

***Subchapter 1: GENERAL PROVISIONS*****§ 7-101 AUTHORITY**

These regulations are promulgated by the Secretary of the Vermont Agency of Natural Resources pursuant to the authority granted by **3 V.S.A. § 2853(5) and 10 V.S.A. chapter 159**.

**Note:** The term “these regulations,” when used within this document, means chapter 7 of the Vermont Environmental Protection Rules (Hazardous Waste Management Regulations).

**§ 7-102 PURPOSE**

These regulations are intended to protect public health and the environment by regulating the generation, storage, collection, transport, treatment, disposal, use, reuse, and recycling of hazardous waste, used oil, universal waste, and pharmaceutical waste in Vermont.

**§ 7-103 DEFINITIONS**

As used in these regulations, all terms not otherwise defined herein shall have the meaning given them in **40 CFR Parts 260 through 266, 268, and 270**. Terms that are used only in **subchapter 8** (used oil management standards), **subchapter 9** (universal waste management standards) or **subchapter 10** (pharmaceutical waste management standards) are defined therein.

“**Active life of a facility**” means the period from the initial receipt of hazardous waste at the facility until the Secretary receives certification of final closure.

“**Acute hazardous waste**” means hazardous wastes that are either listed in **§ 7-210** with the assigned hazard code of (H) or are listed in **§ 7-215**.

“**Aerosol can**” means a non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

“**Agency**” means the Vermont Agency of Natural Resources.

“**Airbag waste**” means any hazardous waste airbag modules or hazardous waste airbag inflators.

“**Airbag waste collection facility**” means any facility that receives airbag waste from airbag handlers subject to regulation under **§ 7-203(y)**, and accumulates the waste for more than ten days.

“**Airbag waste handler**” means any person, by site, who generates airbag waste that is subject to regulation under **subchapters 1 through 7** of these regulations.

**“Boiler”** means an enclosed device using controlled flame combustion and either:

- (a) Having the following characteristics:
  - (1) Having physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
  - (2) Being of integral design, in that the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) are physically formed into one manufactured or assembled unit, except that process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units are not precluded from being boilers solely because they are not of integral design. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not of integral design; however, a unit may be of integral design even though secondary energy recovery equipment (such as economizers or air preheaters) is not physically formed into the same unit as the combustion chamber and the primary energy recovery section; and
  - (3) Maintaining while in operation a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
  - (4) Exporting and utilizing at least 75 percent of the recovered energy, calculated on an annual basis, not including recovered heat used internally in the same unit, such as the preheating of fuel or combustion air, the driving of induced or forced draft fans or feed-water pumps; or
- (b) The device is one which the Secretary has determined, on a case-by-case basis, to be a boiler, after considering the standards in **40 CFR § 260.32**.

**“Carbon regeneration unit”** means any enclosed thermal treatment device used to regenerate spent activated carbon.

**“CERCLA”** means the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

**“Certificate of need”** means a certificate issued by the Secretary pursuant to **10 V.S.A. § 6606a** that must be obtained before a person may begin site preparation for or construction of a hazardous waste management facility.

**“Certified hazardous waste facility”** means a treatment, storage, or disposal facility which is authorized to operate under a federally approved state hazardous waste program, the federal hazardous waste program, or a foreign government.

**“College/University”** means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of

Education.

“**Completed copy**” means any copy of the manifest which has been signed by the generator, designated transporter, any continuing transporters, and the designated certified hazardous waste treatment, storage, or disposal facility.

“**Compliance points**” or points of compliance means the locations identified in § 12-603 of the GWPRS.

“**Consignee**” means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

“**Container**” means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

“**Containment building**” means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of **Subpart DD of 40 CFR Parts 264 or 265** (incorporated by reference in subchapter 5).

“**Contaminated wipe**” means:

- (a) A wipe that, after being used in a cleaning or degreasing process:
  - (1) Contains greater than 5% by weight of VT02 petroleum distillates listed in § 7-211;
  - (2) Contains one or more of the F001 through F005 solvents listed in § 7-210 or the corresponding P- or U- listed solvents found in §§ 7-214 and 7-215;
  - (3) Exhibits a hazardous characteristic found in §§ 7-205 through 7-208 when that characteristic results from a solvent listed in §§ 7-210 through 7-215; and/or
  - (4) Exhibits only the hazardous waste characteristic of ignitability found in § 7-205 due to the presence of one or more solvents that are not listed in §§ 7-210 through 7-215.
- (b) Contaminated wipes that contain listed hazardous waste other than VT02 petroleum distillates or the solvents specified in **subsection (a)(2) of this section**, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exemption at § 7-203(w).

“**Control**” over a waste, unless otherwise defined in these regulations, means the possession, ownership or physical control of such waste, including but not limited to the following activities: (a) generation; (b) treatment; (c) storage; (d) transportation; or (e) disposal, whether or not such activity is authorized by law.

“**Debris**” means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However,

the following materials are not debris: Any material for which a specific treatment standard is provided in **40 CFR §§ 268.40 through 268.49**, namely lead acid batteries, cadmium batteries, and radioactive lead solids; Process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. A mixture of debris that has not been treated to the standards provided by **40 CFR § 268.45** and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

**“Designated facility”** means:

- (a) A hazardous waste treatment, storage, or disposal facility which:
  - (1) Has received a permit (or interim status) in accordance with the requirements of 40 CFR Parts 270 and 124;
  - (2) Has received a permit (or interim status) from a State authorized in accordance with **40 CFR Part 271**; or
  - (3) Is regulated under **§ 7-606(a)** or **Subpart F of 40 CFR Part 266** (Refer to **§ 7-204(g)** Recyclable Materials Utilized for Precious Metal Recovery); and
  - (4) Has been designated on the manifest by the generator pursuant to **§ 7-702**.
- (b) A generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with **40 CFR § 264.72(f)** or **40 CFR § 265.72(f)** (Refer to **§ 7-704(i)(4)**)
- (c) If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

**“Destination facility”** means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in **§ 7-912(d)(3)**. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

**“Discarded”** A material is discarded if it is:

- (a) Abandoned by being:
  - (1) Disposed of; or
  - (2) Burned or incinerated; or
  - (3) Accumulated, stored, or treated before or in lieu of being abandoned by being

disposed of, burned, or incinerated;

- (b) Recycled, until the recycling process has been completed;
- (c) Considered inherently waste-like as described in **40 CFR § 261.2(d)**;
- (d) Applied to or placed on the land in a manner that constitutes disposal, used to produce products that are applied to or placed on the land, or are otherwise contained in products that are applied to or placed on the land or
- (e) A military munition identified as a solid waste in **40 CFR § 266.202**.

**“Discharge”** or **“hazardous waste discharge”** means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

**“Disposal”** means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

**“Disposal facility”** means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

**“Drip pad”** is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

**“Domestic sewage”** means untreated sanitary wastes that pass through a sewer system to a sewage treatment plant.

**“Electronic manifest”** (or “e-Manifest”) means the electronic format of the hazardous waste manifest that is obtained from EPA’s national e-Manifest system and transmitted electronically to that system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

**“Electronic Manifest System”** (or “e-Manifest system”) means EPA’s national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

**“Elementary neutralization unit”** means a device which:

- (a) Is used for neutralizing wastes that are hazardous only because they exhibit the

corrosivity characteristic defined in § 7-206, or they are listed in §§ 7-210 through 7-215 only for this reason; and

(b) Meets the definition of tank, tank system, container, transport vehicle, or vessel.

**“Eligible academic entity”** means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

**“Emergency response”** means a response action to a situation that may cause immediate and serious threat of harm to human health or the environment.

**“Environmental Protection Agency”** or **“EPA”** means the United States Environmental Protection Agency.

**“EPA Acknowledgement of Consent”** means the cable sent to EPA from the U. S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

**“EPA Identification number”** means the location specific number assigned by either EPA or the Secretary to each generator, transporter and treatment, storage, or disposal facility.

**“EPCRA”** means the federal Emergency Planning & Community Right to Know Act of 1986, as amended.

**“Episodic Event”** means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

**“Explosives or munitions emergency”** means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

**“Explosives or munitions emergency response”** means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another

location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

**“Explosives or munitions emergency response specialist”** means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

**“Facility”** means:

- (a) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).
- (b) For the purpose of implementing corrective action under **40 CFR § 264.101** (incorporated by reference under subchapter 5), all contiguous property under the control of the owner or operator seeking certification under subchapter 5 of these regulations. This definition also applies to facilities implementing corrective action under **RCRA § 3008(h)**.

**“FIFRA”** means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, **7 U.S.C. § 136 et seq.**

**“Final closure”** means the cessation of hazardous waste management activities and either the closure of all short-term storage areas at a large quantity generator facility in accordance with the requirements of **§ 7-308(b)(16)**, or the closure of all hazardous waste management units at a facility in accordance with the facility closure plan and all applicable closure requirements of **subchapter 5** so that hazardous waste management activities permitted under **subchapter 5** are no longer conducted at the facility.

**“Generator”** means any person, by site, whose act or process produces hazardous waste or whose act first causes hazardous waste to become subject to regulation. This includes any person who imports hazardous waste into Vermont from a foreign country.

**“Groundwater enforcement standards”** means those standards adopted by **§ 12-601 of the Groundwater Protection Rule and Strategy**.

**“Groundwater Protection Rule and Strategy”** or **“GWPRS”** means chapter 12 of the Vermont Environmental Protection Rules, effective July 6, 2019, as amended.

**“Hazardous material”** means all petroleum and toxic, corrosive or other chemicals and related sludge included in any of the following:

- (a) Any substance defined in **CERCLA § 101(14)**;
- (b) Petroleum, including crude oil or any fraction thereof;
- (c) Hazardous waste; or
- (d) A chemical or substance that, when released, poses a risk to human health or other living organisms and that is listed by the Secretary by rule.

**Note:** “Hazardous material” does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state and local laws and regulations and according to manufacturers' instructions. Nothing in this subsection shall affect the authority granted and the limitations imposed by **10 V.S.A. § 6608a**.

**“Hazardous waste”** means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including but not limited to those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat or other means, which in the judgment of the Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954, as amended, codified in 42 U. S. C. § 2014, is specifically excluded from this definition.

**“Hazardous waste management”** means the systematic and comprehensive management of the generation, storage, transport, treatment, including recycling and recovery, or disposal of hazardous waste materials.

**“Hazardous waste management unit”** is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

**“Household waste”** means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas). Business waste generated at a household is not household waste.



**“Impervious surface”** means a surface that is sufficiently impermeable to any waste material stored thereon to prevent that material from migrating into the surface (e.g., porous concrete) or to the soil, groundwater, or surface water.

**“Incinerator”** means any enclosed device that:

- (a) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or
- (b) Meets the definition of infrared incinerator or plasma arc incinerator as defined in **40 CFR § 260.10**.

**“Incompatible waste”** means a hazardous waste which is unsuitable for:

- (a) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e. g., container inner liners or tank walls); or
- (b) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(See **Appendix VII** for examples of potentially incompatible waste.)

**“Industrial furnace”** means an enclosed device that is an integral component of a manufacturing process, that uses thermal treatment to accomplish recovery of materials or energy, and that is listed as an “industrial furnace” in **40 CFR § 260.10**.

**“Investigation and Remediation of Contaminated Properties Rule”** means chapter 35 of the Vermont Environmental Protection Rules, effective July 6, 2019, as amended.

**“Laboratory”** means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

**“Land disposal”** means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, concrete vault or bunker intended for disposal purposes.

**“Landfill”** means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a

corrective action management unit.

**“Large quantity generator”** means a generator who generates any of the following amounts in a calendar month:

- (a) Greater than or equal to 1,000 kilograms (2200 lbs) of non-acute hazardous waste; or
- (b) Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 7-210 or § 7-215; or
- (c) Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 7-210 or § 7-215.

**“Low-level mixed waste (LLMW)”** is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

**“Low-level radioactive waste (LLW)”** is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in **section 11e.(2) of the Atomic Energy Act**. (See also NRC definition of “waste” at **10 CFR 61.2**)

**Manifest”** means the shipping document **EPA Form 8700–22** (including, if necessary, the continuation sheet document **EPA Form 8700–22A**), or the electronic manifest, originated and signed in accordance with the applicable requirements of **40 CFR Parts 262 through 265**.

**“Manifest tracking number”** means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

**“Manufacturing or mining by-product”** is a material that is not one of the primary products of a particular manufacturing or mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include an intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process and is typically processed through the next step of the process within a short time.

**“Media”** means environmental media (e.g., soil, groundwater).

**“Military munitions”** means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions,

rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

**“Miscellaneous unit”** means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under **40 CFR Part 146**, containment building, corrective action management unit, or unit eligible for a research, development, and demonstration certification under **§ 7-511(c)**.

**“Mixed waste”** means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

**“No free liquids”** as used in **§ 7-203(w)**, means that contaminated wipes may not contain free liquids as determined by **Method 9095B** (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” (EPA Publication SW-846), which is incorporated by reference, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the Secretary.

**“Non-acute hazardous waste”** means all hazardous wastes that are not acute hazardous waste.

**“Obsolete pesticide products”** means concentrated pesticide products which are unusable due to damage to containers or the pesticide formulation; in damaged containers; pesticide products whose U. S. EPA registration number has been canceled or suspended leaving no valid registered uses on the label; or unwanted registered pesticide compounds which the generator wishes to dispose of.

**“On-site”** means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which that person controls and to which the public does not have access, is also considered on-site property.

**“Partial closure”** means the closure of a short-term storage area at a large quantity generator in accordance with the applicable requirements of **§ 7-308(b)(16)**, or the closure of a hazardous waste management unit at a facility that contains other active hazardous waste management units in accordance with the facility closure plan and all applicable closure requirements of **subchapter 5**. For example, partial closure may include the closure of a short-term storage area at a large quantity generator that continues to generate hazardous waste and may maintain other

active short-term storage areas; or the closure of a container storage area, tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit at a facility, while other units of the same facility continue to operate.

**“Person”** means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont or any agency, department, or subdivision of the state, federal agency, or any other legal or commercial entity.

**“Pesticide”** means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (a) Is a new animal drug under the **Federal Food, Drug, and Cosmetic Act (FFDCA) section 201(w)**, or
- (b) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- (c) Is an animal feed under **FFDCA section 201(x)** that bears or contains any substances described by **subsection (a) or (b) of this definition**.

**“Pesticidal wastes”** means unwanted pesticides and their dilutions, rinses, and improperly rinsed containers.

**“Pile”** means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

**“Planned episodic event”** means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory

**“Primary exporter”** means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with subchapter 7 when the manifest specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

**“RCRA”** means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, **42 U.S.C. § 6901 et seq**, as amended.

**“RCRA hazardous waste”** means hazardous waste regulated under Subtitle C of RCRA; it does not include other wastes regulated as hazardous waste by the State of Vermont that are not regulated under Subtitle C of RCRA.

**“Reclaimed”** means that a hazardous waste is processed to recover the hazardous component of the waste as a usable product, or that it is regenerated. Examples are recovery of lead values

from spent batteries and regeneration of spent solvents.

**“Receiving country”** means any foreign country to which hazardous waste is sent for the purpose of treatment, storage, or disposal (except short-term storage incidental to transportation).

**“Registration”** means, for the purposes of § 7-304(e) and 10 V.S.A. § 6608(f), notifying the Secretary of hazardous waste activity using the Hazardous Waste Handler Site Identification Form (EPA Form 8700-12) referenced in § 7-104(a), and paying the annual fee specified in 3 V.S.A. § 2822.

**“Release”** means any intentional or unintentional action or omission resulting in the spilling, leaking, pumping, pouring, emitting, emptying, dumping, or disposing of hazardous materials into the surface or groundwaters, or onto the lands in the State, or into waters outside the jurisdiction of the State when damage may result to the public health, lands, waters or natural resources within the jurisdiction of the State.

**“Representative sample”** means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

**“Restricted use pesticides”** means pesticides that meet the criteria of 40 CFR § 152.170 and are identified by the designation “Restricted Use” on the product label. Restricted use pesticides are not available for purchase or use by the general public.

**“Scrap metal”** means bits and pieces of metal parts (e. g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e. g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

**“Secretary”** means the Secretary of the Agency of Natural Resources or his or her duly authorized representative. When implementing the provisions of 10 V. S. A. §§ 6608a relating to economic poisons, the term shall also include the Secretary of the Vermont Agency of Agriculture, Food & Markets. When implementing the provisions of 10 V.S.A. § 6608b relating to low-level radioactive wastes mixed with hazardous waste, the term shall also include the Commissioner of the Vermont Department of Health.

**“Short-term storage area”** means any on-site hazardous waste storage area with hazardous waste stored in units that are subject to either § 7-307 (for small quantity generators) or § 7-308 (for large quantity generators). A short-term storage area at an eligible academic entity that chooses to operate under 40 CFR §§ 262.200 through 262.216 (Subpart K) is also subject to 40 CFR § 262.211 when storing unwanted material and/or hazardous waste. The term “short-term storage area” shall have the same meaning as “central accumulation area” as used in 40 CFR Subpart K.

**“Sludge”** means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

**“Sludge dryer”** means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

**“Small quantity generator”** means a generator who generates the following amounts in a calendar month:

- (a) Greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of non-acute hazardous waste; and
- (b) Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 7-210 or § 7-215; and
- (c) Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 7-210 or § 7-215.

**“Soil”** means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Natural Resources Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection. Any deliberate mixing of prohibited hazardous waste with soil that changes its treatment classification (i.e., from waste to contaminated soil) is not allowed under the dilution prohibition in **40 CFR § 268.3**.

**“Solid waste”** means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment or solid or dissolved materials in industrial discharges which are point sources subject to permits pursuant to **10 V.S.A. chapter 47**.

**“Sorbent”** means a material that is used to soak up free liquids by either adsorption or absorption, or both.

**“Sorb”** means to either adsorb or absorb, or both.

**“Staging”** means the temporary placement of off-site generated recyclable materials within a recycling facility for a period of time no longer than three (3) days.

**“Storage”** means the actual or intended containment of wastes, either on a temporary basis or for a period of years; in such manner as not to constitute disposal of such wastes. Storage may be conducted by either generators or designated facilities. Hazardous waste that is being staged at a recycling facility for no more than three (3) days is not considered to be in storage.

“**Sump**” means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, “sump” means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

“**Surface impoundment**” means a natural topographic depression, artificial excavation, or dike arrangement, including a pit, pond, or lagoon, whether or not it has a permeable bottom or sides allowing seepage of its contents, which is:

- (a) Used primarily for the storage, treatment, or disposal of hazardous waste in liquid, semi-solid, or solid form; and
- (b) Constructed on, below, or partially in the ground.

“**Tank**” means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of non-earthen materials (e. g., wood, concrete, steel, plastic) that provide structural support.

“**Tank system**” means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

“**Transfer facility**” means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

“**Transport**” or “**transportation**” means the movement of wastes by air, rail, highway, or water.

“**Treatment**” means any method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous or solid waste, so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste safer for transport, amenable for recovery, amenable for storage, or reduced in volume, or for hazardous wastes, so as to render such waste non-hazardous.

“**TSCA**” means the Toxic Substances Control Act of 1976, **15 U.S.C. 2601, et seq**, as amended.

“**Universal waste**” means any of the following hazardous wastes that are subject to the universal waste requirements of **subchapter 9**:

- (a) Batteries as described in **§ 7-902**;
- (b) Pesticides as described in **§ 7-903**;

- (c) Thermostats as described in § 7-904;
- (d) PCB-containing fluorescent light ballasts as described in § 7-905;
- (e) Lamps as described in § 7-906;
- (f) Mercury-containing devices as described in § 7-907;
- (g) Cathode ray tubes (CRTs) as described in § 7-908;
- (h) Postconsumer paint as described in § 7-909; and
- (i) Aerosol cans as described in § 7-910.

**“Unplanned episodic event”** means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or “acts of nature,” such as tornado, hurricane, or flood.

**“Used”** or **“reused”** means that a hazardous waste is either:

- (a) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a hazardous waste will not satisfy this condition if distinct components of the waste are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or
- (b) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

**“Used oil”** means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities. Used oil does not include materials refined from crude oil that are fuels (e.g., gasoline, jet fuel and diesel fuel), or materials refined from crude oil that are used as cleaning agents or solvents (e.g., naphtha or mineral spirits); these materials are subject to regulation under **subchapters 1 through 7**, as applicable.

**“User of the electronic manifest system”** means a hazardous waste generator; a hazardous waste transporter; an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility; or any other person that:

- (a) Is required to use a manifest to comply with:
  - (1) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or



- (2) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and
- (b) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system; or
- (c) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with § 7-704(c)(5). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

**Vermont Groundwater Protection Rule and Strategy or GWPRS** means chapter 12 of the Vermont Environmental Protection Rules, effective July 6, 2019, as amended.

**“Very small quantity generator”** means a generator who generates less than or equal to the following amounts in a calendar month:

- (a) 100 kilograms (220 lbs) of non-acute hazardous waste; and
- (b) 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 7-210 or § 7-215; and
- (c) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 7-210 or § 7-215.

**“Waste”** means a material that is discarded or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

**“Wastewater evaporation unit”** means a tank or tank system that:

- (a) Heats wastewater to intentionally evaporate water to reduce the volume of the wastewater;
- (b) Receives and treats or stores an influent wastewater that is a hazardous waste as described in § 7-202(a), or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as described in § 7-202(a), or treats or stores a wastewater treatment sludge which is a hazardous waste as described in § 7-202(a); and
- (c) Is not used to dispose of hazardous waste.

Wastewater evaporation unit does not mean a sludge dryer.

**“Wastewater treatment unit”** means a device which:

- (a) Is part of a wastewater treatment facility that is subject to regulation under either §§ 402 or 307(b) of the Clean Water Act;
- (b) Receives and treats or stores an influent wastewater that is a hazardous waste as described in § 7-202(a), or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as described in § 7-202(a), or treats or stores a wastewater treatment sludge which is a hazardous waste as described in § 7-202(a);
- (c) Meets the definition of tank or tank system; and
- (d) Is not a wastewater evaporation unit.

“Wipe” means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

#### § 7-104 NOTIFICATION REQUIREMENTS

- (a) Except for persons who have been issued a temporary identification number pursuant to **subsection (d) of this section**, any person who generates or transports hazardous waste or who owns or operates a transfer facility or a facility for the treatment, storage, use, disposal, or recycling of hazardous waste shall notify the Secretary of such activity. In addition, persons managing waste under the provisions of the used oil management standards of **subchapter 8**, the universal waste management standards of **subchapter 9**, or the pharmaceutical waste management standards of **subchapter 10**, shall notify the Secretary of such activity as required under those subchapters. Notification shall be made by accurately and completely filling out the **Hazardous Waste Handler Site Identification Form** (EPA Form 8700-12) in accordance with the form’s instructions.
- (b) Notification is required upon transferal of ownership of an entity that was required to notify the Secretary under **subsection (a) of this section**.
- (c) Persons subject to the requirements of this section shall maintain an up-to-date **Hazardous Waste Handler Site Identification Form** (EPA Form 8700-12) filed with the Secretary.
- (d) The Secretary may issue a temporary identification number to persons who have generated hazardous waste only from an episodic event and do not otherwise generate hazardous waste.

#### § 7-105 EMERGENCY AND CORRECTIVE ACTIONS

- (a) Emergency actions.

In the event of a release of a hazardous material (including discharges of hazardous

waste), the person in control of such material shall:

- (1) Take all appropriate immediate actions to protect human health and the environment including, but not limited to, emergency containment measures and notification as described below; and
  - (2) Take any further clean-up actions as may be required and approved by federal, state, or local officials, or corrective actions as specified under **subsection (f) of this section** so that the released material and related contaminated materials no longer present a hazard to human health or the environment.
- (b) Immediate reporting. Pursuant to **10 V.S.A. § 6617**, any person who has knowledge of an actual or suspected release of hazardous material and who may be subject to liability for a release as detailed under **10 V.S.A. § 6615** shall immediately report any release that:
- (1) Exceeds 2 gallons;
  - (2) Is less than or equal to 2 gallons and poses a potential or actual threat to human health or the environment;
  - (3) Equals or exceeds its corresponding reportable quantity under CERCLA as specified under **40 CFR § 302.4**; or
  - (4) Is of non-aqueous phase liquid (NAPL) petroleum, or a material detected in environmental media in an amount that exceeds an environmental media standard, pursuant to the criteria specified under §§ **35-102(b)(4) and (5)** of the Vermont **Investigation and Remediation of Contaminated Properties Rule**, as amended.

**Note:** Reporting under **subsection (b) of this section** shall be directed as follows:

- Monday through Friday, 7:45 a.m. to 4:30 p.m., to the Waste Management & Prevention Division at **(802) 828-1138**.
- At all other times including State holidays to the Department of Public Safety, Division of Emergency Management at **(800) 641-5005**.

**Note:** Under the Federal Water Pollution Control Act, certain spills of “oil” and/or “hazardous substances” are prohibited and must be reported pursuant to the requirements of **40 CFR Part 110** / Discharge of Oil. Certain spills of hazardous substances must also be reported pursuant to CERCLA. In both cases, the National Response Center must be notified at (800) 424-8802. Finally, in addition to federal and state spill reporting, EPCRA requires that spills are also reported to local authorities.

- (c) Written follow-up report. If requested by the Secretary, a written report shall be submitted to the Secretary within ten (10) days following any release subject to **subsection (b) of this section**. The report shall be sent to: Vermont Department of Environmental Conservation, Waste Management & Prevention Division, 1 National Life

Drive – Davis 1, Montpelier, VT 05620-3704.

- (d) Releases during transportation.
  - (1) If a release occurs during transportation, the transporter shall:
    - (A) Report release to the Secretary in accordance with **subsection (b) of this section**;
    - (B) Notify the National Response Center at (800) 424-8802 or (202) 426-2675, if required by **49 CFR § 171.15**; and
    - (C) Report in writing to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590, if required by **49 CFR § 171.16**; and
  - (2) A water (bulk shipment) transporter who has discharged hazardous wastes must give the same notice as required by **33 CFR § 153.203** for oil and hazardous substances.
- (e) Management of wastes, clean-up debris and residues.
  - (1) If a release occurs and the Secretary determines that immediate removal of waste material is necessary to protect human health or the environment, the Secretary may authorize its removal by unpermitted transporters without the preparation of a manifest. Such hazardous waste may be transported to a site authorized by the Secretary under the emergency certification provisions of **§ 7-503** to temporarily accept hazardous waste generated during an emergency clean-up of a release.
  - (2) In the case of an explosives or munitions emergency response, if a Federal, State, Tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers or hold Vermont hazardous waste transportation permits and without the preparation of a manifest. In the case of emergencies 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.
  - (3) All clean-up debris and residues that are hazardous waste shall be stored in leak-proof containers that are covered so as to prevent contact of the waste with precipitation or run-on from precipitation.
  - (4) All clean-up debris and residues that are hazardous waste shall be sent to:
    - (A) A designated facility;

- (B) A person authorized by the Secretary to use such waste if the waste has been delisted pursuant to § 7-218;
  - (C) Some other location specified and authorized by the Secretary to receive clean-up debris and residues if the waste has been delisted pursuant to § 7-218; or
  - (D) For Vermont-listed hazardous waste, in addition to the options provided under **subsections (4)(A) through (C) of this section**, to a facility, that is not a designated facility, located in a state other than Vermont provided the facility can receive such waste under applicable state and local laws, regulations and ordinances.
- (f) Corrective action
- (1) In addition to any emergency response required pursuant to **subsection (a) of this section**, the Secretary may require that the person or persons responsible pursuant to **10 V.S.A. § 6615** take all necessary actions to investigate and remediate the release or discharge in accordance with **10 V.S.A. chapter 159** and the **Vermont Investigation and Remediation of Contaminated Properties Rule**. Additionally, the Secretary may require that the person or persons responsible for a release or discharge comply with the requirements of **40 CFR Part 264, Subpart F and § 12-607 (Corrective Actions) of the Vermont Groundwater Protection Rule and Strategy**.
  - (2) A used or fired military munition is a waste and is subject to corrective action authorities pursuant to **10 V.S.A. § 6615**, and **subsection (f)(1) of this section** if the munition lands off-range and is not promptly rendered safe or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).
- (g) Compliance points. In the event of a release, compliance points for regulated activities shall be established pursuant to the **Vermont Groundwater Protection Rule and Strategy**.

**§ 7-106 LAND DISPOSAL RESTRICTIONS**

- (a) Certain hazardous wastes shall not be disposed of in or on the land. **40 CFR Part 268**, which is hereby incorporated by reference, except for **40 CFR §§ 268.5, 268.6, and 268.42(b)**, identifies those wastes which shall not be land disposed and describes the limited circumstances under which an otherwise prohibited waste may continue to be land disposed. The authority for implementing the CFR sections not incorporated by reference remains with the EPA.

- (b) In addition to the prohibitions of **40 CFR Part 268**, the Secretary may restrict the land disposal of any hazardous waste in the State of Vermont which:
  - (1) May present an undue risk to human health or the environment, immediately or over a period of time;
  - (2) Are prohibited under **Subchapter 4 of the Vermont Groundwater Protection Rule and Strategy** of chapter 12 of the Vermont Environmental Protection Rules, as amended; or
  - (3) May adversely affect public trust uses of groundwater as defined in **Subchapter 3 of the Groundwater Protection Rule and Strategy** (Chapter 12 of the Vermont Environmental Protection Rules), as amended.
- (c) Dilution of hazardous waste subject to the land disposal restrictions of 40 CFR Part 268 is prohibited pursuant to **40 CFR § 268.3**.

**§ 7-107** GROUNDWATER PROTECTION

- (a) Compliance; findings.
  - (1) Whereas, the **Vermont Groundwater Protection Rule and Strategy (GWPRS)** requires that these regulations include certain requirements, as necessary, to ensure that activities regulated by these regulations comply with requirements of the **GWPRS**;
  - (2) Whereas, **10 V.S.A. § 6616 and § 7-302(c) of these regulations** prohibit the discharge or release of a hazardous waste to groundwater;
  - (3) Whereas, these regulations ensure that activities conducted in compliance with these regulations will not result in a discharge or withdrawal of groundwater;
  - (4) Whereas, any person who violates these regulations and discharges a hazardous waste into groundwater is required to immediately report that discharge and investigate and remediate the discharge pursuant to these regulations and the **Vermont Investigation and Remediation of Contaminated Properties Rule**, as amended;
  - (5) Therefore, compliance with these regulations will not result in an exceedance of groundwater enforcement standards at points of compliance or otherwise adversely affect public trust uses of groundwater in the State.
  - (6) Notwithstanding the provisions of this subsection, the Secretary may require any person subject to these regulations to demonstrate compliance with the **GWPRS**.
- (b) Management of groundwater. Notwithstanding any other provisions of these regulations,

activities designated as high potential risk activities and moderate potential risk activities by the **GWPRS** shall be managed in accordance with **Subchapter 4 of the GWPRS**.

**§ 7-108** SIGNATORIES TO CERTIFICATION APPLICATIONS AND REPORTS

- (a) Certification applications and information required by **subsection (b) of this section** shall be signed as follows:
- (1) For a corporation, by a responsible corporate officer. A responsible corporate officer means:
    - (A) A president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - (B) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having a gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
  - (3) For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes:
    - (A) The chief executive officer of the agency; or
    - (B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- (b) All reports required by certifications, and at the discretion of the Secretary other information requested or required by the Secretary, shall be signed by a person described in **subsection (a) of this section** or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- (1) The authorization is made in writing by a person described in **subsection (a) of this section**;
  - (2) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named

individual or any individual occupying a named position); and

- (3) The written authorization is submitted to the Secretary.
- (c) If an authorization described in **subsection (b) of this section** is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirement of **subsection (b) of this section** must be submitted to the Secretary prior to or together with any documents signed by an authorized representative.
- (d) Certification. Any person signing a document pursuant to either **subsection (a) or (b) of this section** shall make the following certification:
- I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- (e) The certification described in **subsection (d) of this section** need not appear on a manifest completed in accordance with subchapter 7 of these regulations.

#### § 7-109 INCORPORATIONS BY REFERENCE

- (a) When reference is made to CFR titles, their parts, subparts, or sections, the reference is to titles of the Code of Federal Regulations as they existed on July 1, 2020, except that references to the ASTM test methods under § 7-205(a)(1), are to the test methods in SW-846 Test Methods 1010B or 1020C identified in the “Modernizing Ignitable Liquids Determinations” amendments made on July 7, 2020, at **85 FR 40594** through **40608**.
- (b) The following federal regulations are incorporated by reference:
- (1) **40 CFR §§ 266.100 through 266.107 and 266.109 through 266.112** for hazardous waste that is burned or processed in a boiler or industrial furnace (as defined in § 7-103). Any person in control of hazardous waste subject to this subsection also shall comply with all applicable provisions of the Vermont Air Pollution Control Regulations. The Secretary may, on a case-by-case basis, grant a variance from classification as a boiler. The standards and criteria used for this variance and the procedures followed shall be no less stringent than those in **40 CFR §§ 260.32 and 260.33**.
- (2) The Mixed Waste Rule of **40 CFR §§ 266.210 through 266.360 (Subpart N)** except:



- (A) When the terms “we” or “us” are used within incorporated material, those terms mean the Secretary.
  - (B) When incorporated materials reference “261.3” the reference shall mean **subchapter 2** of these regulations.
  - (C) When incorporated materials reference “Parts 260 – 270” as a phrase, it means **subchapters 1 through 7** of these regulations.
- (3) The **40 CFR § 262.21** requirements for manifest tracking numbers, manifest printing, and obtaining manifests.
  - (4) The Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities of **40 CFR §§ 262.200 through 262.216 (Subpart K)** except:
    - (A) When the term “EPA Regional Administrator” is used within incorporated material, that term means the Secretary.
    - (B) The Laboratory Management Plan, and all substantive amendments to the procedures required by **40 CFR § 262.214(a)** and **subsection (C) of this section**, shall be reviewed and approved by the Secretary prior to being incorporated into the plan.
 

**Note:** If there is a question if a change to a Laboratory Management Plan is substantive, a representative of the Eligible Academic Entity should contact the Secretary for clarification.
    - (C) The Laboratory Management Plan shall, in addition to the elements required by **40 CFR § 262.214(a)**, include procedures for:
      - (i) Inspecting at a specified frequency all laboratories covered by the requirements of the Laboratory Management Plan to assess conformance with the requirements of the Laboratory Management Plan. Results of such inspections shall be retained for at least three years or, if inspections are scheduled more than three years apart, until the results of the next scheduled lab inspection have been documented; and
      - (ii) The identification of Laboratory Management Plan non-compliance, and the assignment of responsibility, timelines and corrective actions to prevent their reoccurrence.
    - (D) Each academic entity shall maintain up-to-date records that identify those laboratories covered by the requirements of the Laboratory Management Plan.
  - (5) The **40 CFR §§ 262.80 through 262.89 (Subpart H)** requirements for

Transboundary Movements of Hazardous Waste for Recovery and Disposal.

**§ 7-110 SEVERABILITY**

The provisions of these regulations are severable. If any provision of these regulations is invalid or if any application of these regulations to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**§ 7-111 VARIANCES**

A person may apply to the Secretary for, and the Secretary may grant, a variance from these regulations in accordance with **10 V.S.A. § 6613**.