that is compliant with MassDEP's Minimum Performance Standard Policy for C&D facilities.
6. Zero tolerance items (lead batteries, white goods, whole tires (except tires disposed of at a municipal waste combustion facility) mattresses, and CRTs) should be separated for recycling whenever they are identified in a load.
- 4.7. The waste ban plan should specifically address how a facility will separate clean cardboard observed above action levels for recycling.

## 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 posting 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 for 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 example.)

### C. Annual Facility Report

In the plan, the facility shall answer all questions relating to the Waste Ban Plan on the facility's annual reporting form provided by MassDEP. A facility required by its 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, 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 a facility's records concerning its monitoring and waste load inspection program to corroborate the facility's 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. Potential penalties for not complying with a Waste Ban Plan**

In accordance with MassDEP's Enforcement Response Guidance, failure to comply with a Waste Ban Plan may result in enforcement action(s). This 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).