

SWAC C&D Subcommittee Meeting
MassDEP – Bureau of Air & Waste
October 30, 2020; 10:00 AM to 11:40 AM

Meeting Notes:

Recorded by: Mike Elliott (MassDEP) and Abbey Massaro (Recycling Works)

NOTE: Copies of the meeting notes and presentation slides are available on the MassDEP C&D Subcommittee webpage. The MassDEP C&D Subcommittee webpage can be found at the following link: <http://www.mass.gov/eea/agencies/massdep/news/advisory-committees/cd-subcommittee.html>. Comments can be submitted via email to Mike Elliott at michael.elliott@mass.gov.

The following agenda items were covered during the meeting:

1) Welcome/Safety/Introductions

MassDEP welcomed participants to the webinar.

- Participants on webinar: 52 (as recorded on webinar attendee report)
- Participants reflected a cross-section of stakeholders representing: C&D Processors and Transfer Stations; Waste Haulers; Recycling Processors; Recycling/Re-use End-Markets; Construction Management Firm representatives, Consultants, Academia, Trade Association Representatives, Solid Waste Management Officials Organization, and State Officials
- With the number of COVID-19 infections rising rapidly in communities across the State, across the country and worldwide, MassDEP reminded everyone of the need to remain vigilant to reduce the risk of COVID-19 transmission by following public health guidelines.
- MassDEP also provided the link to COVID-19 information specific to the Solid Waste industry (<https://www.mass.gov/lists/massdep-solid-waste-policies-guidance-fact-sheets#covid-19>).

2) C&D Minimum Performance Standard Implementation

MassDEP provided an update of the C&D Minimum Performance Standard (MPS) Implementation Plan:

- The MassDEP C&D MPS can be summarized by the following statement: **ENSURE THAT EVERY TON OF C&D MATERIAL IS PROCESSED AT AN MPS-COMPLIANT FACILITY.** This fundamental tenet is at the core of all subsequent decisions and actions.
- MassDEP reviewed the two performance criteria specified in the C&D MPS.
 1. Achieve a 15% Process Separation Rate (PSR) minimum threshold
 2. Demonstrate that all banned materials are separated to the greatest extent possible
- MassDEP emphasized that the 15% PSR is a MINIMUM THRESHOLD, not the end-all, be-all. If a facility can safely separate more than 15%, then that is what is expected – separate all waste ban materials to the greatest extent possible. Just reaching a 15% PSR does not guarantee that a facility is in compliance with the Waste Ban reg requirements or its site-specific Waste Ban Compliance Plan.
- MassDEP reviewed the implementation schedule for CY2020 and CY2021. Progressive enforcement will begin circa June 2021 based on analysis of the CY2020 annual report data.
- For more information on the MassDEP C&D MPS and Waste Ban Regs more generally, please refer to the following links on the MassDEP webpage:

- MPS Statement (Feb 2020): <https://www.mass.gov/doc/minimum-performance-standard-for-construction-demolition-handling-facilities/download>
- MPS FAQs (Feb 2020): <https://www.mass.gov/doc/frequently-asked-questions-faq-minimum-performance-standard-for-cd-handling-facilities/download>
- C&D Materials Waste Ban FAQs (Jun 2020): <https://www.mass.gov/doc/frequently-asked-questions-construction-demolition-materials-waste-ban/download>
- Overarching MassDEP Waste Ban Regulation: <https://www.mass.gov/guides/massdep-waste-disposal-bans>
- MassDEP showed slides summarizing significant observations based on the CY2019 annual report data:
 - Trend of Inbound Materials Accepted over time: steady increase in tonnage received by C&D handling facilities over past 10 years; in 2019 - 2.3 million tons (MT) total inbound, which includes 1.3 MT Mixed C&D Waste and 0.4 MT Bulky Waste.
 - Two scatter plot charts for individual Process Separation Rates at facilities that submitted annual reports in CY2019: one chart for the 18 C&D Processors, and the other for the 13 Large C&D Transfer Stations.
 - For Processors, the PSR values ranged from 0.45% to 49% with the average being 19%.
 - For Large C&D TSs, the PSR values ranged from 0% to 14% with the average being 5%.
 - List of facilities that meet both MPS criteria: 6 Processors; 0 Large C&D TSs
 - List of facilities that meet the 15% PSR minimum threshold, but are not separating all C&D waste ban materials: 3 Processors, 0 Large C&D TSs
 - List of facilities that are separating all C&D waste ban materials, but not meeting the 15% PSR minimum threshold: 2 Processors, 2 Large C&D TSs
 - List of facilities not meeting either MPS criterion: 7 Processors, and 10 Large C&D TSs
- MassDEP reiterated that any facility not in compliance with the MPS cannot dispose or arrange disposal of any C&D materials
 - For Processors that fail to meet the MPS, it would be advisable to reach out to the MassDEP regional office Solid Waste Section Chief to discuss a detailed plan to attain compliance,
 - For Large C&D TSs that fail to meet the MPS, there are three options:
 - (i) Invest in operational improvements to attain MPS compliance; as is the case for Processors, it would be advisable to reach out to the MassDEP regional office Solid Waste Section Chief to discuss a detailed plan to attain compliance, or
 - (ii) Transfer all unprocessed or partially processed C&D materials to an MPS-compliant facility for further processing, or
 - (iii) Accept only C&D Residuals for disposal from MPS-compliant facilities

3) RFI Letter Responses

- MassDEP reported on the status of the formal Request for Information (RFI) letters that were issued to 29 C&D Handling Facilities (17 Processors and 12 Large C&D TSs) in July and August. The RFI letters collected two types of data:
 - Monthly operational data for the first 6 months of 2020

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- Better understand impact of COVID-19 pandemic on operations
 - Factor into compliance evaluations in 2021
- Clarify and verify data that was reported by facilities in the CY2019 C&D Facility Annual Reports.
 - Serve as a learning tool to improve data reporting for next year when it will be the basis of MPS enforcement
- Full or partial responses have now been received from all facilities who received RFI letters, but MassDEP has not completed its analysis of all the information received (note: some was only just received in the past week.)
- MassDEP showed slides summarizing significant observations based on the First-half 2020 (1H2020) monthly operational data submitted with the RFI responses.
 - 1H2020 Average Monthly Inbound Material Trends
 - Processors
 - Total inbound hovered around 100,000 tons/per month; dropped to lowest point 74,000 tons in April; increased to 120,000 tons in June.
 - Bulky waste was flat for all 6 months around 16,000 tons.
 - Lg. C&D TSs
 - Total inbound fluctuated somewhat between 60,000 and 70,000 tons per month with no clear trend up or down.
 - Mixed C&D Waste and Bulky Waste, nearly the same quantities, both increased somewhat from January through June ranging from 15,000 tons to 20,000 tons per month.
 - 1H2020 Monthly PSR Trend Chart for 16 Processors (Note: missing info from 1 Processor whose response had only just come in past week)
 - The combined average PSR for all 16 Processors started out the year on par with 2019 at about 19%. Average performance dropped below the 15% PSR minimum threshold in April and May but was showing improvement by June.
 - Looking at the individual facility PSR performance, most facilities showed only marginal declines in performance over the six-month period. The decline in the average PSR can be attributed to 4 facilities that cut-back on processing either due to reduced volume or due to safety concerns (e.g. social distancing on picking lines).
 - 1H2020 Monthly PSR Trend Chart for 11 Large C&D Transfer Stations (Note: missing data for 1 TS that had not provided a monthly break-out of operational performance)
 - The combined average PSR for all Lg. C&D TSs stayed fairly flat between 6% and 7% over the six-month period.
 - The individual facility PSR performance was a bit more variable, but again stayed flat for most of the facilities. With only one or two exceptions, these facilities are all “kick-sort” operations, so it makes sense that their operations would not be as severely impacted by COVID-19 safety protocols.
 - MassDEP concluded the discussion of the RFI letters by summarizing favorable improvements and potential compliance issues observed in the information submitted.
- Public Stakeholders participating in the webinar then posed a few questions:
 - Question: One person asked if the six MPS-compliant facilities have enough capacity to handle ALL of the C&D tonnage for the entire state?

Response: MassDEP can't say for sure, but this is all the more reason why it is so important to work with all the permitted C&D Processors to get them into compliance with the MPS. Furthermore, MassDEP is aware of two C&D processors are currently operating very close to the 15% PSR minimum threshold. They are well equipped with the necessary mechanical equipment and staffed picking lines to achieve the MPS. MassDEP is confident they will come into compliance very soon. Another C&D Processor from the Western Region commented during the webinar that it would have mechanical equipment installed by January, and expected to be able to comply with the MPS by then.

Question: A person asked whether MassDEP has given any more thought to facility aggregation? (By that, MassDEP assumes the person is referring to combining the operational performance of a high performing C&D Processor with a separate, but paired rail-haul transfer station operating under the same company.)

Response: The short answer is no. As stated in the response to Question 5 of the MPS FAQ guidance: "One of the fundamental tenets of the C&D MPS is that all C&D material needs to pass through an MPS-compliant facility for processing. Each permitted C&D Handling Facility will be viewed as a stand-alone entity. Each facility will have to demonstrate compliance with the C&D MPS on the basis of its individual performance..." The response goes on to reference the three ways that a facility can demonstrate compliance with the MPS: 1) invest in equipment to improve performance and meet the MPS; 2) transfer all unprocessed or partially processed C&D materials to an MPS-compliant facility for further processing; or 3) accept only C&D Residuals for disposal from MPS-compliant facilities. So it is worth having a conversation with the MassDEP regional Solid Waste Section Chief about how you intend to attain compliance if you are not conforming to one of these alternatives.

Question: A person asked to clarify the options for Transfer Stations (TS): if the TS decides to process, then it has to meet the 15% PSR minimum threshold; and alternatively, if it decides to continue as a TS, then 100% of the material must be transferred to an MPS-compliant facility?

Response: This characterization of TS options is mostly correct. I might re-frame the question by considering whether the TS intends to dispose or arrange disposal of C&D Materials. If it does intend to dispose or arrange disposal of any C&D materials, then the TS must satisfy both MPS performance criteria: 1) achieve the 15% PSR minimum threshold; and 2) separate all waste ban materials to the greatest extent possible. Alternatively, if the TS does not intend to dispose or arrange disposal of any C&D materials, but rather transfer all unprocessed or partially processed C&D materials to an MPS compliant facility, then it need not be concerned with achieving the 15% PSR minimum threshold. And of course, the third option stated above is for the TS to accept only C&D Residuals for disposal from MPS-compliant facilities.

Question: A person asked when will DEP issue replies to the RFI response letters submitted by the C&D Handling Facilities?

Response: MassDEP responded that it will try to send out replies before the end of the year.

4) Market Conditions for Wood

MassDEP discussed how to address B-wood (i.e. painted/treated) markets:

- First it needs to be acknowledged that one of the positive outcomes of the MPS is that it is driving facilities to improve the separation A-wood that meets the specification for existing re-use/recycling markets (e.g. particle board and biomass fuel). At the same time however, with the increased recovery of A-wood, the remaining B-wood by-product will in turn be more highly concentrated with painted and treated wood, and potentially less marketable for any re-use options or even disposal other than landfills.
- One of the representatives from a major municipal waste combustion facility on the call confirmed that B-wood is not desirable for a couple reasons:
 - B-wood typically contains higher concentrations of gypsum fines. When introduced at a municipal waste combustion facility, the sulfates in the gypsum increase the risk of SO₂ air permit excursions, and they consume more treatment chemicals (lime) in the Flu-Gas Desulfurization Systems. Plus, it contributes to corrosion of the air pollution abatement equipment more generally. All of this translates to higher operating costs that exceed the value of the tip fees.
 - ATO permits for MSW combustion facilities also limit how much C&D material they can accept to <50 TPD.
- Before MassDEP will consider any allowances for alternative disposal options (e.g. BUD for ADC, or waste ban waiver for disposal), the facility will first need to conduct an independently verified characterization study of the inbound wood loads.
- Any allowance will include a quantifiable limit on the amount of B-wood allowed for disposal as a function of the total inbound waste received.

5) **Proposed Waste Ban Amendments**

MassDEP provided an update on the public comment period for the proposed waste ban amendments.

- The three proposed new/modified waste ban materials include:
 - Commercial organic material (food material)
 - lowering threshold from 1 ton to ½ ton/week
 - Mattresses
 - Textiles
- Proposed waste ban amendments and guidance can be found on the MassDEP webpage at the following link: <https://www.mass.gov/guides/massdep-waste-disposal-bans>
- Virtual public hearings were scheduled for 11/09 and 11/12.
- The public comment period ends 12/04/2020.
- 90 days prior to the effective date (anticipated to be 10/01/2021, so 90-days prior would be on or about 7/01/2021), Solid Waste Handling Facilities will need to submit revised Waste Ban Compliance Plans (WBCP) that reflect the new waste ban materials. In the case of C&D Handling Facilities, the revised WBCP will also need to address MPS compliance.
- This generated some questions by the public stakeholders on the webinar:

Question: Will the waste ban on textiles be aimed at generators? I'm not aware of any outlets for textiles that are wet, dirty, etc.

Response: Yes. As with all waste bans, the waste ban applies to generators. Textiles will need to be kept clean and dry and collected separately. There is a robust existing textile recovery market.

Question: How are revised WBCP's submitted? by a permit mod? If so, which permit (BWP-SW-45?)

Response: Per the draft guidance policy:

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.

6) Announcements/Updates

Recycling Business Development Grant Program:

- MassDEP announced that applications are still being accepted for the next round of Recycling Business Development Grants through 11/20/2020.
- The target materials in this round include C&D Materials Project targeting cardboard, wood, metal or clean gypsum wallboard that will increase the PSR of C&D Handling Facilities.
- For more information, you can go to the MassDEP webpage at the following link: <https://www.mass.gov/how-to/recycling-business-development-grants>

Solid Waste Facility Reg Revisions 310 CMR 19.000

- MassDEP announced a Special SWAC meeting on Thursday 11/19/2020 at 10:00 am.
- No pre-registration required, simply click on the following link: <https://global.gotomeeting.com/join/187260149>

EBC 15th Annual C&D Materials Management Regional Summit

- EBC will be conducting a virtual meeting on Thursday, January 28, 2021
- Watch the EBC Calendar for more information: <http://ebcne.org/calendar/>

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CDRA Update

- Bill Turley, Executive Director of CDRA, provided some updates on the national scene
 - According to Bill, not much is happening right now on the national level that affects C&D recycling.
 - EPA is promoting recycling in part through its America Recycles Day celebration in November.
 - CDRA is concerned about proposed Environmental Justice legislation in New Jersey that Bill claims will make it harder to issue permits or renew permits at C&D Handling Facilities.
 - CDRA Annual Meeting is scheduled for March 22 and 23 in Austin, TX. No final decision has been made whether to conduct the meeting virtually or in person.

7) Closing/Next Steps

Next meeting of the C&D Subcommittee:

The date of the next C&D Subcommittee meeting has yet to be determined but would normally be held in March 2021.

Respectfully,

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