

This document contains information relevant to the denial, suspension, and revocation of a lab's drinking water certification by the Vermont Department of Health Drinking Water Laboratory Certification Program. For questions, please contact the program at SDWAcert@vermont.gov.

5.0 Denial, Suspension, or Revocation of Certification

5.1 Denial

5.1.1 Denial - shall mean to refuse to certify in total or in part a laboratory applying for initial certification or resubmission of initial application.

5.1.2 Reasons to deny an initial application shall include:

- 5.1.2.1 Failure to submit a completed application.
- 5.1.2.2 Failure of laboratory staff to meet the personnel qualifications as required by the TNI standards. These qualifications shall include education, training and experience requirements.
- 5.1.2.3 Failure to successfully analyze and report proficiency testing samples as required by the VTDWLCP.
- 5.1.2.4 Failure to respond to an assessment report from the on-site assessment with a corrective action report within the required 30 calendar days after receipt of the assessment report.
- 5.1.2.5 Failure to implement the corrective actions detailed in the corrective action report within the time frame as specified by the Department.
- 5.1.2.6 Failure to pay required fees.
- 5.1.2.7 Failure to pass required on-site assessment(s) as specified in the TNI standards.
- 5.1.2.8 Failure to report compliance data to the public water system or the state drinking water program in a timely manner, thereby preventing compliance with federal or state regulations and endangering public health. Data which may cause the system to exceed an MCL should be reported as soon as possible.
- 5.1.2.9 Failure to report private drinking water test data, i.e. submit the results of groundwater analyses to the Department of Health and the Agency of Natural Resources in the format required by the Department of Health.
- 5.1.2.10 Misrepresentation of any fact pertinent to receiving or maintaining certification.
- 5.1.2.11 Denial of entry during normal business hours for an on-site assessment as required by the TNI standards.
- 5.1.2.12 If the laboratory is not successful in correcting the deficiencies as required by the TNI standards, the laboratory must wait six months before again reapplying for certification.
- 5.1.2.13 Upon reapplication, the laboratory may again be responsible for all or part of the fees as applicable incurred as part of the initial application for certification.
- 5.1.2.14 No laboratory's certification shall be denied without the right to due process.

5.2 Suspension

5.2.1 Suspension - shall mean the temporary removal of a laboratory's certification for a defined period, which shall not exceed six months. The purpose of suspension is to allow a laboratory time to correct deficiencies or area of non-compliance with the TNI standards.

5.2.2 A laboratory's certification shall be suspended in total or in part. The laboratory shall retain certification for the FoA where it continues to meet the requirements of the TNI standards.

5.2.3 Reasons for suspension shall include:

5.2.3.1 If the Department finds during the on-site assessment that the public interest, safety or welfare imperatively requires emergency action;

5.2.3.2 Failure to complete proficiency testing studies and maintain a history of at least two successful proficiency testing studies for each affected accredited FoA out of the three most recent proficiency testing studies;

5.2.3.3 Failure to notify the Department of any changes in key certification criteria.

5.2.3.4 A suspended laboratory cannot continue to analyze samples for the affected FoA for which it holds certification.

5.2.3.5 Failure to report compliance data to the public water system or the state drinking water program in a timely manner, thereby preventing compliance with federal or state regulations and endangering public health. Data, which may cause the system to exceed an MCL, should be reported as soon as possible.

5.2.3.6 Failure to report private drinking water test data, i.e. submit the results of groundwater analyses to the Department of Health and the Agency of Natural Resources in the format required by the Department.

5.2.3.7 The laboratory's suspended certification status will change to certified when the laboratory demonstrates to the Department that the laboratory complies with the TNI standards.

5.2.3.8 A suspended laboratory would not have to reapply for certification if the cause/causes for suspension are corrected within six months.

5.2.3.9 If the laboratory fails to correct the causes of suspension within six months after the effective date of the suspension, the Department shall revoke in total or part the laboratory's certification.

5.2.4 No laboratory's certification shall be suspended without the right to due process as set forth by the Department.

5.3 Revocation

5.3.1 Revocation - shall mean the in part or total withdrawal of a laboratory's certification by the Department.

5.3.2 The Department shall revoke a laboratory's certification, in part or in total for failure to correct the deficiencies as required by the TNI standards and failure to correct the reasons for being suspended. The laboratory shall retain certification for the FoA where it continues to meet the requirements of the TNI standards.

5.3.3 Reasons for revocation in part or in total include:

- 5.3.3.1 Failure to submit an acceptable corrective action report, in response to an assessment report and failure to implement corrective action(s) related to any deficiencies found during a laboratory assessment. The laboratory may submit two corrective action reports within the time limits.
- 5.3.3.2 After being suspended due to failure of proficiency testing samples, if the laboratory's analysis of the next proficiency testing study results in three consecutively failed proficiency testing studies, the laboratory shall be revoked for each affected accredited FoA.
- 5.3.4 Reasons for total revocation include a laboratory's:
 - 5.3.4.1 Failure to respond with a corrective action report within the required 30 calendar days.
 - 5.3.4.2 Failure to participate in the proficiency testing program as required
 - 5.3.4.3 Submittal of proficiency test sample results generated by another laboratory as its own.
 - 5.3.4.4 Misrepresentation of any material fact pertinent to receiving initial approval.
 - 5.3.4.5 Denial of entry during normal business hours for an on-site assessment as required.
 - 5.3.4.6 Conviction of charges relating to the falsification of any report relating to a laboratory analysis.
 - 5.3.4.7 Failure to report compliance data to the public water system or the state drinking water program in a timely manner, thereby preventing compliance with federal or state regulations and endangering public health. Data, which may cause the system to exceed an MCL, should be reported as soon as possible.
 - 5.3.4.8 Failure to report private drinking water test data, i.e. submit the results of groundwater analyses to the Department of Health and the Agency of Natural Resources in the format required by the Department.
 - 5.3.4.9 Failure to remit the certification fees, if applicable, within the time limit as established by the accrediting body shall be grounds for immediate revocation.
 - 5.3.4.10 After correcting the reason/cause for total revocation, the laboratory may reapply for certification no sooner than 6 months from the official date of revocation.

5.4 Notification of denial, suspension, or revocation

- 5.4.1 The affected laboratory shall be notified of the specific action taken, the reasons for denial, suspension or revocation, and the effective date. Analytical results obtained after a certification has been suspended or revoked cannot be submitted to the ANR DEC as official drinking water compliance data.
- 5.4.2 Notification of denial will be made by the CO by e-mail.
- 5.4.3 Notification of suspension or revocation shall initially be made by the CO by e-mail. In the case of suspension or partial revocation, an amendment shall be made to the certification listing as described in 2.5.7.

5.4.4 Appeal of an order to suspend or revoke a certificate may be made per 18 V.S.A. § 128.

5.5 Laboratory withdrawal of certification

The laboratory may withdraw its application for certification at any time during the certification process. The laboratory may withdraw from certification at any time during the certification period. In both cases, the laboratory shall notify the Department in writing. Any fees submitted to the Department up to the time of the notification shall not be refunded unless the Certification Officer determines it appropriate to do so.