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3. Facility response to failed loads, including:
 - a. communication; and
 - b. failed load disposition.
4. Other compliance plan elements, including:
 - a. training;
 - b. signage; and
 - c. annual waste ban report.

(c) In determining the adequacy of a plan the Department may consider, without limitation: the anticipated quantities and sources of restricted materials; the contractual terms which affect the delivery of said materials; the expected maximum and minimum percentages of diversion of said materials prior to delivery to the facility and capture of said materials at the facility; the design, operational, educational, informational, financial and marketing mechanisms to be employed to achieve compliance with the restriction; and the weighing and record keeping systems by which the Department can verify compliance with the restriction.

(d) Facilities shall submit such plans at least 90 days prior to the effective date of the ban. The schedule shall not limit the Department from requiring submission of a plan as part of an application for a new or existing facility permit or modification of a permit or plan approval.

(7) Compliance with Waste Ban Plan. Failure to comply with approved plans submitted pursuant to 310 CMR 19.017(6) or applicable permit conditions shall constitute a violation of 310 CMR 19.000. The Department may allow *de minimis* quantities of restricted materials, as determined by the Department, to be disposed by the facility. The Department may require, in lieu of an enforcement action described in 310 CMR 19.081, a modified plan to be submitted when restricted materials are being disposed of in excess of approved amounts.

19.018: Third-party Inspections

(1) Purpose. 310 CMR 19.018 sets forth third-party inspection requirements for specific types of facilities.

(2) Applicability.

(a) The third-party inspection requirements at 310 CMR 19.018 shall apply to the following types of facilities and to individuals who conduct third-party inspections at such facilities:

1. active landfills;
2. closed landfills;
3. handling facilities;
4. combustion facilities; and
5. other solid waste activities or facilities, as determined by the Department.

(b) Effective Date. The third-party inspection requirements of 310 CMR 19.018 shall be effective 180 days from February 14, 2014.

(c) Existing Third party Inspection Requirements. Where a facility has an existing third-party inspection requirement established in a permit or enforcement document issued prior to February 14, 2014 the facility shall use that inspection frequency (in the existing permit or enforcement document) if it is more frequent than the frequency specified in 310 CMR 19.018. All other requirements of 310 CMR 19.018 shall apply to such third-party inspections.

(d) Nothing in 310 CMR 19.000 shall be construed to limit the Department from determining that more frequent third-party inspections or more stringent requirements for third-party inspections are required for a facility. When deemed necessary by the Department, such alternate inspection frequency or more stringent requirements shall be set forth in the facility's permit, authorization to operate, or other written approval, order or other document issued by the Department.

(3) Types of Inspections. The owner and operator of a facility listed at 310 CMR 19.018(2)(a) shall have the following types of third-party inspections conducted at the facility in accordance with the performance standards and other requirements of 310 CMR 19.018:

- (a) facility operation and maintenance inspections;
- (b) waste ban inspections at any facility with a waste ban compliance plan approved by the Department in accordance with 310 CMR 19.017; and
- (c) any other third-party inspection as directed by the Department.

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(4) General Requirements for Owners and Operators.

- (a) Each owner and operator of a facility shall ensure that the facility:
1. is inspected by a third-party inspector who is registered with the Department pursuant to 310 CMR 19.018(5);
 2. is inspected according to the frequency and the performance standards set forth in 310 CMR 19.018(6) and (7); and
 3. submits copies of all third-party inspection reports to the Department in accordance with 310 CMR 19.018(8).
- (b) The owner and operator shall not conduct their own third-party inspections and shall not retain any of the following individuals to conduct such third-party inspection:
1. a person with daily on-site responsibility for the operation or management of the facility to be inspected;
 2. a person with a financial interest in such facility;
 3. a spouse, parent, child, or sibling of the owner or operator;
 4. the spouse, parent, child, or sibling of any employee of the owner or operator;
 5. an employee of the owner or operator; provided that a municipal owner or operator may retain as a third-party inspector a municipal employee from a department, board or office of the municipality that is separate from the department, board or office of the municipality that owns or operates the facility (e.g., a municipal engineer or board of health agent may inspect a transfer station managed by the municipality's department of public works).
- (c) The owner and operator shall allow the third-party inspector full access to the facility and its records related to any solid waste activities carried out at the facility, for the purpose of performing any activity related to conducting the third-party inspection or preparing the third-party inspection report, provided that the owner and operator may deny the third-party inspector access to confidential or proprietary business information. The owner and operator shall in no way restrict, impede, or delay a third-party inspection.
- (d) The owner and operator shall inform the third-party inspector when the owner or operator or any of his or her employees learns of the date of the third-party inspection in advance of the third-party inspection.
- (e) The owner and operator shall provide true, accurate and complete information which is not misleading to the third-party inspector.

(5) General Requirements, Registration and Qualifications for Third Party Inspectors.

- (a) Third-party Inspector Requirements. Each individual performing inspections pursuant to 310 CMR 19.018 shall have the continuing duty to meet the following performance standards to ensure that his or her registration is maintained pursuant to 310 CMR 19.018(5):
1. be registered according to the process set forth in 310 CMR 19.018(5)(b) prior to conducting any third-party inspection pursuant to 310 CMR 19.018;
 2. file with the Department an updated qualifications statement every two years that is signed and certified in accordance with 310 CMR 19.011(1);
 3. file with the Department an updated qualifications statement within 30 days when there is a change in the individual's licensure status or professional standing;
 4. complete all training requirements required under 310 CMR 19.018;
 5. personally conduct and complete third-party inspections in accordance with the performance standards in 310 CMR 19.018(6) and (7);
 6. prepare accurate and complete third-party inspection reports in accordance with the performance standards in 310 CMR 19.018(6) and (7) and submit third-party inspection reports to facility owners and operators in accordance with the requirements of 310 CMR 19.018(8);
 7. not make any false, inaccurate, incomplete or misleading statements in any third-party inspection report; and
 8. provide any information regarding third-party inspections to the Department upon request as soon as possible but in no event more than seven business days following receipt of the request.

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(b) Registration. To be eligible to conduct a third-party inspection required by 310 CMR 19.018, an individual shall register with the Department in advance by filing a qualifications statement. The qualifications statement is a self-certification by an individual, on a form provided by the Department, documenting that he or she meets or exceeds the minimum qualification requirements set forth at 310 CMR 19.018(5)(c) for the specific type or types of third-party inspection that said individual may be retained to conduct. The qualifications statement shall include:

1. all relevant professional licenses and certifications that the individual currently holds, including but not limited to:
 - a. Registered professional engineer (PE);
 - b. Registered sanitarian (RS);
 - c. Solid waste operator license(s);
 - d. Solid Waste Association of North America (SWANA) certification(s);
 - e. Licensed site professional (LSP); or
 - f. Asbestos inspector licensure and certification by the Massachusetts Department of Labor Standards;
2. specific academic degrees that the individual has received;
3. specific solid waste training that the individual has successfully completed, such as SWANA training or Department waste ban training; and
4. relevant experience in the solid waste management field.

(c) Third-party Inspector Qualifications. An individual may qualify to conduct one or more types of third-party inspection, as follows:

1. General Qualifications. In order to be qualified to conduct any type of third-party inspections pursuant to 310 CMR 19.018, a third-party inspector shall have in-depth knowledge and understanding of solid waste management laws, regulations and requirements applicable to the specific type or types of third-party inspections that said individual may be retained to inspect;
2. Waste Ban Inspector Qualifications. In order to be qualified to conduct a waste ban inspection at a facility pursuant to 310 CMR 19.018(7), the third-party inspector shall have successfully completed the Department's waste ban training course and any subsequent training required by the Department.
3. Facility Operation and Maintenance Inspector Qualifications. In order to be qualified to conduct a facility operation and maintenance inspection pursuant to 310 CMR 19.018(6), a third-party inspector shall, at a minimum, have the following combination of credentials, experience and training:
 - a. Credentials.
 - i. be a registered Massachusetts professional engineer in good standing, or a registered Massachusetts sanitarian in good standing, or a Massachusetts licensed site professional in good standing, each of which must have three or more years of full-time professional experience, or part-time equivalent, as set forth 310 CMR 19.018(5)(c)3.b.; or
 - ii. have a Bachelor's degree in engineering or in a physical or biological science with three or more years of full-time professional experience, or part-time equivalent, as set forth in 310 CMR 19.018(5)(c)3.b.; or
 - iii. have a Bachelor's degree with five or more years of full-time professional experience, or part-time equivalent, as set forth in 310 CMR 19.018(5)(c)3.b.
 - b. Experience. The third-party inspector shall have full-time professional experience, or part-time equivalent experience, of the following type(s) in the solid waste management field:
 - i. managing a solid waste facility;
 - ii. designing or engineering solid waste facilities;
 - iii. inspecting solid waste facilities; or
 - iv. other solid waste experience regarding the operation or management of solid waste facilities.
 - c. Training. The third-party inspector shall have successfully completed any training required by the Department.

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4. C&D Processing Facility Operation and Maintenance Inspector Qualifications. In order to conduct a facility operation and maintenance inspection of a C&D waste processing facility or C&D waster transfer facility, a third-party inspector shall, at a minimum, have all of the credentials, training and experience set forth in 310 CMR 19.018(5)(c)1. and 3. and either shall have an Asbestos Inspector certification from the Massachusetts Department of Labor Standards or sub-contract with an individual who has such certification for conducting asbestos-related inspection activities.
- (d) List of Registered Third-party Inspectors.
1. The Department shall create and maintain a list of those individuals who have registered as third-party inspectors.
 2. After the first submittal of a qualifications statement by an individual for the purpose of being listed as a third-party inspector pursuant to 310 CMR 19.018(5), the Department may make a written determination, including the reasons therefore, not to list that individual if the Department determines in its sole discretion that the qualifications statement:
 - a. is incomplete;
 - b. does not contain information sufficient to demonstrate that the individual meets the minimum qualifications set forth at 310 CMR 19.018(5) to conduct at least one of the types of third-party inspections required therein; or
 - c. contains information that is not true, accurate or otherwise contains false or misleading information.
- (e) Removal from List or Change in Listed Qualification Status.
1. The Department may make a written determination, including the reasons therefore, to remove an individual from the list of third-party inspectors or to change the status of the third-party inspector's qualifications (*e.g.*, to reflect a change in status from qualified for all inspection types to qualified for certain types of third-party inspections), if the Department determines in its sole discretion that the third-party inspector:
 - a. has submitted a qualifications statement that is not true, accurate or otherwise contains false or misleading information;
 - b. has failed to meet one or more of the requirements listed at 310 CMR 19.018(5)(a);
 - c. is no longer qualified to conduct one or more types of third-party inspections;
 - d. has a pattern of conducting inspections that do not meet the regulatory requirements; or
 - e. has a pattern of submitting reports that do not meet the required standards.
 2. Any determination by the Department pursuant to 310 CMR 19.018(5) shall be in writing and shall state the reason(s) for removing the individual from the list of third-party inspectors or changing the status of the individual's qualifications.
 3. A third-party inspector may at any time notify the Department that he or she wants to be removed from the list of registered third-party inspectors or change his or her status.
- (f) Reconsideration and Appeal Rights.
1. Any individual who is omitted or removed from the list of registered third-party inspectors by the Department, or whose status on the list the Department has changed, may submit a written request to the Department for reconsideration of its determination. Said request shall be postmarked within 21 days of the issuance of the Department's determination. The Department may request a meeting with the individual. The Department shall respond in writing to the reconsideration request and shall state the reasons for omitting or removing the individual. Such determination on the request for reconsideration shall not become effective until 22 days after issuance or after issuance of a final decision in an adjudicatory hearing, whichever is later. Failure to submit a written request for reconsideration in a timely manner shall be deemed to be a waiver of the individual's right to request an adjudicatory hearing.

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2. Any individual who receives a determination on reconsideration pursuant to 310 CMR 19.018(5)(f)1. has the right to request an adjudicatory hearing from the Department. Any such individual shall be deemed to have waived such right unless the individual delivers, within 21 days of the date of issuance of the Department's written determination on reconsideration, a request for an adjudicatory hearing that complies with the requirements of 310 CMR 1.01: *Adjudicatory Proceeding Rules for the Department of Environmental Protection*. Any individual who is aggrieved by a final decision in an adjudicatory hearing regarding a determination on reconsideration issued pursuant to 310 CMR 19.018(5)(f)1. may obtain judicial review thereof in accordance with the provisions of M.G.L. c. 30A, § 14.

(6) Performance Standards for a Third-party Facility Operation and Maintenance Inspection.

(a) General Performance Standards.

1. During a facility operation and maintenance inspection, a third-party inspector shall assess a facility's operation and maintenance practices and procedures to determine whether the facility is in compliance with all applicable requirements, including, but not limited to, requirements set forth in:
 - a. 310 CMR 19.000;
 - b. the facility's operation and maintenance plan;
 - c. orders or other enforcement documents issued to the facility; and
 - d. other solid waste permits, approvals, determinations and authorizations issued to the facility by the Department.
2. Prior to conducting a third-party facility operation and maintenance inspection, the third-party inspector shall identify and review all solid waste requirements applicable to the operation and maintenance of the facility, including but not limited to those requirements identified in 310 CMR 19.018(6)(a)1.
3. During each third-party inspection, in order to complete an assessment of the facility's compliance with all applicable requirements as set forth in 310 CMR 19.018(6)(a)1., the third-party inspector shall examine and evaluate the facility's solid waste activities, equipment, operations, practices, procedures, and records relevant to the type of third-party inspection being conducted, including without limitation:
 - a. the status and condition of operating and monitoring equipment, structures, appurtenances and devices related to the solid waste activities carried out at the facility;
 - b. each operational aspect of the facility related to solid waste handling, processing, recycling, storage and disposal, including but not limited to:
 - i. vehicle weighing and recording of scale data;
 - ii. tipping areas and the unloading of incoming materials;
 - iii. inspection and handling of incoming and outgoing waste, recyclable materials and other materials regulated by the Department; and
 - iv. types and quantities of waste and materials received or stored at the facility;
 - c. status of all facility record-keeping required by:
 - i. 310 CMR 19.000;
 - ii. the facility's operation and maintenance plan;
 - iii. orders or other enforcement documents issued to the facility; and
 - iv. other solid waste permits, approvals, determinations and authorizations issued to the facility by the Department;
 - v. provided that the owner and operator may deny the third-party inspector access only to confidential or proprietary business information;
 - d. material or waste handling areas and equipment including storage areas for recyclable materials, waste or residue; and
 - e. the condition of the facility, including evidence of dust, litter, odors, and other nuisance conditions, security measures such as fencing and gates, access roads marked and maintained, storm water management controls and any management system(s).
4. Where a third-party inspector observes that the operation or maintenance of the facility deviates from the aforementioned applicable requirements, he or she shall document all such deviations and recommend corrective actions for the facility to take to return to compliance with such requirements.
5. Third-party inspections shall be unannounced and randomly timed during the facility's normal operating hours, as follows:

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- a. Inspection days shall be determined randomly from among the planned operating days of the facility during the inspection period specified in 310 CMR 19.018(6)(b).
- b. The third-party inspector shall keep the selected dates of third-party inspections confidential and shall not notify the owner or operator, or any employee or individual affiliated with or related to the owner or operator, of such dates prior to arriving at the facility to conduct a third-party inspection.
- c. The third-party inspector shall postpone any inspection for which the owner or operator or any of his or her employees learns of the date of inspection in advance.

(b) Frequency. The owner and operator of a facility shall ensure that a third-party inspector conducts a facility operation and maintenance inspection in accordance with the following frequency and time intervals:

1. at an active landfill at least once in every two-month period, with at least 20 days between consecutive inspections;
2. at a closed landfill at least once every two calendar years, with at least six months between consecutive inspections;
3. at a handling facility, other than a C&D waste processing facility or C&D waste transfer station;
 - a. At a facility permitted to accept less than 50 tons, per day at least once every calendar year, with at least four months between consecutive inspections; and
 - b. At a facility permitted to accept 50 tons or more per day at least twice every calendar year, with at least two months between consecutive inspections;
4. at a C&D waste processing facility or a C&D waste transfer station at least once in each quarter (three-month period), with at least 20 days between consecutive inspections; and
5. at a combustion facility at least once in each quarter (three-month period), with at least 20 days between consecutive inspections.

(c) Additional Performance Standards for a Third-party Facility Operation and Maintenance Inspection of an Active Landfill.

1. In addition to complying with the general performance standards set forth in 310 CMR 19.018(6)(a), a third-party inspector shall examine and evaluate an active landfill's compliance with:
 - a. the operation and maintenance requirements set forth at 310 CMR 19.130 and 310 CMR 19.131, as applicable;
 - b. the environmental monitoring requirements (including, but not limited to, reporting frequencies) set forth at 310 CMR 19.132;
 - c. the requirements for maintenance of environmental control and monitoring systems set forth at 310 CMR 19.133;
 - d. the landfill gas recovery facility operation and maintenance requirements set forth at 310 CMR 19.121, if applicable; and
 - e. the applicable requirements of any beneficial use determination(s) governing the beneficial use of solid waste at the facility.

(d) Additional Performance Standards for a Third-party Facility Operation and Maintenance Inspection of Closed Landfill.

1. In addition to complying with the general performance standards described in 310 CMR 19.018(6)(a), a third-party inspector shall examine and evaluate a closed landfill's compliance with:
 - a. the landfill post-closure requirements set forth at 310 CMR 19.142;
 - b. the conditions set forth in the facility's closure permit(s);
 - c. the conditions of any post-closure use permit(s); and
 - d. the requirements set forth at 310 CMR 19.016 and 310 CMR 19.143, as applicable, governing post-closure use activities.

(e) Additional Performance Standards for a Third-party Facility Operation and Maintenance Inspection of Handling Facility, Except C&D Waste Processing Facility or a C&D Waste Transfer Station.

1. The performance standards in 310 CMR 19.018 apply to a handling facility that is not a C&D waste processing facility or a C&D waste transfer station, which is addressed in 310 CMR 19.018(6)(f).
2. In addition to complying with the general performance standards described in 310 CMR 19.018(6)(a), a third-party inspector shall examine and evaluate the compliance of a handling facility with:

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- a. the requirements for stormwater controls, equipment and weighing facilities set forth at 310 CMR 19.205;
- b. the operation and maintenance requirements set forth at 310 CMR 19.207;
- c. the applicable requirements of any beneficial use determination(s) governing the beneficial use of solid waste at the facility.

(f) Additional Performance Standards for a Third-party Facility Operation and Maintenance Inspection of a C&D Waste Processing Facility or a C&D Waste Transfer Station.

1. The performance standards in 310 CMR 19.018(6)(f) only apply to a C&D waste processing facility or a C&D waste transfer station. They do not apply to other types of handling facilities, which are addressed in 310 CMR 19.018(6)(e).
2. In addition to complying with the general performance standards described in 310 CMR 19.018(6)(a), a third-party inspector shall examine and evaluate the compliance of a C&D waste processing facility or a C&D waste transfer station with:
 - a. the requirements for stormwater controls, equipment and weighing facilities set forth at 310 CMR 19.205;
 - b. the operation and maintenance requirements set forth at 310 CMR 19.206, if applicable, and 310 CMR 19.207;
 - c. the facility's suspect asbestos-containing material (ACM) inspection and management protocol; and
 - d. the applicable requirements of any beneficial use determination(s) governing the beneficial use of solid waste at the facility.
3. The third-party inspector shall observe random incoming waste loads and collect ACM samples from suspect materials and send those sample(s) for analysis in accordance with the facility's approved ACM inspection and management protocol, if any.

(g) Additional Performance Standards for a Third-party Facility Operation and Maintenance Inspection of a Combustion Facility. In addition to complying with the general performance standards described in 310 CMR 19.018(6)(a), a third-party inspector shall examine and evaluate the compliance of a combustion facility with:

- (a) the operation and maintenance requirements set forth at 310 CMR 19.207;
- (b) the ash handling and disposal conditions set forth in the combustion facility's permit and its operation and maintenance plan;
- (c) the applicable requirements of any beneficial use determination(s) governing the beneficial use of solid waste at the facility.

(7) Performance Standards for Third-party Waste Ban Inspections.

(a) General. The owner and operator of a facility that has an approved waste ban compliance plan pursuant to 310 CMR 19.017 shall have the facility inspected by a qualified third-party waste ban inspector to assess compliance with the waste bans at 310 CMR 19.017 by the facility and by the haulers and generators delivering waste to the facility.

(b) Exemptions.

1. An owner and operator of a handling facility that does not accept loads greater than five cubic yards is exempt from 310 CMR 19.018(7); and
2. An owner and operator of a facility that participates in the Class II Recycling Program in accordance with the terms of 310 CMR 19.300 is exempt from 310 CMR 19.018(7).

(c) Performance Standards.

1. Prior to conducting each third-party waste ban inspection, the third-party inspector shall identify and review all requirements applicable to waste ban compliance at the facility, including but not limited to, the facility waste ban compliance plan and the requirements of 310 CMR 19.017.
2. During an inspection and for the minimum number of loads as required pursuant to 310 CMR 19.018(7)(e), a third-party inspector shall examine and evaluate the compliance of the facility with its approved waste ban compliance plan, as follows:
 - a. Visually monitor all incoming loads received at the facility during the waste ban inspection;
 - b. Identify all failed loads received during the waste ban inspection;

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- c. Record all identified failed loads using photographs, weigh slips, and standardized waste tracking forms provided by the Department. Such forms may include, but are not limited to, hauler and generator information (to the extent known) and the percentage of the load that is comprised of waste ban material(s); and
 - d. Conduct a comparative analysis of the percentage of failed loads identified by the third-party inspector with the percentage of failed loads documented pursuant to the facility's on-going load inspections conducted over the immediately preceding inspection period.
3. A third-party waste ban inspection shall be unannounced and randomly timed during the facility's normal operating hours, as follows:
 - a. Inspection days shall be selected in accordance with 310 CMR 19.018(7)(d).
 - b. The third-party inspector shall keep the selected dates of third-party inspections confidential and not notify the owner or operator, or any employee or individual affiliated with or related to the owner or operator, of such dates prior to arriving at the facility to conduct a third-party inspection.
 4. Where a third-party inspector observes that waste ban compliance at the facility deviates from the applicable requirements set forth at 310 CMR 19.018(7)(c)1., the third-party inspector shall document all such deviations and recommend corrective actions for the facility to take to return to compliance with such requirements.
- (d) Frequency. The owner and operator of a facility shall ensure that a third-party inspector conducts a waste ban inspection in accordance with the following frequency and time intervals:
1. at an active solid waste landfill: at least once in every two-month period, with at least 20 days between consecutive inspections;
 2. at a handling facility other than a C&D processing facility or C&D waste transfer station:
 - a. at a facility permitted to accept less than 50 tons of waste per day, at least once every calendar year, with at least four months between consecutive inspections;
 - b. at a facility permitted to accept 50 tons or more of waste per day, at least twice every calendar year, with at least two months between consecutive inspections;
 3. at a C&D waste processing facility or a C&D waste transfer station at least once in each quarter (three-month period), with at least 20 days between consecutive inspections; and
 4. at a combustion facility at least once in each quarter (three-month period), with at least 20 days between consecutive inspections.
- (e) Minimum Loads.
1. Once the third-party inspector begins a waste ban inspection, the third-party inspector shall observe and document each and every load, until the following minimum number of loads, containing at least five cubic yards of material each, have been observed:
 - a. For a facility permitted to accept from 1 to 99 tons of waste per day, four vehicle loads;
 - b. For a facility permitted to accept greater than 99 but less than or equal to 299 tons per day, eight vehicle loads;
 - c. For a facility permitted to accept greater than 299 but less than or equal to 499 tons per day, 12 vehicle loads;
 - e. For a facility permitted to accept greater than 499 but less than or equal to 999 tons per day, 16 vehicle loads; or
 - f. For a facility permitted to accept more than 999 tons per day, 20 vehicle loads.
 2. As an alternative to the minimum loads set forth at 310 CMR 19.018(7)(e)1., for a facility that has operated below the facility's permitted capacity for the previous year, the third-party inspector may apply the average actual daily receipt of waste (in tons) over the preceding year (instead of the permitted tonnage amount) to the minimum load criteria set forth above at 310 CMR 19.018(7)(e)1.
- (8) Third-party Inspection Reports, Record-keeping Requirements and Procedures.
- (a) Third-party Inspector Report Submittal and Certification Requirements. A third-party inspector who has performed a third-party inspection pursuant to 310 CMR 19.018 shall:
1. prepare an accurate and complete third-party inspection report which presents the results of his or her inspection in accordance with the performance standards set forth at 310 CMR 19.018(6) and (7) and which meets the requirements set forth at 310 CMR 19.018(8)(b);

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2. sign and certify his or her inspection report on a form or forms provided by the Department, and include the following statements in the report;
 - I, [name of third-party inspector], attest under the pains and penalties of perjury that:
 - (a) I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this certification statement;
 - (b) based on my inquiry of those persons responsible for obtaining the information, the information contained in this submittal is, to the best of my knowledge, true, accurate, and complete;
 - (c) have been able to conduct the third-party inspection and prepare the third-party inspection report without being influenced by the facility owner or operator and, [if the third-party inspector is a municipal employee,] by his or her municipal employer, by any co-worker or by any elected or appointed official of the municipality; and
 - (d) I am aware that there are significant penalties, including, but not limited to, possible administrative and civil penalties for submitting false, inaccurate, or incomplete information and possible fines and imprisonment for knowingly submitting false, inaccurate, or incomplete information; and
3. submit to the owner and operator such third-party inspection report.
 - (b) Third-party Inspector Report Content Requirements.
 1. Facility Operation and Maintenance Inspection Report. For each facility operation and maintenance inspection, the third-party inspector shall prepare a third-party inspection report that describes and reports in detail the results of his or her inspection of the facility's compliance with all applicable requirements, including, but not limited to:
 - a. any deviation from compliance with the operation and maintenance requirements contained in the applicable requirements set forth at 310 CMR 19.018(6) through (7);
 - b. the status and condition of operating and monitoring equipment, structures, appurtenances and devices;
 - c. the status and condition of each operational aspect of the facility, including but not limited to, waste handling, processing, recycling, storage and disposal of waste and materials;
 - d. a summary of all waste and materials received by and handled at the facility, including all loads identified and rejected during the applicable inspection period specified at 310 CMR 19.018(6)(b) or (7)(d);
 - e. the status of the facility's compliance with applicable record-keeping requirements;
 - f. the estimated volumes of all materials and wastes stored at the facility at the time of the inspection;
 - g. the analytical results of all sample(s) collected by the third-party inspector during the inspection, including chain of custody documentation (e.g., for suspect ACM sampling at C&D waste processing facilities);
 - h. the condition of the facility, including but not limited to evidence of dust, litter, odors, and other nuisance conditions, security measures such as fencing and gates, property marked and maintained, access roads, and storm water management controls and leachate management systems;
 - i. any corrective action(s) proposed by the third-party inspector to be taken by the owner or operator, with recommended schedules for implementing the corrective action(s); and
 - j. any additional information as required by the Department on a facility-specific basis.
 2. Waste Ban Compliance Inspection Report. For a waste ban compliance inspection conducted pursuant to 310 CMR 19.018(7), the third-party inspector shall prepare a third-party inspection report that describes and reports in detail the results of his or her inspection, including but not limited to:

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- a. any deviation from compliance with the waste bans at 310 CMR 19.017 by the facility or haulers and generators delivering waste to the facility; and
 - b. a comparative analysis of the percentage of failed loads identified by the third-party inspector and the percentage of failed loads documented pursuant to the on-going load inspections conducted over the immediately preceding inspection period in accordance with the facility's approved waste ban compliance plan.
3. Report Format. Each third-party inspection report shall be submitted in the format specified by the Department.
 4. Duty of Third-party Inspectors to Provide Information. Upon request of the Department, a third-party inspector shall provide a copy of any third-party inspection report prepared by him or her to the Department within seven business days. Upon request, a third-party inspector shall furnish any other information, documents or records associated with such inspection and allow the Department access to and to copy all records relating to the facility within seven business days.
- (c) Owner and Operator Requirements.
1. Reports and Certifications. The owner and operator of a facility shall submit each third-party inspection report to the Department and the board of health of the municipality in which the facility is located no later than 30 days following the date of the inspection. A responsible official of the inspected facility shall sign and certify such report in accordance with 310 CMR 19.011(1). Notwithstanding the foregoing, nothing in 310 CMR 19.018 relieves any person of any duty to report or provide notice of any information that such person is required to report in a shorter timeframe pursuant to any statute, regulation, permit, approval, determination, authorization, order or other requirement.
 2. Corrective Actions. In the event that a third-party inspection report contains a recommendation for corrective action(s), the owner or operator shall submit, along with the inspection report, the following:
 - a. a written report documenting the completion of the corrective action(s);
 - b. documentation or explanation why corrective action is not needed; or
 - c. a plan and schedule for completing the corrective action(s), on a form provided by the Department. The owner or operator may elect to correct deviations identified in the third-party inspection report in a manner that is different than that recommended by the third-party inspector, so long as the facility is brought back into compliance with applicable requirements.
 3. Deficiency Notice. In the event that the Department issues a written deficiency notice to the owner or operator regarding any submittal required by 310 CMR 19.018, the owner or operator shall, within 21 days of the date of issuance of the Department's notice, provide a written response to the Department that describes how the facility intends to correct the deficiencies identified by the Department and provides a compliance schedule.
 4. Records. A copy of each third-party inspection report shall be maintained at the facility in accordance with the record-keeping requirements of 310 CMR 19.000. The owner and operator shall make third-party inspection reports available to personnel or authorized representatives of the Department for review at the facility upon request.

19.028: Requirements for Construction, Operation, Modification or Expansion of a Solid Waste Management Facility

No person shall construct, operate, maintain, expand or modify a facility to store, process, transfer, treat or dispose of solid waste except in accordance with:

- (1) a valid site assignment;
- (2) a solid waste management facility permit ("permit") and any applicable facility expansion permit issued in accordance with 310 CMR 19.032;
- (3) an authorization to construct the facility issued by the Department in accordance with 310 CMR 19.041;