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CHAPTER Env-Sw 400 COLLECTION, STORAGE, AND TRANSFER FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

Readopt Env-Sw 401 and Env-Sw 402, effective 7-1-14 (Document #10596), to read as follows:

PART Env-Sw 401 APPLICABILITY

Env-Sw 401.01 Applicability. The rules in this chapter shall apply to collection, storage, and transfer (C/S/T) facilities, including transfer stations and recycling facilities.

PART Env-Sw 402 PERMITTING REQUIREMENTS

Env-Sw 402.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a C/S/T facility, unless exempt pursuant to Env-Sw 302.03 or Env-Sw 408.

(b) The type of permit required shall be as specified in Env-Sw 302.

Env-Sw 402.02 Permit Application Requirements. The applicant for a C/S/T facility permit shall prepare the application in accordance with:

- (a) Env-Sw 314 for a standard permit;
- (b) Env-Sw 313 for an emergency permit;
- (c) Env-Sw 312 for a research and development permit; and
- (d) Env-Sw 311 for a permit-by-notification.

Readopt with amendment Env-Sw 403 through Env-Sw 405, effective 7-1-14 (Document #10596), to read as follows:

PART Env-Sw 403 SITING REQUIREMENTS

Env-Sw 403.01 Applicability.

(a) The siting requirements in this part shall apply to all C/S/T facilities, except:

- (1) Facilities that hold a permit issued under RSA 149-M prior to the ~~2005~~**2024** readoption of the solid waste rules;
- (2) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The siting requirements in this part shall apply as the complement of the siting requirements in Env-Sw 1003 for all facilities, Env-Sw 1102 for facilities having an active life longer than 90 days, and Env-Sw 1203 for permit-by-notification facilities.

Env-Sw 403.02 Setback Requirements.

(a) A C/S/T facility shall be sited no less than 50 feet from the footprint of any landfill not yet capped, except a lesser distance shall be permitted if the department determines based on information provided in the permit application and in an approved closure plan for the landfill that the lesser distance shall not prohibit compliance with Env-Sw 1003.01.

(b) A C/S/T facility shall be sited no less than 50 feet from any property line, ***except a lesser distance shall be allowed if the facility was issued a permit prior to 2024 and has remained in continuous operation.***

PART Env-Sw 404 DESIGN REQUIREMENTS

Env-Sw 404.01 Applicability.

(a) The design requirements in this part shall apply to all C/S/T facilities, except:

- (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
- (2) Permit-by-notification C/S/T facilities having an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Sw 312.03(b); and
- (4) Emergency permit C/S/T facilities as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer than 90 days, Env-Sw 1200 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 404.02 General Design Requirements. A C/S/T facility shall be designed to operate in conformance with Env-Sw 405.

Env-Sw 404.03 Design Features and Appurtenances.

(a) The design of a C/S/T facility shall include each of the following features and appurtenances, except as provided in (b) below:

- (1) Waste receiving and inspection area(s);
- (2) Waste sorting area(s), if facility operations involve the sorting of waste;
- (3) Hot load segregation and control area(s);
- (4) Waste storage areas and devices including, as appropriate for the type of waste being stored, transfer containers, bins, concrete bunkers, covered pallets, buildings and storage pads for stockpiles;
- (5) Equipment required to operate the facility in conformance with the solid waste rules including, as applicable to the size and scope of operations, scales, balers, compactors, mechanical sorting devices, fork lifts, trucks and other vehicles;
- (6) Equipment storage and cleaning areas;
- (7) A closed drainage system or functionally equivalent operating system to manage the discharge of liquids, if any, from waste handling and storage areas and from equipment cleaning area(s);

- (8) Lighting;
 - (9) Active or passive ventilation systems for enclosed areas;
 - (10) Fire control devices or systems, including smoke detectors, alarms, fire extinguishers, and sprinkler systems as appropriate;
 - (11) Shelter for facility operators, ***including heating, ventilation, and air conditioning systems as appropriate;***
 - (12) Sanitation facilities for facility operators;
 - (13) First aid station for facility operators;
 - (14) Emergency communication for facility operators;
 - (15) Office or other area for maintaining and storing facility records; and
 - (16) Access control devices such as fencing, gates and bars, locked buildings, and signs.
- (b) A design feature or appurtenance listed in (a) above shall not be required if:
- (1) The applicant or permittee, as applicable, demonstrates in a permit application, application for permit modification or compliance report, as applicable, that:
 - a. The underlying facility operating requirements in Env-Sw 405, Env-Sw 1005, Env-Sw 1105, and Env-Sw 900, as applicable, will be met without the design feature or appurtenance or met through use of an alternative feature, appurtenance or practice; and
 - b. Not incorporating the design feature or appurtenance, as proposed, will not result in a violation of the universal environmental performance requirements in Env-Sw 1002; and
 - (2) The department provides written approval thereof in the permit or permit modification, specifically including reference to any alternative feature, appurtenance or practice the facility shall employ as a condition of the approval.

Env-Sw 404.04 Waste Handling and Storage Area Design Requirements.

- (a) A waste handling and storage area shall be designed to collect and contain waste in a manner that is protective of the environment, public health and safety.
- (b) Storage areas for waste being managed as a recyclable material shall be designed to preserve the market value of the material. For instance, waste paper destined for recycling shall be stored indoors, protected from rain and moisture.
- (c) A waste handling and storage area shall be delineated and signed to control and assure proper use of the area by facility users and operators, as appropriate based on the following factors:
- (1) Whether public access to the area will be allowed;
 - (2) Whether a full time operator will be present to monitor and control use of the area;
 - (3) Whether the area will be used to handle wastes requiring segregation from other waste types;

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(4) Whether the area will be used to handle wastes requiring no public contact in order to protect the environment, public health or safety; and

(5) Whether the method of assuring the facility receives no excess waste will be based on visually monitoring the extent to which the designated storage area is filled.

(d) A waste handling and storage area shall be designed to manage and store waste in a manner that controls to the greatest extent practicable dust, litter, insects, odors, vectors, spills, the production of leachate, fire hazards including spontaneous combustion, the generation of methane and other hazardous or explosive gases, noise and nuisances.

(e) A waste storage and handling area shall be designed to prohibit public access to any area used for storing or handling a waste that requires special handling to assure protection of the environment, public health and safety.

(f) A C/S/T facility shall be designed to allow year round access by facility operators to all waste storage areas for the purposes of:

(1) Inspection;

(2) Monitoring;

(3) Maintenance; and

(4) The removal of waste as necessary to comply with Env-Sw 405.043 and to protect the environment, public health and safety.

(g) Stockpiles shall be designed in conformance with the requirements of Env-Sw 404.05.

(h) Storage areas for a waste listed in Env-Sw 900 shall be designed in conformance with the applicable collection, storage and transfer requirements specified in Env-Sw 900.

(i) Putrescible waste shall not be collected or stored on the ground.

(j) Mixed municipal solid waste, including mixed refuse, shall not be collected or stored on the ground.

Env-Sw 404.05 Waste Stockpiles.

(a) Stockpiles of waste shall be positioned within a footprint identified on the facility site plan.

(b) If a stockpile will be open to precipitation, the footprint of the stockpile shall be:

(1) Underlain by an asphalt, concrete or packed soil surface; and

(2) Graded to prohibit precipitation and surface drainage from surrounding areas from draining through or collecting in the stockpile area.

(c) A waste stockpile shall be located, sized and configured in accordance with (d) below and as required by local fire authorities in order to assure that available local fire-fighting equipment and resources will be able to effectively respond to a fire at the facility.

(d) At a minimum, a C/S/T facility shall be designed to:

(1) Provide access to all waste stockpiles for fire control purposes, including the placement and maintenance of fire lanes between and around all stockpiles of combustible waste;

- (2) Limit the height of the stockpiles to a height compatible with local fire fighting equipment response capabilities; and
- (3) Provide a water supply within a distance and in a quantity sufficient for local fire fighting needs.
- (e) A stockpile shall be sized and configured to be physically stable against slides, collapse or other conditions that might result in personal injury or destruction of property.
- (f) A stockpile shall be covered when required to protect the environment, public health or safety.
- (g) A stockpile of a waste listed in Env-Sw 900 shall conform to the applicable stockpiling requirements specified in Env-Sw 900, if any.
- (h) If a waste exhibits a characteristic which has the potential to cause groundwater or surface water contamination when placed in contact with the ground surface, the waste shall be stockpiled in a manner as to prevent the contamination by means of a leachate collection system or functionally equivalent control system.
- (i) If a waste exhibits a characteristic which has the potential to cause air pollution or a respiratory hazard, the waste shall be stockpiled in a manner as to prevent the air pollution and respiratory hazard in conformance with state and federal regulations for the control of air pollution, including RSA 125-C.
- (j) If a waste has the potential to erode or spread when stockpiled, the waste shall be stored in either a container or a building or stockpiled and contained in a manner so as to prevent spread of the waste such as by placement of barriers on three sides.***

PART Env-Sw 405 OPERATING REQUIREMENTS

Env-Sw 405.01 Applicability.

- (a) The operating requirements in this part shall apply to all C/S/T facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
 - (2) Permit-by-notification facilities with an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.03(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).
- (b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for all facilities having an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 405.02 Collection and Storage Requirements.

- (a) A C/S/T facility shall not collect a waste for which it has no provisions for storage or for which available storage provisions are not protective of the environment, public health and safety.
- (b) A C/S/T facility shall not receive any waste for which it has no arrangements for removal to an authorized facility.
- (c) Waste shall be handled and stored only in areas that are designed and operated in conformance with Env-Sw 404.04 and Env-Sw 404.05.

(d) Materials destined for recycling shall be collected and stored in a manner as to preserve the market value of the material.

(e) Stockpiles of metal shall be maintained free of plastic, wood and other non-metal debris.

(f) White goods potentially containing polychlorinated biphenols (PCBs) shall be stored separately in an accessible location and in such a manner as to allow qualified personnel to examine each article and remove any PCB-containing components in accordance with applicable regulations.

(g) White goods potentially containing chlorinated fluorocarbons (CFCs) ***and other refrigerants*** shall be stored in an accessible location and in such a manner as to allow qualified personnel to readily examine each article and extract any ~~CFCs~~ ***refrigerants*** present in accordance with applicable regulations.

(h) If the facility manages a waste identified in Env-Sw 900, the facility shall collect and store the waste in accordance with the applicable collection, storage and transfer requirements specified in Env-Sw 900.

Env-Sw 405.03 Waste Transfer Requirements.

(a) All solid waste received by a C/S/T facility shall be actively managed.

(b) All solid waste leaving a C/S/T facility shall be transferred to an authorized facility.

(c) A waste shall not be stored at a C/S/T facility for a period of time which results in a condition adversely affecting the environment, public health or safety, including conditions that attract insects and vectors, generate odors, decomposition gasses, or leachate, or have the potential to cause fire or explosion.

(d) Subject to (c) above, putrescible waste shall be removed from the facility and transferred to an authorized disposal facility within one week of its receipt by the facility, unless otherwise specified in the C/S/T facility's operating plan.

(e) If the facility manages a waste identified in Env-Sw 900, the facility shall remove the waste in accordance with the applicable collection, storage and transfer requirements specified in Env-Sw 900.

Env-Sw 405.04 Public Benefit Requirements. As a means for demonstrating that the facility meets the requirements for providing a substantial public benefit as specified in Env-Sw 1005, the operation of a C/S/T facility shall be deemed to provide a substantial public benefit without further demonstration when facility operations satisfy the following operating conditions:

(a) Irrespective of the source of the waste, the total quantity of waste transferred by the facility on an annual basis to New Hampshire landfills and New Hampshire incinerators shall not exceed the total quantity of waste received by the facility from New Hampshire generators, figured in tons;

(b) The facility shall operate, or be part of an integrated system which operates, in a manner which:

(1) Separates and diverts recyclable materials to authorized facilities for reuse; and

(2) Avoids disposal of recyclable materials in a ~~lined landfill with a leachate collection system;~~
and

(c) During each calendar year that the facility receives waste, the permittee shall communicate with the host solid waste management district as specified in Env-Sw 1105.12.

Readopt Env-Sw 406, effective 7-1-14 (Document #10596), to read as follows:

PART Env-Sw 406 CLOSURE REQUIREMENTS

Env-Sw 406.01 Applicability.

(a) The closure requirements in this part shall apply to all C/S/T facilities, except:

- (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 408;
- (2) Permit-by-notification facilities with an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Sw 312.03(b); and
- (4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Sw 1006 for all facilities, Env-Sw 1106 for facilities having an active life longer than 90 days, Env-Sw 1205 for permit-by-notification facilities and, depending on the type of waste managed, Env-Sw 900.

Env-Sw 406.02 Removal of Processed Recyclable Materials. To comply with Env-Sw 1106.02(e), all processed recyclable materials shall be removed to an authorized facility and not remain at the closing facility under any claim of a permit exemption pursuant to Env-Sw 302.03.

PART Env-Sw 407 PERMIT-BY-NOTIFICATION FACILITIES

Readopt Env-Sw 407.01, effective 7-1-14 (Document #10596), to read as follows:

Env-Sw 407.01 Purpose. The purpose of the rules in this part is to identify types of C/S/T facilities eligible for a permit-by-notification pursuant to Env-Sw 311.

Readopt with amendment Env-Sw 407.02, effective 7-1-14 (Document #10596), to read as follows:

Env-Sw 407.02 Limited Public Transfer Stations. A C/S/T facility shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that the facility meets each of the following requirements:

- (a) The facility shall be a limited public facility;
- (b) The facility shall comply with the requirements of Env-Sw 1200;
- (c) The facility shall receive the following types of waste only:
 - (1) Mixed municipal solid waste comprised principally of mixed refuse;
 - (2) Source separated select recyclable materials;
 - (3) Bulky waste, including white goods, furniture, and stumps;
 - (4) Construction and demolition debris;
 - (5) Tires;
 - (6) Wood ash from household stoves; ~~and~~
 - (7) Source separated food waste;

(8) Household infectious waste as defined in Env-Sw 103; and

(9) Used cooking oil and latex paint collected for recycling.

(d) The capacity of the facility shall be restricted as follows:

(1) The facility shall receive no more than 30 tons of waste per day on average:

- a. Annually, for facilities operating longer than one year; and
- b. Over the life expectancy of the facility, for facilities operating less than one year;

(2) The facility shall store no more than 14 times the maximum quantity of waste the facility shall be authorized in the permit to receive on average daily; ~~and~~

(3) The storage limit specified by (2) above shall not include storage of ***processed*** select recyclable materials, provided that:

- a. The materials are fully processed as specified by Env-Sw 104.12;
- b. The materials are actively managed by the facility; and
- c. Storage of the materials complies with the universal facility requirements in Env-Sw 1000 and, at facilities having an active life of longer than 90 days, the additional facility requirements in Env-Sw 1100; and

(4) The facility shall have capacity for not more than 550 gallons, combined, of used cooking oil and latex paint collected for recycling.

(e) A limited public facility operating under a permit-by-notification in accordance with this part may compost and manage source separated food waste if the limited public facility:

- (1) Complies with the requirements of Env-Sw 607.02,
- (2) Provides notice to the department prior to composting and managing source separated food waste; and
- (3) Has an operating plan that includes provisions for composting and managing source separated food waste.

(f) Select recyclable material processing activities conducted at the facility shall be limited to sorting, cutting, crushing, or baling, or a combination thereof.

(g) The facility may accept select recyclable materials from other permitted limited public transfer stations that elect to use the facility as a collection center for the consolidation of loads for economic transfer to markets.

Readopt with amendments Env-Sw 407.03, effective 7-1-14 (Document #10596), as amended effective 11-18-16 (Document #12045), to read as follows:

Env-Sw 407.03 Collection Centers for Select Recyclables ***Materials***. Facilities that collect and temporarily store select recyclable materials and transfer said materials to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that:

- (a) Select recyclable materials are the only type of solid waste received by the facility;

(b) The select recyclable materials have been source separated ~~by material type~~ before delivery to the facility;

(c) The select recyclable materials are actively managed; ~~and~~

(d) The facility complies with Env-Sw 1200, except that employer-provided training that meets the purposes stated in Env-Sw 1601.01 may be substituted for the operator certification requirements specified in Env-Sw 1202.05(d); ***and***

(e) Select recyclable material processing activities conducted at the facility are limited to incidental sorting and separation of recyclable materials to ensure market quality and baling or otherwise physically processing and packaging recyclable materials in a manner satisfying the specifications for transportation and acceptance by a market.

Readopt Env-Sw 407.04, effective 7-1-14 (Document #10596), to read as follows:

Env-Sw 407.04 Scrap Metal Collection and Recycling Centers. Facilities that only collect and temporarily store ferrous or non-ferrous scrap metal, or a combination thereof, and that transfer said scrap metal to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that:

(a) The facility does not receive any:

- (1) Parts of a motor vehicle that contain or have contained fluids or lubricants, excluding lead acid batteries;
- (2) Waste listed in Env-Sw 900, including asbestos, ash, contaminated soils and other absorbent media, infectious waste, and tires; and
- (3) Free-draining oil or lubricants, including cutting oils mixed with or coating metal shavings;

(b) The scrap metal goods, as received by the facility, are not mixed with other types of waste, including municipal solid waste, and construction and demolition debris;

(c) The permittee identifies whether the scrap metal goods include any of the following substances or devices, and subsequently assures that such substances, if present, are managed in accordance with applicable state and federal rules and regulations, either at the facility or by transfer to another facility that provides such proper management:

- (1) CFCs;
- (2) PCBs;
- (3) Mercury-containing switches and other devices;
- (4) Batteries; and
- (5) Other regulated substances, materials, and wastes;

(d) All tanks, drums and other containers received by the facility have been emptied and cleaned of residues in accordance with applicable state and federal rules and regulations;

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(e) The scrap metal processing activities conducted at the facility are limited to sorting, cutting, crushing, baling, or smelting, or a combination thereof, provided the latter is done in units not requiring a permit under Env-A 600;

(f) The scrap metal is actively managed;

(g) All residual waste at the facility is:

(1) Directly attributable to the allowable scrap metal processing activities;

(2) Segregated from the recyclable scrap metal and stored in accordance with Env-Sw 405;

(3) Actively managed; and

(4) Not accumulated in excess of 30 cubic yards, unless the permittee establishes and maintains an approved financial assurance plan pursuant to Env-Sw 1400 to guarantee the cost of disposing of the residual waste; and

(h) All other applicable permit-by-notification facility requirements are met as specified in Env-Sw 1200.

Readopt with amendment Env-Sw 407.05, effective 7-1-14 (Document #10596), to read as follows:

Env-Sw 407.05 Truck Transfer Stations. Waste collection and transfer operations that are carried out by temporarily parking a truck or other motor vehicle at a site where persons then deliver waste from off-site locations, shall be eligible for a permit-by-notification, valid for an individual operating site only, provided that:

(a) All waste collected by the facility is placed directly into a motor vehicle that:

(1) Is registered and insured by the permittee for legal use on public roads;

(2) Bears a current state inspection sticker;

(3) Is labeled in accordance with RSA 149-M:10, II;

(4) Displays the required permit;

(5) Displays a list of authorized and prohibited wastes, consistent with (d) and (e) below;

(6) Is equipped with a spill response kit;

(7) Is equipped with an emergency communication system; and

(8) Fully encloses the collected waste;

(b) The land owner has granted the permittee **written** permission to so use the land;

(c) The site is operated one day per week only, during daylight hours only;

(d) Subject to (e) below, the facility receives only mixed municipal solid waste or source-separated recyclable materials or a combination thereof;

(e) The facility does not receive:

(1) Any waste listed in Env-Sw 1204.03;

(2) Ash;

- (3) Liquid waste; or
- (4) White goods;
- (f) The waste is not stored at the collection site overnight; and
- (g) All other applicable permit-by-notification facility requirements are met, as specified in Env-Sw 1200.

Readopt with amendment Env-Sw 407.06, effective 7-1-14 (Document #10596), as amended effective 11-18-16 (Document #12045), to read as follows:

Env-Sw 407.06 Asbestos Waste Holding Facility for Abatement ***Entities and Asbestos Disposal Site Contractors***. Asbestos abatement entities ***and asbestos disposal site (ADS) contractors*** holding a current license in good standing issued pursuant to Env-A 1810 ***or Env-A 1811*** shall be eligible for a permit-by-notification, pursuant to Env-Sw 311, to establish and operate a facility for receiving and storing asbestos waste, subject to the following requirements:

(a) The facility shall operate as a limited private facility, and shall only be authorized to receive and store asbestos waste generated from the permittee's contracted asbestos abatement ***or ADS*** projects.

(b) All persons handling, receiving, or managing asbestos waste at a facility, and all persons transporting asbestos waste to a facility shall be employed or contracted by the permittee to handle or manage the asbestos waste under the permittee's asbestos abatement entity ***or ADS contractor*** license issued pursuant to Env-A 1810 ***or Env-A 1811***, and shall be either:

(1) A certified asbestos supervisor pursuant to Env-A 1810.134;~~or~~

(2) A certified asbestos worker pursuant to Env-A 1810.145; ***or***

(3) ***A certified asbestos disposal site worker pursuant to Env-A 1812.***

(c) All asbestos waste brought to and accepted by the facility shall be properly packaged, labeled and accompanied by shipping papers as specified in Env-Sw 901.06.

(d) Asbestos waste shall not be repackaged at the facility, unless the original packaging is damaged unintentionally and repackaging is necessary to prevent a release of the asbestos or meet DOT shipping requirements.

(e) The facility shall comply with the collection, storage, and transfer requirements specified in Env-Sw 901.02.

(f) The facility shall comply with the transportation, packaging, and labeling requirements specified in Env-Sw 901.06.

(g) Upon receipt by the facility, the asbestos waste shall be stored in a transport container having a maximum capacity of 100 cubic yards.

(h) The transport container described in (g) above shall be fully enclosed and locked at all times when waste is not being transferred into or out of the container.

(i) The total amount of asbestos waste stored at the facility at any time shall not be greater than 100 cubic yards.

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- (j) Asbestos waste shall be actively managed at the facility.
- (k) The permittee shall comply with Env-Sw 901.07, Env-Sw 1105, and Env-Sw 1200, except that:
 - (1) Asbestos abatement ***and ADS*** worker certification under RSA 141-E and Env-A 1800 shall be substituted for the operator certification requirements specified in Env-Sw 1202.05(d); and
 - (2) The setback requirements specified in Env-Sw 1203.01(b) shall not apply.

Adopt Env-Sw 407.07 to read as follows:

Env-Sw 407.07 Collection Center for Non-Select Recyclable Materials. Facilities that collect and temporarily store non-select recyclable materials and transfer said materials to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that:

- (a) Non-select recyclable materials are the only type of solid waste received by the facility;
- (b) The non-select recyclable materials have been source separated before delivery to the facility;
- (c) The non-select recyclable materials are actively managed;
- (d) The facility complies with Env-Sw 1200;
- (e) Non-select recyclable material processing activities conducted at the facility are limited to incidental sorting and separation of recyclable materials to ensure market quality, and baling or otherwise physically processing and packaging recyclable materials in a manner satisfying the specifications for transportation and acceptance by a market; and
- (f) The total amount of non-select recyclables stored at the facility at any time shall not be greater than 500 cubic yards or, if it is a liquid waste, 200 gallons.

PART Env-Sw 408 PERMIT-EXEMPT FACILITIES

Readopt Env-Sw 408.01 through Env-Sw 408.06, effective 7-1-14 (Document #10596), to read as follows:

Env-Sw 408.01 Purpose. The purpose of the rules in this part is to identify C/S/T facilities which are permit-exempt, pursuant to Env-Sw 302.03(b)(1).

Env-Sw 408.02 General Conditions for Exemption.

- (a) The C/S/T facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:
 - (1) The facility shall comply with:
 - a. The universal facility requirements in Env-Sw 1000; and
 - b. The waste specific requirements in Env-Sw 900, as applicable based on the type of waste managed by the facility; and
 - (2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 408.03 Site of Generation C/S/T Facilities. Subject to Env-Sw 408.02, no permit shall be required to temporarily store a waste at the site of generation pending its transfer to an authorized facility.

Env-Sw 408.04 C/S/T Facilities for Processed Select Recyclable Materials. Subject to Env-Sw 408.02, no permit shall be required to collect, store and transfer to markets for the production of certified waste-derived products, processed select recyclable materials.

Env-Sw 408.05 C/S/T Facilities for Unprocessed Select Recyclable Materials. Subject to Env-Sw 408.02, no permit shall be required to collect, store and transfer unprocessed select recyclable materials from off-site locations provided that:

- (a) Only source separated recyclable materials shall be collected;
- (b) The recyclable materials shall be collected and stored in containers as specified by (c) below:
- (c) The containers shall be:
 - (1) Covered; and
 - (2) Labeled to identify ownership and authorized use(s);
- (d) No more than 100 cubic yards of recyclable materials shall be stored at the facility; and
- (e) The facility shall be operated by:
 - (1) A person who owns an authorized facility that shall receive the recyclable materials for processing or reuse, or both;
 - (2) A commercial waste hauler holding a written agreement from an authorized facility that shall receive the recyclable materials for processing or reuse, or both; or
 - (3) A person in responsible charge of a fund drive or similar event sponsored by a community, government or civic non-profit organization.

Env-Sw 408.06 Waste In-Transit Storage Areas. Subject to Env-Sw 408.02, no permit shall be required to temporarily store waste while in transit to an authorized facility, provided that:

- (a) The waste shall arrive at the storage facility in any of the following covered container(s):
 - (1) A waste collection vehicle;
 - (2) A waste collection trailer, whether disconnected or not from the power unit; or
 - (3) A roll-off container.
- (b) No waste shall be removed from or added to the container(s) while at the storage facility;
- (c) Not more than 300 cubic yards of waste shall be stored at the storage facility;

(d) The waste shall be stored no longer than 5 days from date of receipt; and

(e) The waste shall not be stored in a manner or for a time period which has the potential to result in conditions adversely affecting the environment, public health or safety, including conditions that attract insects or vectors, generate odors or leachate, or have the potential to cause fire or explosion.

Readopt with amendment Env-Sw 408.07, effective 7-1-14 (Document #10596), to read as follows:

Env-Sw 408.07 Roadside Clean-up Staging Areas. Subject to Env-Sw 408.02, no permit shall be required to temporarily store waste collected from highway rights-of-way pending transfer to an authorized facility provided that:

(a) The facility shall be on property controlled by a state or local highway agency controlling the right-of-way; ~~and~~

(b) The facility shall be operated by the same state or local highway agency;

(c) The waste shall not be stored in a manner or for a period of time which has the potential to result in conditions adversely affecting the environment, public health or safety, including conditions that attract insects or vectors, generate odors or leachate, or have the potential to cause fire or explosion; and

(d) The facility shall have a written plan for the removal of the waste.

Readopt Env-Sw 408.08, effective 3-23-22 (Document #13358), to read as follows:

Env-Sw 408.08 Food Waste– Drop-Off Facilities. Subject to Env-Sw 408.02, no permit shall be required for collection, storage, and transfer of source-separated food waste, provided that:

(a) The facility stores no more than one cubic yard, or 200 gallons, at any time;

(b) Food waste is stored in closed containers designed to prevent the dispersal of odors, release of leachate, and attraction of birds, insects, rodents, and other vectors;

(c) Waste collection and storage areas are inspected at least once daily during the facility's routine operating hours;

(d) Food waste is stored no longer than 7 days from date of receipt; and

(e) Food waste is transferred to an authorized facility for processing or disposal.

Adopt Env-Sw 408.09 through Env-Sw 408.12 to read as follows:

Env-Sw 408.09 Contractor Waste Consolidation Facility. Subject to Env-Sw 408.02, no permit shall be required to consolidate solid waste from a contractor's job sites at a central location under the direct control and supervision of the contractor, provided that:

(a) The types of waste received are limited to:

(1) Mixed municipal solid waste comprised principally of mixed refuse;

(2) Select recyclable materials;

(3) Bulky waste, including white goods, furniture, and stumps; and

- (4) Construction and demolition debris;
- (b) The wastes shall be collected and stored in covered containers or under cover;
- (c) Containers and storage areas shall have signage to identify ownership and authorized waste type(s);
- (d) The total quantity of waste stored at the facility shall not exceed 100 cubic yards;
- (e) The waste shall not be sorted or otherwise processed at the facility;
- (f) The waste shall not be stored in a manner or for a period of time which has the potential to result in conditions adversely affecting the environment, public health or safety, including conditions that attract insects or vectors, generate odors or leachate, or have the potential to cause fire or explosion.

Env-Sw 408.10 Infectious Waste C/S/T for Health Care and Veterinary Facilities. Subject to Env-Sw 408.02, no permit shall be required for collection, storage, and transfer of infectious waste provided that:

- (a) The facility shall be located at, and owned and operated by, a health care facility licensed pursuant to RSA 151, or be a facility under the direct control and supervision of a veterinarian licensed pursuant to RSA 332-B;
- (b) The facility shall be a limited, service area facility permitted to receive waste from the following sources only:
 - (1) The health care or veterinary facility itself;
 - (2) Affiliated health care or veterinary facilities;
 - (3) Non-profit organizations that provide healthcare and veterinary services within the community served by the health care or veterinary facility; and
 - (4) Households within the community served by the health care or veterinary facility;
- (c) The facility shall comply with the requirements of Env-Sw 904 for the management of infectious waste; and
- (d) The facility shall have assured access to an authorized waste management facility for the transfer of infectious waste.

Env-Sw 408.11 Needle Collection. Subject to Env-Sw 408.02, no permit shall be required for collection, storage and transfer of needles and other sharps provided that:

- (a) The facility shall only receive needles and sharps;
- (b) Needles and sharps delivered to the facility shall be:
 - (1) Deposited directly into a U.S. Food & Drug Administration (FDA)-cleared sharps disposal container by the generator; or
 - (2) Pre-packaged in a container that is:

Text added to existing rule in ***bold italics***
 Text deleted from existing rule shown ~~struck through~~
 Text that is all new (introduced with **Adopt**) in regular font

- a. Made of a heavy-duty plastic;
 - b. Securely closed with a tight-fitting, puncture resistant lid;
 - c. Leak-resistant; and
 - d. Labeled “biohazard,” “infectious waste,” “not for recycling,” or similar;
- (c) The total quantity of waste stored at the facility shall not exceed 20 gallons;
- (d) The waste shall not be sorted or otherwise processed at the facility;
- (e) The facility shall comply with the requirements of Env-Sw 904.02, and Env-Sw 904.06, for the management of infectious waste; and
- (f) The facility shall have assured access to an authorized waste management facility for the transfer of packaged needles and sharps.

Env-Sw 408.12 Drug Takeback Program. Subject to RSA 318-E and Jus 1600, no permit shall be required for the collection, storage, and transfer to an authorized disposal facility of pharmaceutical drugs as defined in RSA 318-E:1.

APPENDIX

Rule Sections	Statute(s) Being Implemented
Env-Sw 400	RSA 149-M:6, III; RSA 149-M:7, II, III, V, VIII, XIV; RSA 149-M:9
Env-Sw 407.03(d), 407.06(k)	RSA 149-M:6, III; RSA 149-M:9, I
Env-Sw 408.08	RSA 149-M:6, III; RSA 149-M:7, II, III, V, VIII, XIV, XV; RSA 149-M:9
Env-Sw 408.09 through Env-Sw 408.12	RSA 149-M:6, XIV; RSA 149-M:7, XVI; RSA 149-M:9