

SUBCHAPTER B: ENVIRONMENTAL TESTING LABORATORY ACCREDITATION
§§25.9, 25.10, 25.12, 25.14, 25.16, 25.18, 25.20, 25.22, 25.24, 25.26, 25.30,
25.32, 25.34, 25.38
Effective October 7, 2010

§25.9. Standards for Environmental Testing Laboratory Accreditation.

(a) Until July 1, 2011, accreditation, must be based on an environmental testing laboratory's conformance to National Environmental Laboratory Accreditation Conference standards approved June 2003 and the requirements of this chapter.

(b) After June 30, 2011, accreditation must be based on an environmental testing laboratory's conformance to the most current standards adopted by the National Environmental Laboratory Accreditation Program and the requirements of this chapter.

Adopted September 15, 2010

Effective October 7, 2010

§25.10. Fields of Accreditation.

(a) The executive director shall identify and make available to the public a list of the fields of accreditation offered under this chapter. A list of the fields of accreditation shall be made available on the commission's website and upon request from Agency Communications.

(b) The executive director may modify the fields of accreditation offered under this chapter after providing 30 days notice on the commission's website.

Adopted September 15, 2010

Effective October 7, 2010

§25.12. Initial Application for Accreditation.

(a) An application for accreditation shall be made on a form provided by the executive director. The application must be submitted to the executive director with any documents and records required in the application or requested by the executive director and the fee provided in §25.30 of this title (relating to Accreditation Fees).

(b) The operator of an environmental testing laboratory may request that noncontiguous facilities and mobile laboratories be accredited as a single entity, if the facilities and mobile laboratories operate as a single laboratory under the same:

- (1) ownership;
- (2) day-to-day management;
- (3) day-to-day technical direction; and
- (4) quality system, including document management, records management, and test reporting.

(c) The operator of an environmental testing laboratory may submit an application for initial accreditation or an application to increase its fields of accreditation at any time.

Adopted August 21, 2002

Effective September 12, 2002

§25.14. Term of Accreditation.

(a) The executive director shall award accreditation for a period of one year if an environmental testing laboratory's application and operations conform to the applicable standards for accreditation as specified in §25.9 of this title (relating to Standards for Environmental Testing Laboratory Accreditation) and this chapter.

(b) The executive director may issue an interim accreditation for up to 12 months to an environmental testing laboratory that meets the standards for accreditation as specified in §25.9 of this title and requirements of this chapter except that an environmental testing laboratory assessment has not been completed because the executive director has been unable to schedule an assessment within six months of receiving a complete application for accreditation.

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§25.16. Renewal Application for Accreditation.

(a) The executive director must receive an environmental testing laboratory's application to renew the laboratory's accreditation along with the applicable fees no later than the date on which the accreditation expires.

(b) The operator of an environmental testing laboratory that fails to submit an application to renew accreditation before the date on which the accreditation expires must apply for and meet all requirements for a new accreditation, including an environmental testing laboratory assessment.

(c) Modifications made during the term of an accreditation to increase the number of an environmental testing laboratory's fields of accreditation shall be renewed on the accreditation renewal date, regardless of the date of the modification.

Adopted August 21, 2002

Effective September 12, 2002

§25.18. Environmental Testing Laboratory Assessments.

(a) Environmental testing laboratory assessments shall be conducted:

(1) before accreditation is granted, except as provided in §25.14 of this title (relating to Term of Accreditation); and

(2) at least every two years after an environmental testing laboratory receives accreditation.

(b) Assessments may be announced or unannounced.

Adopted August 21, 2002

Effective September 12, 2002

§25.20. Proficiency Test Sample Analyses.

(a) The operator of an environmental testing laboratory applying for initial accreditation shall ensure that two proficiency test samples are successfully analyzed, if available, according to the standards for accreditation as specified in §25.9 of this title (relating to Standards for Environmental Testing Laboratory Accreditation), for each requested field of accreditation and reported to the executive director.

(b) The operator of an accredited environmental testing laboratory shall ensure at least two proficiency test samples, if available, are successfully analyzed and reported to the executive director each year for each field of accreditation according to the standards for accreditation as specified in §25.9 of this title. An environmental testing laboratory that does not meet the requirements of this subsection may participate in a supplemental proficiency test study according to the standards for accreditation.

(c) Proficiency test samples, if available, shall be purchased from a National Environmental Laboratory Accreditation Program designated provider.

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§25.22. Secondary Accreditation of Out-of-State Environmental Testing Laboratories.

(a) The executive director shall grant or renew the secondary accreditation of an environmental testing laboratory located in another state and accredited by another National Environmental Laboratory Accreditation Program accreditation body within 30 days after receiving a complete application along with the appropriate fee according to §25.30 of this title (relating to Accreditation Fees) if the laboratory's existing accreditation includes the fields of accreditation for which the laboratory has applied to the executive director.

(b) The executive director shall notify an environmental testing laboratory in writing within 30 days of granting or denying accreditation.

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Effective October 7, 2010

§25.24. Duties and Responsibilities of Accredited Environmental Testing Laboratories.

By applying for or accepting accreditation, the operator of the laboratory certifies the information contained in the application is true and correct and agrees to:

(1) provide reasonable access to the executive director to facilities, personnel, documents, records, data, analyses, and operations which the executive director determines are necessary for accreditation;

(2) use and display the accreditation certificate according to the standards for accreditation as specified in §25.9 of this title (relating to Standards for Environmental Testing Laboratory Accreditation); and

(3) operate the environmental testing laboratory and maintain its accreditation according to the standards for accreditation and this chapter.

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§25.26. Withdrawal from Accreditation Program.

The operator of an environmental testing laboratory may surrender the laboratory's accreditation, in whole or in part, by notifying the executive director in writing at any time.

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Effective September 12, 2002

§25.30. Accreditation Fees.

(a) The executive director shall establish accreditation fees that cover program costs, including costs associated with application review; initial, routine, and follow-up inspections; and preparation of reports.

(b) The operator of an environmental testing laboratory seeking primary accreditation shall pay the following fees:

(1) an annual administrative fee of \$500; and

(2) an annual accreditation fee based on the categories for which the laboratory is accredited.

(c) Excluding any laboratory operated by the commission, the operator of an environmental testing laboratory seeking secondary accreditation shall pay the following fees:

(1) until September 1, 2011, an annual administrative fee of \$250;

(2) after August 31, 2011, an annual administrative fee of \$350; and

(3) an annual accreditation fee based on the categories for which the laboratory is accredited.

(d) Until September 1, 2011, the categories and annual fees for accreditation relating to drinking water are:

(1) microbiology -- \$75;

(2) radiochemistry -- \$225;

- (3) metals -- \$225;
- (4) general chemistry -- \$225;
- (5) disinfection by-products -- \$150;
- (6) volatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (7) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (8) organic compounds by gas chromatography using detection other than mass spectrometry -- \$300;
- (9) organic compounds by high performance liquid chromatography -- \$300;
- (10) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$150; and
- (11) asbestos -- \$150.

(e) Until September 1, 2011, the categories and annual fees for accreditation relating to non-potable water are:

- (1) microbiology -- \$75;
- (2) aquatic toxicity -- \$150;
- (3) radiochemistry -- \$150;
- (4) metals -- \$225;
- (5) general chemistry -- \$225;
- (6) volatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (7) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (8) organic compounds by gas chromatography using detection other than mass spectrometry:

and (A) total petroleum hydrocarbons by agency methods 1005 only -- \$150;

(B) agency method 1005 and/or any fields of accreditation other than agency method 1005 -- \$300;

- (9) organic compounds by high performance liquid chromatography -- \$300;
- (10) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$150; and
- (11) asbestos -- \$150.

(f) Until September 1, 2011, the categories and annual fees for accreditation relating to biologic tissue are:

- (1) radiochemistry -- \$150;
- (2) metals -- \$225;
- (3) general chemistry -- \$225;
- (4) volatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (5) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (6) organic compounds by gas chromatography using detection other than mass spectrometry -- \$300;
- (7) organic compounds by high performance liquid chromatography -- \$300; and
- (8) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$150.

(g) Until September 1, 2011, the categories and annual fees for accreditation relating to solid and chemical materials are:

- (1) microbiology -- \$75;
- (2) radiochemistry -- \$150;
- (3) metals -- \$225;
- (4) waste characteristics -- \$150;
- (5) general chemistry -- \$225;
- (6) volatile organic compounds by gas chromatograph mass spectrometry -- \$150;
- (7) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$150;

(8) organic compounds by gas chromatography using detection other than mass spectrometry:

and (A) total petroleum hydrocarbons by agency method 1005 only -- \$150;

(B) agency method 1005 and/or any fields of accreditation other than agency method 1005 -- \$300;

(9) organic compounds by high performance liquid chromatography -- \$300;

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$150; and

(11) asbestos -- \$150.

(h) Until September 1, 2011, the categories and annual fees for accreditation relating to air and emissions are:

(1) radiochemistry -- \$150;

(2) particulate matter -- \$75;

(3) metals -- \$225;

(4) general chemistry -- \$150;

(5) volatile organic compounds by gas chromatograph mass spectrometry -- \$150;

(6) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$150;

(7) organic compounds by gas chromatography using detection other than mass spectrometry -- \$300;

(8) organic compounds by high performance liquid chromatography -- \$300;

(9) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$150; and

(10) asbestos and airborne fibers by microscopy -- \$150.

(i) After August 31, 2011, the categories and annual fees for accreditation relating to drinking water are:

(1) microbiology -- \$255;

(2) radiochemistry -- \$510;

(3) metals -- \$385;

- (4) general chemistry -- \$510;
- (5) disinfection by-products -- \$255;
- (6) volatile organic compounds by gas chromatograph mass spectrometry -- \$255;
- (7) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$385;
- (8) organic compounds by gas chromatography using detection other than mass spectrometry -- \$510;
- (9) organic compounds by high performance liquid chromatography -- \$510;
- (10) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$385; and
- (11) asbestos -- \$385.

(j) After August 31, 2011, the categories and annual fees for accreditation relating to non-potable water are:

- (1) microbiology -- \$255;
- (2) aquatic toxicity -- \$510;
- (3) radiochemistry -- \$510;
- (4) metals -- \$385;
- (5) general chemistry -- \$510;
- (6) volatile organic compounds by gas chromatograph mass spectrometry -- \$255;
- (7) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$385;
- (8) organic compounds by gas chromatography using detection other than mass spectrometry:

and (A) total petroleum hydrocarbons by agency methods 1005 only -- \$255;

(B) agency method 1005 and/or any fields of accreditation other than agency method 1005 -- \$510;

- (9) organic compounds by high performance liquid chromatography -- \$510;
- (10) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$385; and
- (11) waste characteristics -- \$255.

(k) After August 31, 2011, the categories and annual fees for accreditation relating to biologic tissue are:

- (1) radiochemistry -- \$510;
- (2) metals -- \$510;
- (3) general chemistry -- \$510;
- (4) volatile organic compounds by gas chromatograph mass spectrometry -- \$385;
- (5) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$385;
- (6) organic compounds by gas chromatography using detection other than mass spectrometry -- \$510;
- (7) organic compounds by high performance liquid chromatography -- \$510; and
- (8) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$385.

(l) After August 31, 2011, the categories and annual fees for accreditation relating to solid and chemical materials are:

- (1) microbiology -- \$255;
- (2) radiochemistry -- \$510;
- (3) metals -- \$385;
- (4) waste characteristics -- \$255;
- (5) general chemistry -- \$510;
- (6) volatile organic compounds by gas chromatograph mass spectrometry -- \$255;
- (7) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$385;

(8) organic compounds by gas chromatography using detection other than mass spectrometry:

and (A) total petroleum hydrocarbons by agency method 1005 only -- \$255;

(B) agency method 1005 and/or any fields of accreditation other than agency method 1005 -- \$510;

(9) organic compounds by high performance liquid chromatography -- \$510;

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$385; and

(11) aquatic toxicity -- \$510.

(m) After August 31, 2011, the categories and annual fees for accreditation relating to air and emissions are:

(1) radiochemistry -- \$510;

(2) particulate matter -- \$255;

(3) metals -- \$385;

(4) general chemistry -- \$510;

(5) volatile organic compounds by gas chromatograph mass spectrometry -- \$255;

(6) semivolatile organic compounds by gas chromatograph mass spectrometry -- \$385;

(7) organic compounds by gas chromatography using detection other than mass spectrometry -- \$510;

(8) organic compounds by high performance liquid chromatography -- \$510; and

(9) polychlorinated dibenzo-p-dioxins and dibenzofurans -- \$385.

(n) Until September 1, 2011, the operator of an environmental testing laboratory located in another state and applying for primary accreditation shall also pay a fee equal to the reasonable travel costs (including transportation, lodging, per diem, and any telephone charges) associated with conducting an assessment at the laboratory.

(o) After August 31, 2011, the operator of an environmental testing laboratory located in another state and applying for primary accreditation shall also pay a fee equal to the labor, reasonable travel costs (including, but not limited to, transportation, lodging, per diem, and any

telephone charges), and other reasonable costs associated with conducting an assessment at the laboratory.

(p) The following fees shall be assessed, as applicable, in addition to any other fees:

(1) to modify an existing accreditation and add one or more fields of accreditation during the term of the accreditation -- \$250;

(2) to replace an accreditation certificate -- \$50; and

(3) to reinstate a suspended accreditation -- \$250.

(q) All fees are nonrefundable.

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§25.32. Denial of Accreditation Application and Revocation of Accreditation.

(a) Denial of Accreditation Application. The executive director may deny an initial or renewal application for environmental testing laboratory accreditation, in whole or in part, for insufficiency or for cause. The executive director shall notify the laboratory of the intent to deny the application and advise the applicant of the opportunity to file a motion to overturn under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision). The executive director may deny an accreditation application if a laboratory's operator or personnel:

(1) fails to submit a completed application;

(2) fails to submit the required fees;

(3) fails to successfully analyze and report required proficiency test samples for applicable fields of accreditation;

(4) fails to implement a quality system;

(5) fails to document that laboratory personnel meet personnel qualifications of education, training, and experience;

(6) fails to allow the executive director entry during normal business hours for an environmental testing laboratory assessment;

(7) fails to pass required environmental testing laboratory assessments;

(8) fails to submit a corrective action report acceptable to the executive director identifying actions the environmental testing laboratory will take to correct the deficiencies identified in the environmental testing laboratory assessment report:

(A) the executive director will provide the environmental testing laboratory with two opportunities to resolve its deficiencies. The first corrective action report

must be submitted to the executive director by the environmental testing laboratory within 30 days of receiving an assessment report. Upon request, the executive director may allow up to 60 days from the date the environmental testing laboratory received an assessment report to submit the corrective action report;

(B) if the first corrective action report does not sufficiently address the deficiencies identified in the environmental testing laboratory assessment report, the executive director shall notify the environmental testing laboratory of the unresolved deficiencies within no more than 60 days; and

(C) if, after being notified by the executive director that the first corrective action report does not sufficiently address one or more of the deficiencies identified in the environmental testing laboratory assessment report, a second corrective action report that sufficiently addresses the deficiencies identified in the environmental testing laboratory assessment report must be submitted within 30 days of being notified by the executive director;

(9) fails to implement actions to correct the deficiencies identified in the environmental testing laboratory assessment report within the time approved by the executive director;

(10) misrepresents any fact pertinent to receiving or maintaining accreditation;

(11) is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(12) any other reason which causes the executive director to determine that quality of the data being produced by the laboratory's personnel is unreliable or inaccurate, based on the facts of the case.

(b) Revocation of Accreditation. After notice and opportunity for hearing according to Chapter 80 of this title (relating to Contested Case Hearings), the commission may revoke an environmental testing laboratory's accreditation, in whole or in part, for any of the reasons listed in subsection (a) of this section or if the operator laboratory:

(1) fails to correct deficiencies that led to a suspension of accreditation within six months of the notice of suspension; or

(2) is convicted in any jurisdiction of charges relating to the falsification of any report relating to a laboratory analysis.

(c) A laboratory's application for accreditation may be denied or a laboratory's accreditation may be revoked, after notice and opportunity for hearing, for any other reason if the executive director determines that the quality of the data being produced by the laboratory's personnel is unreliable or inaccurate, based on the facts of the case.

(d) The commission shall revoke an environmental testing laboratory's accreditation for each applicable field of accreditation if, after being suspended due to failure of proficiency test

samples, an environmental testing laboratory's analysis of the next proficiency test sample results in three consecutively failed proficiency test samples.

(e) Waiting period.

(1) If the operator of an environmental testing laboratory is not successful in correcting deficiencies as required by the standards for accreditation as specified in §25.9 of this title (relating to Standards for Environmental Testing Laboratory Accreditation) and this chapter and the laboratory's application is denied in whole or in part, the laboratory's operator must wait a minimum of six months before reapplying for accreditation.

(2) An environmental testing laboratory whose accreditation is revoked, in whole or in part, shall wait a minimum of one year before reapplying for accreditation, and the laboratory shall meet all requirements for a new accreditation, including an environmental testing laboratory assessment.

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§25.34. Suspension of Accreditation.

a) After notice and opportunity for hearing according to Chapter 80 of this title (relating to Contested Case Hearings), the commission may suspend an environmental testing laboratory's accreditation, in whole or in part, for up to six months. Reasons to suspend an environmental testing laboratory's accreditation includes, but is not limited to, failing to:

- (1) maintain a quality system;
- (2) comply with minimum performance and quality assurance standards;
- (3) maintain records of the laboratory's personnel, operations, data, or analysis;
- (4) successfully complete required proficiency tests;
- (5) employ staff that meet required personnel qualifications for education, training, and experience; or
- (6) notify the executive director of changes in accreditation criteria.

(b) Accreditation shall be reinstated if the executive director determines that the environmental testing laboratory personnel have:

- (1) effectively corrected and taken steps to prevent a recurrence of the deficiencies that led to the suspension of accreditation;
- (2) complied with all requirements imposed by the executive director or the commission; and

(3) submitted an application for reinstatement that conforms to the standards for accreditation as specified in §25.9 of this title (relating to Standards for Environmental Testing Laboratory Accreditation) and the requirements of this chapter.

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§25.38. Accreditation Advisory Committee.

(a) The executive director shall establish a technical advisory committee to assist in interpreting National Environmental Laboratory Accreditation Conference standards and to advise the executive director and the commission on technical matters relating to the accreditation program.

(b) The technical advisory committee shall function according to Texas Water Code, §5.107 and Chapter 5 of this title (relating to Advisory Committees).

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