§25.50. Standards for Environmental Testing Laboratory Certification.


Adopted August 21, 2002  Effective September 12, 2002

§25.52. Fields of Certification.

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

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

Adopted August 21, 2002  Effective September 12, 2002

§25.54. Initial Application for Certification.

(a) An application for certification must 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 §25.70 of this title (relating to Certification Fees).

(b) The operator of an environmental testing laboratory may request that noncontiguous facilities be certified as a single entity if the facilities 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 certification or an application to increase its fields of certification at any time.

Adopted August 21, 2002 Effective September 12, 2002

§25.56. Term of Certification.

(a) The executive director shall award certification for a period of one year if an environmental testing laboratory's application and operations conform to standards for certification and this chapter.

(b) The executive director may issue an interim certification for up to 12 months to an environmental testing laboratory that meets standards for certification 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 the assessment within six months of receiving a complete application for accreditation.

Adopted August 21, 2002 Effective September 12, 2002

§25.58. Renewal Applications for Certification.

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

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

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

Adopted August 21, 2002 Effective September 12, 2002

§25.60. Environmental Testing Laboratory Certification Assessments.

(a) Environmental testing laboratory assessments shall be conducted:

1. before certification is granted, except as provided in §25.56 of this title (relating to Term of Certification); and
(2) at least every three years after an environmental testing laboratory receives certification.

(b) Assessments may be announced or unannounced.

Adopted August 21, 2002 Effective September 12, 2002


(a) The operator of an environmental testing laboratory applying for initial certification shall ensure that laboratory personnel successfully analyze one proficiency test sample for each requested field of certification. The proficiency test samples shall be analyzed no more than 12 months prior to submitting the application.

(b) The operator of a certified environmental testing laboratory shall ensure that laboratory personnel analyze at least two proficiency test samples each year approximately six months apart. The operator of a certified environmental testing laboratory shall ensure that laboratory personnel successfully analyze one proficiency test sample for each field of certification each year. An environmental testing laboratory that does not meet the requirements of this subsection may participate in a supplemental proficiency test study.

(c) The executive director shall determine the environmental testing laboratory’s certification status for all affected fields of certification within 60 days of determining that laboratory personnel failed to analyze proficiency test samples successfully according to this subsection.

(d) Proficiency test samples, if available, shall be purchased from a National Environmental Laboratory Accreditation Program-designated provider or a provider approved by the National Institute of Standards and Technology.

Adopted June 28, 2006 Effective July 19, 2006


(a) The executive director shall grant or renew within 30 days of receipt of the application the secondary certification of an environmental testing laboratory located in another state that is certified by the EPA or a state other than Texas if the:

(1) laboratory submits an application to the executive director that conforms to the standards for certification and this chapter;

(2) laboratory’s existing certification includes the fields of certification for which the laboratory has applied to the executive director; and

(3) laboratory pays fees assessed under this chapter.
(b) The executive director shall notify an environmental testing laboratory in writing within 30 days of granting or denying certification.

Adopted August 21, 2002 Effective September 12, 2002

§25.66. Duties and Responsibilities of Certified Laboratories.

By applying for or accepting certification, the operator of an environmental testing laboratory certifies that 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 certification; and

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

Adopted August 21, 2002 Effective September 12, 2002

§25.68. Withdrawal from Certification Program.

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

Adopted August 21, 2002 Effective September 12, 2002

§25.70. Certification Fees.

(a) The executive director shall establish certification 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 a laboratory seeking primary certification shall pay the following fees:

(1) an administrative fee of $500 per year; and

(2) an annual certification fee based on the categories for which the laboratory is certified.

(c) The operator of a laboratory seeking secondary certification shall pay the following fees:

(1) an administrative fee of $250 per year; and

(2) an annual certification fee based on the categories for which the laboratory is certified.
(d) The categories and annual fees 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) The operator of an environmental testing laboratory located in another state and applying for primary certification shall also pay a fee equal to the reasonable travel costs (including transportation, lodging, per diem, and telephone and duplication charges) associated with conducting an assessment at the laboratory.

(f) The following fees shall be assessed, as applicable, in addition to the annual administrative and category fees and travel costs:

   (1) to modify an existing certification and add one or more fields of certification - $250;

   (2) to replace a certification certificate - $50; and

   (3) to reinstate a suspended certification - $250.

(g) All fees are nonrefundable.

Adopted August 21, 2002

Effective September 12, 2002
§25.74. Denial of Certification Application.

(a) Insufficiency. The executive director may deny an initial or renewal application for environmental testing laboratory certification for insufficiency. 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 determine an application is insufficient if laboratory personnel fail to:

1. submit a completed application;
2. submit the required fees;
3. successfully analyze and report proficiency test samples;
4. implement a quality system;
5. document that laboratory personnel meet personnel qualifications of education, training, and experience;
6. allow the executive director entry during normal business hours for an environmental testing laboratory assessment;
7. pass required environmental testing laboratory assessments;
8. submit a report identifying actions the environmental testing laboratory will take to correct the deficiencies identified in the environmental testing laboratory assessment report within 30 days of receiving an assessment report; or
9. implement actions to correct the deficiencies identified in the environmental testing laboratory assessment report within the time approved by the executive director.

(b) Cause. After notice and opportunity for hearing, the commission may deny an environmental testing laboratory's initial or renewal application for certification if:

1. laboratory personnel misrepresent any fact pertinent to receiving or maintaining certification;
2. the laboratory or its operator 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
§25.76. Suspension of Certification.

(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 certification, in whole or in part, for at least 30 days and up to six months. Reasons to suspend an environmental testing laboratory's certification include 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 certification criteria.

(b) Certification shall be reinstated if the executive director determines the environmental testing laboratory's personnel have:

1. effectively corrected and taken steps to prevent a recurrence of the deficiencies that led to the suspension of certification;
2. complied with all requirements imposed by the executive director or the commission; and
3. submitted an application for reinstatement which conforms to the standards for certification and this chapter.

§25.78. Revocation of Certification.

(a) After notice and opportunity for hearing according to Chapter 80 of this title (relating to Contested Case Hearings), the commission may revoke a laboratory's certification, in whole or in part, if the laboratory:
(1) fails to correct deficiencies that led to a suspension of certification within six months of the notice of suspension;

(2) fails to submit an acceptable report identifying actions the environmental testing laboratory will take to correct deficiencies identified in the environmental testing laboratory assessment;

(3) fails to implement actions to correct deficiencies identified during an environmental testing laboratory assessment;

(4) fails to complete required proficiency test studies;

(5) submits proficiency test sample results generated by another laboratory as its own;

(6) misrepresents any fact pertinent to receiving and maintaining certification;

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

(8) is convicted of charges relating to the falsification of any report relating to a laboratory analysis;

(9) fails to remit fees within the time limit established by the executive director; or

(10) 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.

(b) The commission shall revoke an environmental testing laboratory's certification for each applicable field of certification if, after being suspended due to failure of proficiency test samples, a laboratory fails to successfully analyze the next proficiency test sample.

(c) A laboratory whose certification is revoked must wait a minimum of one year before reapplying for certification. The laboratory must meet all requirements for a new certification, including an environmental testing laboratory assessment.

Adopted August 21, 2002

Effective September 12, 2002