



Department of Environmental Protection

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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

February 2020

This Construction & Demolition (C&D) Minimum Performance Standard (MPS) applies to permitted C&D Processors and Large C&D Transfer Stations (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 clarifies the requirements for C&D Handling Facilities and 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.

The C&D Facility Annual Report data shows a wide variation in the process efficiency of C&D handling facilities at separating banned and other recoverable materials from inbound waste loads. Of the 19 facilities that are permitted as C&D processors, the process separation rate ranges from less than 1% to about 46%. Better performance correlates, for the most part, with facilities that have invested in mechanical processing equipment and that incur the added operating expense of fully staffed picking lines. Another factor that historically has adversely affected the separation rate is a phenomenon that has been called “leakage”. Leakage is a term used to describe the improper disposal of mixed C&D waste without adequate processing to separate banned and other recoverable materials to the greatest extent possible. Leakage can result from a combination of factors, including: improperly run transfer facilities; improperly run processing facilities; and direct shipment of mixed C&D waste loads from the jobsite to in-state or out-of-state disposal facilities. The intent of the MPS guidance is to level the playing field and ensure that mixed C&D waste loads are being sent to C&D facilities that are successfully removing and recovering banned materials as required by the waste ban regulations.

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: Achieve minimum threshold for the Process Separation Rate (PSR);

- a. Effective 1/01/2020, PSR minimum threshold is 15%;*
- b. Over time, PSR minimum threshold may be increased to improve performance;*
- c. PSR is defined as the ratio of the quantity (by weight) of materials 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**. Note:*
 - i. Diverted material means separation of a specific type of C&D material (e.g. C&D wood) that is then transferred for further processing (i.e. sent and received as a separated material; not mixed C&D waste).*
 - ii. Diverted material does **NOT** include any landfill dependent uses (e.g. alternative daily cover, road-base stabilization and shaping & grading).*
 - iii. 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 or any municipal solid waste (MSW) if acceptance of such materials are allowed by the facility operating permit.*

CRITERION #2: 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. ABC, metal, wood, clean gypsum wallboard), OCC, and any other waste ban materials received by the facility.

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. If transferring material out-of-state, the C&D Handling Facility must 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. MassDEP reserves the right to act at variance with this guidance and change it at any time without public notice.

MassDEP considers this guidance to be a further clarification of the enforceable provisions of C&D Facility Permits and Waste Ban Compliance Plans that are already in effect. After the effective date of this guidance, MassDEP will be enforcing the terms of those Permits and Plans with respect to the clarified performance criteria for recovery of banned and recoverable materials as set forth in this guidance. C&D Handling Facility Permits and Waste Ban Plans will be updated, as necessary, at the next needed modification/renewal to reflect the clarifying terms of this guidance.

If you have any questions about this guidance, please do not hesitate to contact the MassDEP statewide C&D program coordinator, Michael Elliott, at 617-292-5575 or by email at michael.elliott@mass.gov.