

Subchapter 5: REQUIREMENTS FOR HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

§ 7-501 PURPOSE, SCOPE, APPLICABILITY

- (a) This subchapter establishes requirements for the design, construction, operation, and maintenance of hazardous waste treatment, storage, and disposal facilities. This subchapter also describes the procedures for certification of hazardous waste facilities.
- (b) The requirements of this subchapter apply to owners and operators of hazardous waste facilities including all facilities which treat, store, or dispose of hazardous wastes referred to in **40 CFR Part 268** (incorporated by reference through **§ 7-106**).
- (c) The requirements of this subchapter apply to any person who accepts, treats, stores, or disposes of hazardous waste unless the person or activity is exempted under **§ 7-502**.
- (d) **40 CFR § 266.205** identifies when storage requirements, as incorporated by reference through **§ 7-504(e)(1)**, apply to the storage of hazardous waste military munitions. The treatment and disposal of hazardous waste military munitions are subject to the applicable provisions of **subchapters 1 through 7 of these regulations**.

§ 7-502 EXEMPTIONS

The following facilities and activities are exempted from the provisions of this subchapter:

- (a) A resource recovery facility managing municipal solid waste provided:
 - (1) The facility receives and burns only household waste, and solid waste from commercial or industrial sources which does not contain hazardous wastes; and
 - (2) The facility does not accept hazardous wastes, and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.
- (b) A totally enclosed treatment facility. A totally enclosed treatment facility is a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of hazardous waste or any constituent thereof into the environment during treatment.
- (c) The owner or operator of an elementary neutralization unit or wastewater treatment unit as defined in **40 CFR § 260.10** provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in **40 CFR § 268.40**, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to

remove the characteristic before land disposal, the owner/operator must comply with the general requirements for ignitable, reactive, or incompatible wastes set out in **40 CFR § 264.17(b)**.

- (d) Any person engaged in treatment or containment activities during an immediate response to a release of hazardous material or discharge of a hazardous waste and during an imminent and substantial threat of a release of hazardous material or discharge of hazardous waste, provided that the person:
 - (1) Complies with **§ 7-105** on emergency actions; and
 - (2) Obtains certification under this subchapter when he or she continues or initiates treatment or containment activities after the immediate response is over.
- (e) The treatment of hazardous waste by mixing absorbent material with containerized hazardous waste provided:
 - (1) The mixing occurs when the waste is first placed in the container; and
 - (2) The person treating the waste complies with **40 CFR §§ 264.17(b), 264.171, and 264.172**.
- (f) A solid waste management facility that accepts hazardous waste only from conditionally exempt generators provided the facility is certified by the Secretary to accept such waste.
- (g) Generators who accumulate or place in short-term storage hazardous waste on-site in compliance with the applicable timeframes specified in **subchapter 3** of these regulations.
- (h) Farmers who dispose of hazardous waste pesticides from their own use as provided in **§ 7-203(r)** of these regulations.
- (i) Transporters storing manifested shipments of hazardous waste at a transfer facility for a period of ten days or less and in accordance with **§ 7-404**.
- (j) Universal waste handlers and universal waste transporters managing the wastes listed below. Universal waste handlers and universal waste transporters are subject to regulation under **subchapter 9** of these regulations.
 - (1) Batteries as described in **§ 7-902**;
 - (2) Pesticides as described in **§ 7-903**;
 - (3) Thermostats as described in **§ 7-904**;
 - (4) PCB-containing fluorescent light ballasts as described in **§ 7-905**;

- (5) Lamps as described in § 7-906;
 - (6) Mercury-containing devices as described in § 7-907; and
 - (7) Cathode ray tubes (CRTs) as described in § 7-908.
- (k) Facilities that recycle hazardous waste in accordance with the standards of **subchapter 6** and as follows:
- (1) Facilities that recycle hazardous waste on-site provided:
 - (A) Any hazardous waste being recycled is generated on-site; and
 - (B) The hazardous waste to be recycled is not held in short-term storage for longer than the amount of time allowed under **subchapter 3** of these regulations; or
 - (2) Facilities that recycle hazardous waste received from off-site provided the hazardous waste is not stored prior to being recycled. Hazardous waste that is being staged at a recycling facility is not considered to be in storage.

Note: Owners or operators of recycling facilities that store hazardous wastes before they are recycled, or that otherwise treat, store or dispose of hazardous wastes are subject to certification under the requirements of this subchapter.

- (l) The evaporation of water from hazardous waste that is identified only by the VT02 hazardous waste code provided:
 - (1) The water component of the waste is evaporated on-site using evaporation equipment approved in accordance with Vermont’s Air Pollution Control Regulations; and
 - (2) The oily residue resulting from the evaporation process is managed either as hazardous waste or in accordance with the Used Oil Management Standards of **subchapter 8**.
- (m) Oil-water separators provided:
 - (1) The waste oil-water mixture to be separated is identified only by the VT02 hazardous waste code; and
 - (2) Any contaminated water resulting from the separation process is discharged in accordance with **10 V.S.A. chapter 47** (for indirect injection well, and direct discharges) **and chapter 48** (for groundwater protection); and
 - (3) The oily residue resulting from the separation process is managed either as hazardous waste or in accordance with the used oil management standards of **subchapter 8**.

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- (n) Facilities conducting site investigation and/or corrective action pursuant to § 7-105(b) of these regulations may be exempted by the Secretary from the permitting (but not the substantive) requirements of this subchapter, to the extent allowed under federal regulations incorporated by reference in this chapter.
- (o) Treatment of hazardous waste in containers or tanks by generators provided:
 - (1) The generator provides written notification to the Secretary that includes:
 - (A) A description of the treatment process(es) to be used;
 - (B) An estimate of the frequency that treatment will occur;
 - (C) The type(s) and quantity of hazardous waste to be treated; and
 - (D) Information about how treatment products and by-products will be managed following treatment.
 - (2) A revised written notification is provided to the Secretary if the information required under **subsection (o)(1) of this section** changes significantly.
 - (3) The hazardous waste is generated and treated on-site.
 - (4) The generator maintains records for three years documenting:
 - (A) The type(s) and quantity of waste treated;
 - (B) The method(s) of treatment used; and
 - (C) The date(s) that treatment occurred.
 - (5) All hazardous waste is managed in accordance with the applicable standards of **subchapter 3**.
 - (6) If a generator is managing and treating waste or contaminated soil in tanks or containers to meet Land Disposal Restriction treatment standards found at **40 CFR § 268.40**, the generator develops and follows a written waste analysis plan in accordance with the requirements of **40 CFR § 268.7(a)(5)**.
 - (7) The generator does not treat hazardous waste using thermal treatment processes.

Note: Distillation is not considered a thermal treatment process.
 - (8) The generator does not treat mercury-containing wastes or devices (e.g., fluorescent lamps, thermostats).

- (p) A person engaged in treatment or containment activities during immediate response to an immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in § 7-103 of these regulations. An owner or operator of a facility otherwise regulated by this subchapter must comply with all applicable requirements of **40 CFR Part 264 subparts C and D**. In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.
- (q) A facility that meets either small or large quantity generator standards and that accepts hazardous waste from a conditionally exempt generator pursuant to § 7-306(c)(2)(D).

§ 7-503 EMERGENCY CERTIFICATION

- (a) Notwithstanding any other section of these regulations, in the event the Secretary finds an imminent and substantial endangerment to human health or the environment, the Secretary may issue a temporary emergency certification to an uncertified facility to allow the treatment, storage, or disposal of hazardous waste or to a certified facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective certification.
- (b) This emergency certification:
 - (1) May be oral or written. If oral, it shall be followed in five days by a written emergency certification;
 - (2) Shall not exceed 90 days in duration;
 - (3) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;
 - (4) May be terminated by the Secretary at any time without process if he or she determines that termination is appropriate to protect human health and the environment;
 - (5) Shall be accompanied by a public notice published including:
 - (A) Name and address of the office granting the emergency authorization;
 - (B) Name and location of the facility;
 - (C) A brief description of the waste involved;

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- (D) A brief description of the action authorized and reasons for authorizing it; and
 - (E) The duration of the emergency certificate.
- (6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of these regulations.

§ 7-504 GENERAL FACILITY CERTIFICATION STANDARDS

- (a) Except for the facilities and activities excluded under **§ 7-502**, certification from the Secretary is required to treat, store, dispose, or accept any hazardous waste as identified or listed under **subchapter 2** of these regulations.

Note: The terms “treatment”, “storage”, “disposal”, and “hazardous waste” are defined in **§ 7-103**.

- (b) Certificate of Need

- (1) Except as provided for in **subsection (b)(2) of this section**, no person shall begin site preparation for or construction of a hazardous waste management facility for the purpose of treatment or disposal of hazardous waste, without first obtaining a certificate of need pursuant to the requirements of **10 V.S.A. § 6606a**.
- (2) The certificate of need requirement does not apply to:
 - (A) The replacement of an existing facility at the original site with an equivalent facility in the usual course of business; or
 - (B) A hazardous waste management facility that is operated only by or on behalf of the owner of the facility for the treatment or disposal of hazardous waste generated in Vermont by the owner of the facility. Such facility shall be located on a site of generation.
- (3) To determine that a proposed facility is needed for the general good of the state, the Secretary must find that:
 - (A) The proposed facility is consistent with any applicable provisions of the state hazardous waste management plan, if such plan has been adopted by the Secretary, or, if such plan has not been adopted by the Secretary, the proposed facility is consistent with the general goals and priorities of **10 V.S.A. chapter 159** as determined by the Secretary; and

- (B) The proposed facility location:
 - (i) Is suitable for the type and amount of hazardous waste intended for treatment or disposal at the facility; and
 - (ii) Is accessible by transportation routes that minimize the threat to the public health and safety and to the environment; and
 - (iii) Reasonably accommodates the plans and preferences of the proposed host municipality, as expressed by local government entities; and
- (C) The need for the facility is demonstrated by the need to assure the environmentally sound treatment or disposal of hazardous waste generated within Vermont, recognizing the effects of any state hazardous waste plan and:
 - (i) The further need to meet Vermont's obligations under an interstate agreement or regional compact; or
 - (ii) The lack of adequate current or projected treatment or disposal capacity within the region to handle the hazardous waste generated by Vermont generators which is proposed for the facility.
- (c) Disclosure Statement
 - (1) With the exception of those persons exempted under **10 V.S.A. § 6605f(k)**, any person who is required to obtain a certification under this subchapter shall complete, sign, and submit to the Secretary at the time of application a disclosure statement pursuant to the requirements of **10 V.S.A. § 6605f**. In the event of any change in ownership, a disclosure statement must be submitted pursuant to the requirements of **10 V.S.A. § 6605f(e)**.
 - (2) Any person who has received a certification under this subchapter shall file a statement annually within 30 days prior to the month and day of issuance of that permit disclosing any changes in facts that would render the disclosure statement filed in connection with that permit inaccurate in any way, or stating that no such changes have occurred in the period of time covered by the annual statement. The annual statement shall be under oath or affirmation.
- (d) No person shall initiate construction of a hazardous waste treatment, storage, or disposal facility without first applying for and receiving certification for such facility in accordance with §§ **7-505 and 7-506** of these regulations. In addition, any hazardous waste treatment, storage or disposal facility that was in existence on November 19, 1980, or any facility that treats, stores or disposes of a material that has been newly defined or listed as a Vermont or federal hazardous waste, must apply for interim certification in accordance with § **7-510** of these regulations.

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- (e) Every hazardous waste treatment, storage, or disposal facility issued a certification under the provisions of this subchapter shall, at a minimum, be designed, constructed, operated, and maintained in accordance with all applicable requirements of:
 - (1) **40 CFR Part 264;**
 - (2) **40 CFR Part 266;**
 - (3) The land disposal restrictions (40 CFR Part 268) incorporated by reference under **§ 7-106;**
 - (4) The large quantity generator standards of **§ 7-308;** and
 - (5) All applicable sections of the Vermont Environmental Protection Rules, Chapters 1 through 19.
- (f) Certification is required during the active life (including the closure period) of all hazardous waste management units. Owners and operators of landfills, surface impoundments, land treatment units, and waste pile units must have post-closure permits (i.e., certification) as specified in **40 CFR § 270.1(c).**
- (g) Certification shall be for a period not to exceed five (5) years.
- (h) Continuation of Expiring Certificates
 - (1) If the certificate holder has submitted an administratively complete application to renew certification at least 180 calendar days prior to expiration of the effective certification and the Secretary, through no fault of the certificate holder, does not issue a new certificate with an effective date prior to the expiration date of the previous certificate, the conditions of the expired certificate continue in force until the effective date of a new certificate.
 - (2) Certificates continued under this section remain fully effective and enforceable.
 - (3) When the certificate holder is not in compliance with the conditions of the expired or expiring certification, the Secretary may do any or all of the following:
 - (A) Initiate an enforcement action based on the certificate that has been continued;
 - (B) Issue a notice of intent to deny the new request for certification. If the certification is denied, the activities authorized by the continued certificate would have to cease or become subject to an enforcement action;
 - (C) Issue a new certification with appropriate conditions; or
 - (D) Take other actions authorized by these regulations.
- (i) A certification may be transferred by the permittee to a new owner or operator under the provisions of **40 CFR § 270.40.**

- (j) For the purposes of construing **40 CFR Parts 260 through 270**, a person who receives certification (i.e., the certificate holder) under this chapter shall also be known as the permittee.
- (k) In lieu of the negative assurance required by **40 CFR § 264.143(f)(3)(iii)(B)**, the Secretary shall accept a certified public accountant's report describing the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

§ 7-505 APPLICATION FOR INITIAL AND RENEWAL CERTIFICATION

- (a) Any person who is required to obtain or renew certification under **§ 7-504** shall sign and submit an application for certification to the Secretary. When a facility is owned by one person but is operated by another person, it is the operator's duty to obtain certification except that the owner must also sign any documents submitted for the purpose of applying for certification.
- (b) At the time of application, the applicant must:
 - (1) If seeking initial certification for a hazardous waste treatment or disposal facility, have already obtained a certificate of need pursuant to the requirements of **10 V.S.A. § 6606a** (refer to **§ 7-504(b)**);
 - (2) Submit a disclosure statement pursuant to **§ 7-504(c)**;
 - (3) Have complied with the pre-application public meeting and notice requirements of **40 CFR § 124.31**.
- (c) An application for certification may be submitted in narrative form. Each application for certification must be signed in accordance with **§ 7-108**, and must contain all applicable information required under **40 CFR §§ 270.10(j), 270.13 (Part A) and 270.14 through 270.28 (Part B)**.
- (d) In addition to the requirements of **subsection (c) of this section**, each application for a hazardous waste land treatment or disposal facility shall include, but not be limited to, the following information:
 - (1) A description of the provisions for hydrogeological studies, monitoring analysis, and protection of groundwater and surface waters;
 - (2) A description of the provisions for post-closure monitoring and maintenance of the facility; and

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- (3) A description of the actions taken by the facility to assure financial responsibility for the post-closure care monitoring period and civil liability arising from non-sudden incidents at the facility.
- (e) Certain technical data, such as design drawings and specifications and engineering studies that are required to be submitted in an application, shall be certified by a professional engineer registered in Vermont.
- (f) The Secretary shall not issue a draft certification until the applicant has fully complied to the Secretary's satisfaction with the specific application requirements for the type of facility involved, unless the only information not submitted is the information required for exposure assessments for surface impoundments or landfills.
- (g) Applicants shall keep records of all data used to complete certification applications and any supplemental information submitted to the Secretary for a period of at least three (3) years from the date the application is signed.

§ 7-506 PROCEDURE FOR CERTIFICATION

- (a) Upon completing review of each application for certification under § 7-505, the Secretary shall either issue a draft certificate or deny certification. The Secretary shall prepare a written justification for any certification that has been denied and give public notice of the decision to deny.
- (b) Each draft and final certificate shall contain:
 - (1) All standards, conditions, and requirements that the Secretary has determined to be the best control technology for the specific facility involved. At a minimum, best control technology shall be the design, construction, operation and maintenance requirements referenced in § 7-504(e);
 - (2) All standards, conditions, and requirements that the Secretary has determined necessary to protect human health and the environment, including the “conditions applicable to all permits” specified under 40 CFR § 270.30; and
 - (3) When appropriate, a schedule of compliance leading to compliance with the Waste Management Act and these regulations. Any schedule of compliance shall meet the provisions of 40 CFR § 270.33.
- (c) The Secretary shall consult with the commissioner of health and the commissioner of labor and industry to avoid conflicts of the standards and conditions of any draft certification with requirements that may be imposed under 18 V.S.A. chapter 28 or any other applicable state safety or health regulation.

- (d) A fact sheet shall be compiled for every draft certificate prepared by the Secretary. The fact sheet shall briefly set forth the significant factual, legal, methodological, and policy questions considered in preparing the draft certificate. In addition, the fact sheet shall include the information described in **40 CFR § 124.8(b)**.
- (e) For preparing a draft certificate, the record shall consist of: the application, if required, and any supporting data furnished by the applicant; the draft certificate or notice of intent to deny the application or to revoke the certificate; the fact sheet; all documents cited in the fact sheet; and other documents contained in the supporting file for the draft certificate.
- (f) Public Notice
 - (1) The Secretary shall provide notice that a draft certificate has been prepared for a hazardous waste facility, of the opportunity for public comment on such draft certificate, and of the informational public hearing which shall be held for such draft certificate.
 - (2) Notice shall be provided by advertisement in major local newspapers of general circulation, broadcast over local radio station and by mailing a copy of a written notice to those persons listed in **40 CFR § 124.10**, who shall be included on the facility mailing list. The applicant shall reimburse the Secretary for all costs incurred under this subsection.
 - (3) At a minimum, for each draft certificate, the applicable public notice and public comment requirements of **40 CFR §§ 124.10 and 124.32** shall be met.
 - (4) The Secretary may assess the need, on a case-by-case basis, for an information repository, and may require that such a repository be maintained by the applicant, in accordance with the requirements of **40 CFR § 124.33**.
- (g) Copies of the fact sheet, draft certificate and written notice shall be sent to the applicant, the town in which the facility is located or proposed to be located, any other Agency or subdivision thereof which has issued or may be requested to issue a permit or certificate for the facility, the U.S. Environmental Protection Agency, and any other appropriate government authorities. Copies of the fact sheet, draft certificate and notice shall also be made available to any other interested party.
- (h) Prior to the issuance of each final certificate, the Secretary shall consider all comments raised during the public comment period and prepare a response to comments which specifies:
 - (1) The content of all significant comments;
 - (2) The Secretary's response to those comments;
 - (3) Any changes that will be made to the draft certificate; and

- (4) The reasons for those changes.
- (i) An appeal may be taken from a final decision on the issuance or denial of a certificate.

§ 7-507 MODIFICATION OF CERTIFICATIONS

- (a) Based upon information received (e.g., findings of a facility inspection, or information submitted by the certificate holder), the Secretary may determine whether one or more of the causes listed in **subsection (e) of this section** to modify a certification exist. If cause exists, the Secretary may modify the certification accordingly, and may request an updated application if necessary.
- (b) When a certification is modified, only the conditions subject to modification are reopened.
- (c) Suitability of the facility location shall not be considered at the time of modification unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time when the certification was issued.
- (d) If cause does not exist under this section, the Secretary shall not modify the certification, unless the modification is at the request of the certificate holder.
- (e) The following are causes for modification of a certification:
 - (1) There are material and substantial alterations or additions to the certified facility or activity which occurred after the certification was issued which justify the application of certification conditions that are different from or absent in the existing certification.
 - (2) Information is received by the Secretary that was not available at the time that the certification was issued (other than revised regulations, guidance, or test methods) and would have justified the application of different certification conditions at the time of issuance.
 - (3) The standards or regulations on which the certification was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision, after the certification was issued.
 - (4) The Secretary determines good cause exists for modification of a certification, such as an act of God, strike, flood, or materials shortage or other events over which the certificate holder has little or no control and for which there is no reasonably available remedy.
 - (5) Cause exists for revocation under **§ 7-509**, and the Secretary determines that modification of the certification is appropriate.

- (6) The Secretary has received notification (as required in the certification) of a proposed transfer of the certification.
- (f) Modification Procedures
 - (1) If a modification is requested by the permittee, the Secretary shall approve or deny the request according to the procedures of **40 CFR § 270.42**.
 - (2) For all modifications sought on the motion of the Secretary, a draft certification shall be prepared, and the procedures and requirements of **§ 7-506** shall be met.
 - (3) If a modification is requested to transfer a facility to a new owner or operator, the Secretary shall review the request according to the procedures of **40 CFR § 270.40**.
- (g) An appeal may be taken from a final decision on the approval or denial of a request for the modification of a certificate.

§ 7-508 REVOCATION AND REISSUANCE OF CERTIFICATIONS

- (a) Based upon information received (e.g., findings of a facility inspection, or information submitted by the certificate holder), the Secretary may determine whether one or more of the causes listed in **subsection (e) of this section** to revoke and reissue a certification exist. If cause exists, the Secretary may revoke and reissue the certification accordingly, and may request an updated application if necessary.
- (b) If a certification is revoked and reissued, the entire certification is reopened and subject to revision and the certification is reissued for a new term. (**See 40 CFR § 124.5(c)(2)**)
- (c) Suitability of the facility location shall not be considered at the time of revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown or which did not exist at the time when the certification was issued.
- (d) If cause does not exist under this section, the Secretary shall not revoke and reissue a certification, except at the request of the certificate holder.
- (e) The following are causes for revocation and reissuance of a certification:
 - (1) Cause exists for termination under **§ 7-509**, and the Secretary determines that revocation and reissuance of the certification is appropriate.
 - (2) The Secretary has received notification (as required in the certification) of a proposed transfer of the certification. When revocation and reissuance is used to transfer a certification to a new owner or operator, the requirements of **40 CFR § 270.41** shall be met.

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- (f) The causes for modification listed under §§ **7-507(e)(1) through (4)** may be causes for revocation and reissuance of a certification when the certificate holder requests or agrees.

§ 7-509 VOLUNTARY AND INVOLUNTARY TERMINATION OF CERTIFICATIONS

(a) Voluntary Termination of Certifications

The Secretary may terminate a certification upon request of the certificate holder provided the certificate holder:

- (1) Notifies the Secretary in writing of his or her intent to close the facility;
- (2) Closes the facility in accordance with the facility closure plan;
- (3) Requests and receives a determination by the Secretary that the facility has been successfully closed; and
- (4) Notifies persons included on the facility mailing list.

(b) Involuntary Termination of Certifications

- (1) The following are causes for terminating a certification during its term, or for denying an application to renew certification:
 - (A) Noncompliance by the certificate holder with any condition of the certification;
 - (B) Failure by the certificate holder to disclose fully all relevant facts in the application or during the certification process;
 - (C) Misrepresentation by the certificate holder of any relevant facts at any time; or
 - (D) A determination by the Secretary that the certified activity endangers human health or the environment and can only be regulated to acceptable levels by termination of the certification.
- (2) The Secretary shall follow the applicable procedures of **40 CFR § 124.5 and 3 V.S.A. § 814** when terminating any certification under this section.
- (3) The Secretary may, pursuant to the procedures of this subchapter, deny an application for renewal of certification either in its entirety or as to the active life of a hazardous waste management facility or unit only.

§ 7-510 INTERIM STATUS CERTIFICATION

- (a) The purpose of this section is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.
- (b) The standards of **40 CFR Part 265, Subpart S of 40 CFR Part 264**, and this section apply to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under **§ 3005(e) of RCRA and 40 CFR § 270.10** until either certification is made under this subchapter or until applicable Part 265 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by **RCRA § 3010(a)** and/or failed to file an application for certification as required by **subsections (g) and (h) of this section**. These standards apply to all treatment, storage and disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided for in this subchapter or subchapter 2.
- (c) All hazardous waste facilities which were in operation or under construction as of November 19, 1980, which have been in operation or under construction since that date, or which are currently operating or under construction without certification shall, at a minimum, be designed, constructed, operated and maintained in accordance with all applicable requirements of:
 - (1) **40 CFR Part 265;**
 - (2) **40 CFR Part 266;**
 - (3) The land disposal restrictions (40 CFR Part 268) incorporated by reference under **§ 7-106;** and
 - (4) All applicable sections of the Vermont Environmental Protection Rules, **chapters 1 through 19.**
- (d) In order for a facility to qualify for interim status, the owner or operator must submit a **Vermont Hazardous Waste Handler Site ID Form**, an application for interim certification that meets the requirements of **subsection (g) of this section**, and must otherwise meet the requirements of **40 CFR §§ 270.70 through 270.73.**
- (e) The following hazardous wastes must not be managed at facilities subject to regulation under this section: EPA hazardous waste codes F020, F021, F022, F023, F026, or F027.
- (f) The requirements of this section apply to owners and operators of all facilities which treat, store or dispose of hazardous waste subject to the land disposal restrictions of **40 CFR Part 268** incorporated by reference under **§ 7-106.**
- (g) Owners and operators of hazardous waste management facilities in existence on November 19, 1980 must submit an application for certification or interim certification as required by

40 CFR § 270.10(e). Any person applying for interim certification under this section shall submit a document, signed in accordance with **§ 7-108**, that provides the information required by **40 CFR § 270.13**. This document shall be submitted in accordance with the requirements of **40 CFR § 270.10(e)**.

- (h) (1) If any owner or operator of a hazardous waste management facility has filed for interim status certification and has not yet filed for certification, the owner or operator shall file an amended interim status application:
 - (A) With the Secretary no later than the effective date of regulatory provisions listing or designating wastes as hazardous in the state in addition to those already listed or designated hazardous by the Agency, if the facility is treating, storing or disposing of any of those newly listed or designated wastes; or
 - (B) As necessary to comply with provisions of **40 CFR § 270.72** for changes during interim status.
- (2) The owner or operator of a facility who fails to comply with the updating requirements of this section does not receive interim status as to the wastes not covered by a duly filed interim status application.
- (i) In lieu of the negative assurance required by **40 CFR § 265.143(e)(3)(iii)(B)**, the Secretary shall accept a certified public accountant's report describing the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

§ 7-511 SPECIAL CERTIFICATION

- (a) The Secretary may issue a certificate for a hazardous waste incinerator in accordance with **40 CFR § 270.62**.
- (b) The Secretary may issue a certificate for using field tests or laboratory analyses for a land treatment demonstration in accordance with **40 CFR § 270.63**.
- (c) The Secretary may issue a research, development, and demonstration certificate for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which certification standards for such experimental activity have not been promulgated under **40 CFR Part 264 or 266**. Any such certificate shall include such terms and conditions as will assure protection of human health and the environment. Such certificates shall meet the requirements of **40 CFR § 270.65**.
- (d) The Secretary may issue a certificate for hazardous waste boilers and industrial furnaces in accordance with **40 CFR § 270.66**.

§ 7-512 ADDITIONAL REQUIREMENTS

On a case-by-case basis, any person subject to this subchapter may be required to meet additional requirements when the Secretary determines that such actions are necessary to protect human health or the environment.