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MINIMUM PERFORMANCE STANDARD FOR CONSTRUCTION AND DEMOLITION HANDLING FACILITIES TO COMPLY WITH MassDEP's WASTE BAN REGULATIONS AND WASTE BAN COMPLIANCE PLANS

Updated: October 2021, July 2024

This Construction & Demolition (C&D) Minimum Performance Standard (MPS) applies to permitted C&D Processing Facilities and C&D Transfer Stations (permitted to accept >50 tons per day of C&D waste), together referred to as C&D handling facilities. The MPS provides guidance for C&D handling facilities to comply with the Solid Waste Management Facility Regulations at 310 CMR 19.017 – Waste Bans. This guidance establishes measurable performance criteria that the Massachusetts Department of Environmental Protection (MassDEP) considers the minimum acceptable level for ensuring compliance with the Waste Ban Regulations and with the current terms of facility permits and waste ban compliance plans. This guidance is not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party in litigation with the Commonwealth.

Background:

Historically, the C&D Facility Annual Report data has shown a wide variation in the process efficiency of C&D handling facilities at separating banned and other recoverable materials from inbound waste loads. During CY2019, the year prior to the launch of the MPS, the process separation rate at C&D processors ranged from less than 1% to about 46%. Better performance correlated, for the most part, with facilities that had invested in mechanical processing equipment and that incurred the added operating expense of fully staffed picking lines. Poorer performance, by contrast, could be correlated to facilities that disposed of mixed C&D waste without adequate processing to separate banned and other recoverable materials to the greatest extent possible - a phenomenon that has been called "leakage." To address the historic limitations and variability of the C&D handling facility performance, MassDEP launched the C&D MPS in 2020. The MPS established measurable performance criteria that all C&D handling facilities must meet as part of their permit requirements. The intent of the MPS is to level the playing field and ensure that all C&D waste loads are being sent to an MPS-compliant C&D handling facility for processing, and thus increase the removal and recovery of banned materials from all C&D materials as required by the waste ban regulations.

The process separation rate (PSR) minimum threshold was initially set at 15% in 2020 based on the level of performance that the majority of C&D handling facilities were achieving at that time along with available waste characterization data. In 2022, MassDEP commissioned a waste characterization study by an independent, nationally recognized, third-party consultant to further characterize the composition of C&D and bulky waste loads received by the C&D handling facilities across the commonwealth. The waste characterization study demonstrated that the C&D and bulky waste loads contained on average 40% recoverable waste ban materials, and another 20-30% potentially recoverable materials. With that information and facility data submitted since 2020, MassDEP held a public meeting of the C&D Subcommittee in May 2024 at which MassDEP presented a proposal to incrementally increase the PSR minimum threshold to 25% by 2030 and solicited comment. Making incremental increases to the PSR requirement is intended to drive operational improvement at C&D handling facilities in support of one of the four main objectives of the C&D Action Plan memorialized in the 2030 Solid Waste Master Plan (SWMP): “Enhance Collection and Processing.”

MPS Performance Criteria:

In order to demonstrate compliance with the C&D MPS, a C&D handling facility must meet each of the following two MPS performance criteria for the separation of banned and recoverable materials:

CRITERION #1: Demonstrate that all banned materials are being separated to the greatest extent possible.

Facility must demonstrate separation of all C&D waste ban materials (i.e., asphalt pavement, brick and concrete (ABC), metal, wood, clean gypsum wallboard), old corrugated cardboard (OCC), and any other waste ban materials received by the facility.

CRITERION #2: Achieve operational performance that meets or exceeds the Process Separation Rate (PSR) minimum threshold:

- a. Schedule of Incremental increases in PSR minimum threshold that become effective on January 1 of each year:*
 - i. 2020 = 15% (currently in effect)*
 - ii. 2025 = 20% (goes into effect January 1, 2025)*
 - iii. 2027 = 23% (goes into effect January 1, 2027)*
 - iv. 2030 = 25% (goes into effect January 1, 2030)*
- b. PSR is defined as the ratio of the quantity (by weight) of materials reused/recycled as feedstock, recycled as biomass fuel, or diverted as determined by the Department, compared to the quantity (by weight) of the **total inbound material accepted**. (See Attachment 1 “Process Separation Rate Calculation” for a more detailed description of the calculation methodology.)*

Failure to satisfy either MPS performance criterion constitutes a failure to comply with the Waste Ban Regulations and the Facility’s Waste Ban Compliance Plan requirements. A C&D handling facility failing to meet either performance criterion may not dispose of any remaining waste material; any remaining waste material must be transferred to a C&D handling facility that is meeting the MPS performance criteria for further processing.

For a transfer station that elects to transfer all unprocessed or partially processed C&D materials to an MPS-compliant C&D handling facility for further processing after first separating clean gypsum wallboard and zero-tolerance waste ban items, the above MPS Performance Criteria are “Not Applicable” and that transfer station is considered to be compliant with the MPS.

If transferring material out-of-state, the C&D handling facility must be able to provide documentation that the out-of-state processor conforms to the MassDEP MPS performance criteria.

Nothing in this guidance relieves a C&D handling 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 Compliance Plan, determining compliance with an existing plan, or enforcing an existing plan.

If you have any questions about this guidance, please do not hesitate to contact the MassDEP statewide C&D program coordinator, Michael Elliott, at 617-571-0824 or by email at michael.elliott@mass.gov.

Attachment 1: Process Separation Rate Calculation:

Process Separation Rate (PSR) is simply the quantity of material separated compared to the total inbound material accepted

Process Separation Rate

$$= \frac{(Reused/Recycled + Biomass + Diverted)}{(Total\ Inbound - Inbound\ Cat2\ Fines/Residuals - C\&D\ Material\ Transferred\ to\ MPS\ compliant\ facility)}$$

- *Diverted material means separation of a specific type of C&D material (e.g., C&D wood) that is then transferred to another facility for aggregation as a recycled product (i.e., sent and received as a separated material; not mixed C&D waste; contaminants shall be at de minimis levels, and in no case greater than 5% by volume).*
- *Diverted material does **NOT** include any landfill dependent uses (e.g., alternative daily cover, road-base stabilization, and shaping & grading).*
- *The quantity of total inbound material accepted includes **ALL** materials accepted by the facility (e.g., mixed C&D waste, source separated materials and bulky waste); it excludes any C&D fines and residuals received from an MPS compliant C&D handling facility and any municipal solid waste (MSW) if acceptance of such materials are allowed by the facility operating permit, and it excludes any mixed C&D waste transferred to an MPS-compliant facility for further processing.*

Note:

Category 2 Fines & Residuals can only be accepted for disposal from a C&D handling facility that meets or exceeds MPS performance criteria. Otherwise, they must be accepted and processed as C&D waste.

C&D Residuals: C&D material that remains after banned and other recyclable materials (including, but not limited to, asphalt pavement, brick, concrete, metal, wood, and clean gypsum wallboard) have been removed from C&D waste to the greatest extent possible.

C&D Fines: C&D waste processed through an initial size reduction and screening process in accordance with a MassDEP Beneficial Use Determination (BUD) and **prior to grinding** which is (a) three inches or less (3" minus) in size; (b) consists primarily of soil and other inert materials; and (c) in no case shall exceed 35% organic content by volume.