

Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §25.12 and §25.30 and the repeal of 30 Texas Administrative Code (TAC) Chapter 25, Subchapter C, §§25.50, 25.52, 25.54, 25.56, 25.58, 25.60, 25.62, 25.64, 25.66, 25.68, 25.70, 25.74, 25.76, and 25.78.

Background and Summary of the Factual Basis for the Proposed Rules

The proposed rulemaking revises Chapter 25 to increase fees for laboratory accreditation to cover program costs, add fee categories for per and polyfluoroalkyl substances, establish the date on which the revised fees and fee categories would become effective, amend language related to defining noncontiguous laboratories, and remove language related to laboratory certification that is not applicable (repeal of subchapter C). The Laboratory Accreditation Program (Program) offers primary and secondary accreditation to public and private environmental laboratories throughout Texas, as well as other states. The current fee structure, codified in 30 TAC Chapter 25, has been in place since 2011. Due to inflation and a decrease in the number of environmental laboratories seeking voluntary accreditation, the Program will encounter a budgetary shortfall by the end of fiscal year 2026. Texas Water Code (TWC), Chapter 5 Subchapter R provided the commission the authority to create the accreditation program. TWC, §5.803(b) and TAC §25.30(a) require the agency to establish a schedule of reasonable accreditation fees designed to cover the costs of the accreditation program. The current schedule of fees does not cover program costs.

Section by Section Discussion

Section §25.12 Initial Application for Accreditation

The commission proposes to amend §25.12(b). The proposed revision would add wording to

further define accreditation for noncontiguous and mobile laboratories as a single entity by adding a requirement that such laboratories are within a 1-mile radius of each other. The proposed change is necessary as the current rule language in §25.12(b) does not limit the distance between noncontiguous and mobile laboratories that can be accredited as a single entity. Laboratories within a 1-mile radius of each other can operate as a single entity under the same ownership, day-to-day management, day-to-day technical direction and quality system, including document management, a single management structure, records management, and test reporting as required by the current rule.

Section §25.30 Accreditation Fees The commission proposes to amend Section §25.30(b) by revising the administrative fee for laboratories applying for primary accreditation from \$500 to \$1000 effective September 1, 2025.

The commission proposes to amend §25.30(c) by revising the administrative fee for laboratories applying for secondary accreditation from \$350 to \$1000 effective September 1, 2025.

The commission proposes to amend §25.30(d) - (h) to make the current fees applicable until September 1, 2025, and removing the fee category for asbestos from §25.30(e), §25.30(g), and §25.30(h). The fee category for asbestos is being removed due to accreditation not being offered for asbestos in the following matrices: air, non-potable water, nor solids and chemicals. The commission proposes to amend §25.30(i) by revising the annual category fees for accreditation relating to drinking water analyses effective September 1, 2025. The current and new category fees are, respectively: Microbiology - \$255 and \$385; radiochemistry- \$510 and

\$1020; metals - \$385 and \$770; general chemistry - \$510 and \$1020; disinfection by-products - \$255 and \$385; volatile organic compounds by gas chromatograph mass spectrometry - \$255 and \$385; semivolatile organic compounds by gas chromatograph mass spectrometry - \$385 and \$770; organic compounds by gas chromatography using detection other than mass spectrometry - \$510 and \$1020; organic compounds by high performance liquid chromatography - \$510 and \$1020; polychlorinated dibenzo-p-dioxins and dibenzofurans - \$385 and \$770; and asbestos - \$385 and \$770. The proposed amendment would also add a new category fee for per- and polyfluoroalkyl substances and set the fee for this category at \$1020.

The commission proposes to amend §25.30(j) by revising the annual category fees for accreditation relating to non-potable water analyses effective September 1, 2025. The current and new category fees are, respectively: Microbiology - \$255 and \$385; aquatic toxicity - \$510 and \$1020; waste characteristics - \$255 and \$385; radiochemistry- \$510 and \$1020; metals - \$385 and \$770; general chemistry - \$510 and \$1020; volatile organic compounds by gas chromatograph mass spectrometry - \$255 and \$385; semivolatile organic compounds by gas chromatograph mass spectrometry - \$385 and \$770; organic compounds by gas chromatography: (A) total petroleum hydrocarbons by agency method 1005 only - \$255 and \$385; and (B) agency method 1005 and/or any other fields of accreditation - \$510 and \$1020; organic compounds by high performance liquid chromatography - \$510 and \$1020; and polychlorinated dibenzo-p-dioxins and dibenzofurans - \$385 and \$770. The proposed amendment would also add a new category fee for per- and polyfluoroalkyl substances and set the fee for this category at \$1020.

The commission proposes to amend §25.30(k) by revising the annual category fees for

accreditation relating to biologic tissue analyses effective September 1, 2025. The current and new category fees are, respectively: Radiochemistry - \$510 and \$1020; metals - \$510 and \$1020; general chemistry - \$510 and \$1020; volatile organic compounds by gas chromatograph mass spectrometry - \$385 and \$770; semivolatile organic compounds by gas chromatograph mass spectrometry - \$385 and \$770; organic compounds by gas chromatography using detection other than mass spectrometry - \$510 and \$1020; organic compounds by high performance liquid chromatography - \$510 and \$1020; and polychlorinated dibenzo-p-dioxins and dibenzofurans - \$385 and \$770.

The commission proposes to amend §25.30(l) by revising the annual category fees for accreditation relating to solid and chemical materials analyses effective September 1, 2025. The current and new category fees are, respectively: Microbiology - \$255 and \$385; aquatic toxicity - \$510 and \$1020; radiochemistry - \$510 and \$1020; metals - \$385 and \$770; waste characteristics - \$255 and \$385; general chemistry - \$510 and \$1020; volatile organic compounds by gas chromatograph mass spectrometry - \$255 and \$385; semivolatile organic compounds by gas chromatograph mass spectrometry - \$385 and \$770; organic compounds by gas chromatography: (A) total petroleum hydrocarbons by agency method 1005 only - \$255 and \$385; and (B) agency method 1005 and/or any other fields of accreditation - \$510 and \$1020; organic compounds by high performance liquid chromatography - \$510 and \$1020; and polychlorinated dibenzo-p-dioxins and dibenzofurans - \$385 and \$770. The proposed amendment would also add a new category fee for per- and polyfluoroalkyl substances and set the fee for this category at \$1020.

The commission proposes to amend §25.30(m) by revising the annual category fees for

accreditation relating to air and emissions analyses effective September 1, 2025. The current and new category fees are, respectively: Radiochemistry - \$510 and \$1020; particulate matter - \$255 and \$385; metals - \$385 and \$770; general chemistry - \$510 and \$1020; volatile organic compounds by gas chromatograph mass spectrometry - \$255 and \$385; semivolatile organic compounds by gas chromatograph mass spectrometry - \$385 and \$770; organic compounds by gas chromatography using detection other than mass spectrometry - \$510 and \$1020; organic compounds by high performance liquid chromatography - \$510 and \$1020; and polychlorinated dibenzo-p-dioxins and dibenzofurans - \$385 and \$770. The proposed amendment would also add a new category fee for per- and polyfluoroalkyl substances and set the fee for this category at \$1020.

The commission proposes to repeal §25.30(n) and renumber existing subsequent paragraphs (o)-(p). Section 25.30(n) is being repealed as the language is no longer applicable as it addresses fees prior to September 1, 2011.

The commission proposes to amend §25.30(p) by revising administrative fees associated with modifying existing accreditation, replacing an accreditation certificate, and reinstating a suspended accreditation. The current and new fees are respectively: Modifying an existing accreditation - \$250 and \$500; replacing an accreditation certificate - \$50 and \$100; and reinstating a suspended accreditation - \$250 and \$500.

The commission proposes to add §25.30(q) to include wording regarding increasing the maximum fee for each fee category on September 1 of each subsequent year, as necessary, to reflect the percentage change during the preceding year in the Consumer Price Index for all

Urban Consumers, U.S. City Average, published monthly by the United States Bureau of Statistics and to publish those updated fees on the commission’s public facing website.

The proposed revision would increase fees to cover the cost of Program administration and include annual incremental rate increases, as necessary to ensure the Program does not encounter a budgetary shortfall and accredited laboratories can plan for fee increases. It would also add wording for the accreditation fee structure of per and polyfluoroalkyl substances (PFAS) and repeal rule language that is no longer necessary.

Subchapter C Environmental Testing Laboratory Certification

The commission proposes the repeal of Subchapter C to remove outdated certification rules as the laboratory accreditation program does not offer laboratory certification in lieu of accreditation and this wording is no longer necessary. The proposed change is intended to improve readability of the rule by removing language that is not offered by the Program.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, the proposed rulemaking will result in fiscal impacts for TCEQ, other state governmental entities, and some local governmental entities.

This rulemaking would not increase costs to TCEQ, but it would increase revenue received by the agency. The rule would be revised to increase fees starting on September 1, 2025. Changes are proposed to annual administrative fees that apply to all laboratories seeking primary or secondary accreditation (§25.30(b) and (c)), fees that would be assessed based on the scope of

accreditation (§25.30(i), (j), (k), (l), and (m)), and other fees that apply to specific circumstances (§25.30(o)). Additionally, a new provision is proposed so that starting September 1, 2026, fees would be adjusted annually based on the Consumer Price Index for All Urban Consumers (CPI-U) (§25.30(q)).

If all laboratories accredited by TCEQ maintain their existing scopes of accreditation, this rulemaking would lead to an increase in revenue to TCEQ of \$648,280 in fiscal year (FY) 2026 over what would be received under the current rule (\$684,560). Therefore, the total revenue received by TCEQ in FY 2026 would be \$1,332,840. If inflation as measured by CPI-U were to increase by four percent annually, revenue would increase over the following four years by \$701,594 (FY 2027), \$757,040 (FY 2028), \$814,704 (FY 2029), and \$874,675 (FY 2030).

This rulemaking would lead to increased costs for state and local entities with laboratories that seek accreditation. There are currently five state government and university laboratories, and if they were to maintain their existing scopes of accreditation, their accreditation fees would increase by a median of \$1,525 (\$11,840 total increase) in FY 2026. Annual fees would continue to increase based on inflation as measured by CPI-U for FYs 2027-2030. There are currently approximately 63 municipal or other local government laboratories, and their fees would increase by a median amount of \$1,145 (\$92,080 total increase) in FY 2026, with annual increases based on CPI-U values for FYs 2027-2030.

Public Benefits and Costs

Mr. Girten determined the primary public benefit of this rulemaking is the fee structure would be revised so TCEQ is able to implement the environmental laboratory accreditation program

entirely with dedicated fees received to the Environmental Laboratory Accreditation Fund (General Revenue Dedicated Account No. 5065) as established in Section 5.807 of the Texas Water Code. Additionally, the public will benefit from the addition of PFAS as a field of accreditation for multiple matrices, including drinking water (§25.30(i)(12)), non-potable water (§25.30(j)(12)), solid and chemical materials (§25.30(l)(12)), and air and emissions (§25.30(m)(12)). The addition of these fields of accreditation would provide greater assurance that PFAS data used by the agency for decision-making purposes meet appropriate quality-related requirements. Lastly, the public will benefit from the repeal of Subchapter C because requirements in this section are no longer applicable.

This rulemaking would lead to increased costs for commercial environmental laboratories that seek accreditation. Currently, there are 168 commercial environmental laboratories accredited in Texas, with 60 located in the state. Commercial laboratories currently account for approximately \$542,570 (84 percent) of fees collected by the program, with the median bill for commercial labs totaling \$2,595. Such fees would increase to \$1,064,690 in FY 2026 and would account for approximately 79 percent of the revenue collected by the program. The median bill for commercial labs would be approximately \$5,350. Fees would increase accordingly in FYs 2027-2030, based on inflation as measured by CPI-U. Fees would also increase for any entities which would otherwise be accredited as noncontiguous laboratories with facilities that are outside a 1-mile radius of each other, because such laboratories would need separate accreditations for each facility (§25.12). Currently there are five laboratory systems with multiple locations. Reducing the maximum allowable distance between noncontiguous laboratories to a 1-mile radius would mean approximately 15 additional laboratories among these five laboratory systems would now require separate accreditations.

This rulemaking is not anticipated to result in any fiscal impacts for other businesses or individuals.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities. Most laboratories are in areas with populations greater than 25,000.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses relative to larger businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect. Most commercial laboratories have fewer than 100 employees, so this rulemaking largely affects only smaller businesses. Additionally, aside from the administrative fees in §25.30(b) and (c), which are assessed at the same cost for all laboratories, other accreditation fees vary in proportion to laboratories' scopes of accreditation.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way relative to larger businesses for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way relative to larger businesses for the first five years the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225 and determined the proposed rules are not subject to that statute because the proposed rules do not meet the criteria for "major environmental rules" as defined in TGC, §2001.0225(g)(3). TGC, §2001.0225 applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. TGC, §2001.0225 does not apply because the proposed rules would revise fees and fee categories, establish the date on which the revised fees and fee categories would become effective, amend language related to defining

non-contiguous laboratories, and remove language in the rules that is no longer needed.

The specific intent of the proposed rules is to revise fees and fee categories, establish the date on which the revised fees and fee categories would become effective, amend language related to defining non-contiguous laboratories, and remove language in the rules that is no longer needed.

Furthermore, even if the proposed rules did meet the definition of a major environmental rule, the proposed rules are not subject to TGC, §2001.0225, because they do not meet any of the four applicability requirements specified in TGC, §2001.0225(a). TGC, §2001.0225(a) applies to rules proposed by an agency, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

In this case, the proposed rules do not meet any of these requirements: there are no federal standards for the on-site sewage program; the rules do not exceed an express requirement of state law; there is no delegation agreement that would be exceeded by the rules; and the proposed rules would revise fees and fee categories, establish the date on which the revised fees and fee categories would become effective, amend language related to defining noncontiguous laboratories, and remove language in the rules that is no longer needed.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission has prepared a takings impact assessment for these proposed rules pursuant to TGC, §2007.043. The specific purpose of these proposed rules is to revise fees and fee categories, establish the date on which the revised fees and fee categories would become effective, amend language related to defining non-contiguous laboratories, and remove language in the rules that is no longer needed.

The proposed rules do not affect a landowner's rights in private real property because this proposed rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. The proposed rules do not constitute a taking because they would not burden private real property.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Thursday, June 5, 2025, at 10:00a.m. in building A Room 173 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 9:30 a.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Tuesday, June 3, 2025. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Wednesday, June 4, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/a1f13eb5-188f-40a7-83ed-1681bb2a0056@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-016-025-AI. The comment period closes on Thursday, June 5, 2025, at 11:59 p.m. Please choose one of the methods provided to submit your written comments.

If you need translation services, please contact TCEQ at 800-687-4040. Si desea información general en español, puede llamar al 800-687-4040.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact D. Jody Koehler, Laboratory Quality Assurance Section, 512-239-1990.

SUBCHAPTER B: ENVIRONMENTAL TESTING LABORATORY ACCREDITATION

§25.12 and §25.30

Statutory Authority

The amendments to §25.12 and §25.30 are proposed under the general authority granted in Texas Water Code (TWC), §5.013 which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.101, which authorizes the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §§5.801, 5.802, 5.803, 5.804, 5.805, 5.806, and 5.807, which require the agency to adopt rules and establish fees for the administration of the laboratory accreditation program.

These amendments implement TWC, §§5.134, 5.801, 5.802, 5.803, 5.804, 5.805, 5.806, and 5.807.

§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; and [-]

(5) if the facilities are within one (1) mile of each other.

(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.

§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) until September 1, 2025, an annual administrative fee of \$500; [and]

(2) after August 31, 2025, an annual administrative fee of \$1000; and

(3) [(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, 2025 [2011], an annual administrative fee of \$350 [\$250];

(2) after August 31, 2025 [2011], an annual administrative fee of \$1000 [\$350];

and

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

(d) Until September 1, 2025 [2011], the categories and annual fees for accreditation relating to drinking water are:

(1) microbiology— \$255 [\$75];

(2) radiochemistry— \$510 [\$225];

(3) metals— \$385 [\$225];

(4) general chemistry—\$510 [\$225];

(5) disinfection by-products—\$255 [\$150];

(6) volatile organic compounds by gas chromatograph mass spectrometry—\$255
[\$150];

(7) semivolatile organic compounds by gas chromatograph mass spectrometry--
—\$385 [\$150];

(8) organic compounds by gas chromatography using detection other than mass
spectrometry—\$510 [\$300];

(9) organic compounds by high performance liquid chromatography—\$510
[\$300];

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$385 [\$150]; and

(11) asbestos—\$385 [\$150].

(e) Until September 1, 2025 [2011], the categories and annual fees for accreditation
relating to non-potable water are:

(1) microbiology—\$255 [\$75]

(2) aquatic toxicity—\$510 [\$150];

(3) radiochemistry—\$510 [\$150];

(4) metals—\$385 [\$225];

(5) general chemistry—\$510 [\$225];

(6) volatile organic compounds by gas chromatograph mass spectrometry—\$255
[\$150];

(7) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$385 [\$150];

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

(A) total petroleum hydrocarbons by agency methods 1005 only—\$255
[\$150]; and

(B) agency method 1005 and/or any fields of accreditation other than agency method 1005—\$510 [\$300];

(9) organic compounds by high performance liquid chromatography—\$510 [\$300]; and

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$385. [\$150; and]

[(11) asbestos--\$150.]

(f) Until September 1, 2025 [2011], the categories and annual fees for accreditation relating to biologic tissue are:

(1) radiochemistry—\$510 [\$150];

(2) metals—\$510 [\$225];

(3) general chemistry—\$510 [\$225];

(4) volatile organic compounds by gas chromatograph mass spectrometry—\$385 [\$150];

(5) semivolatile organic compounds by gas chromatograph mass spectrometry—\$385 [\$150];

(6) organic compounds by gas chromatography using detection other than mass spectrometry—\$510 [\$300];

(7) organic compounds by high performance liquid chromatography—\$510 [\$300]; and

(8) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$385 [\$150].

(g) Until September 1, 2025 [2011], the categories and annual fees for accreditation relating to solid and chemical materials are:

(1) microbiology—\$255 [\$75];

(2) radiochemistry—\$510 [\$150];

(3) metals—\$385 [\$225];

(4) waste characteristics—\$255 [\$150];

(5) general chemistry—\$510 [\$225];

(6) volatile organic compounds by gas chromatograph mass spectrometry—\$255 [\$150];

(7) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$385 [\$150];

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

(A) total petroleum hydrocarbons by agency method 1005 only—\$255
[\$150]; and

(B) agency method 1005 and/or any fields of accreditation other than
agency method 1005—\$510 [\$300];

(9) organic compounds by high performance liquid chromatography—\$510
[\$300]; and

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$385. [\$150; and]

[(11) asbestos--\$150.]

(h) Until September 1, 2025 [2011], the categories and annual fees for accreditation
relating to air and emissions are:

(1) radiochemistry—\$510 [\$150];

(2) particulate matter—\$255 [\$75];

(3) metals—\$385 [\$225];

(4) general chemistry—\$510 [\$150];

(5) volatile organic compounds by gas chromatograph mass spectrometry—\$255
[\$150];

(6) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$385 [\$150];

(7) organic compounds by gas chromatography using detection other than mass
spectrometry—\$510 [\$300];

(8) organic compounds by high performance liquid chromatography—\$510
[\$300];

(9) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$385. [\$150; and]

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

(i) After August 31, 2025 [2011], the categories and annual fees for accreditation relating to drinking water are:

(1) microbiology—\$385 [\$255];

(2) radiochemistry—\$1020 [\$510];

(3) metals—\$770 [\$385];

(4) general chemistry—\$1020 [\$510];

(5) disinfection by-products—\$385 [\$255];

(6) volatile organic compounds by gas chromatograph mass spectrometry—\$385 [\$255];

(7) semivolatile organic compounds by gas chromatograph mass spectrometry—\$770 [\$385];

(8) organic compounds by gas chromatography using detection other than mass spectrometry—\$1020 [\$510];

(9) organic compounds by high performance liquid chromatography—\$1020 [\$510];

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$770; [\$385; and]

(11) asbestos—\$770; and [\$385.]

(12) per and polyfluoroalkyl substances by solid phase extraction, liquid chromatography, and tandem mass spectrometry/mass spectrometry -- \$1020.

(j) After August 31, 2025 [2011], the categories and annual fees for accreditation relating to non-potable water are:

(1) microbiology—\$385 [\$255];

(2) aquatic toxicity—\$1020 [\$510];

(3) radiochemistry—\$1020 [\$510];

(4) metals—\$770 [\$385];

(5) general chemistry—\$1020 [\$510];

(6) volatile organic compounds by gas chromatograph mass spectrometry—\$385 [\$255];

(7) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$770 [\$385];

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

(A) total petroleum hydrocarbons by agency methods 1005 only—\$385
[\$255]; and

(B) agency method 1005 and/or any fields of accreditation other than
agency method 1005—\$1020 [\$510];

(9) organic compounds by high performance liquid chromatography—\$1020
[\$510];

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$770 [\$385]; and

(11) waste characteristics—\$385; and [\$255.]

(12) per and polyfluoroalkyl substances by solid phase extraction, liquid
chromatography, and tandem mass spectrometry/mass spectrometry-- \$1020.

(k) After August 31, 2025 [2011], the categories and annual fees for accreditation
relating to biologic tissue are:

(1) radiochemistry—\$1020 [\$510];

(2) metals—\$1020 [\$510];

(3) general chemistry—\$1020 [\$510];

(4) volatile organic compounds by gas chromatograph mass spectrometry—\$770
[\$385];

(5) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$770 [\$385];

(6) organic compounds by gas chromatography using detection other than mass
spectrometry—\$1020 [\$510];

(7) organic compounds by high performance liquid chromatography—\$1020
[\$510]; and

(8) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$770 [\$385].

(l) After August 31, 2025 [2011], the categories and annual fees for accreditation
relating to solid and chemical materials are:

(1) microbiology—\$385 [\$255];

(2) radiochemistry—\$1020 [\$510];

(3) metals—\$770 [\$385];

(4) waste characteristics—\$385 [\$255];

(5) general chemistry—\$1020 [\$510];

(6) volatile organic compounds by gas chromatograph mass spectrometry—\$385
[\$255];

(7) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$770 [\$385];

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

(A) total petroleum hydrocarbons by agency method 1005 only—\$385
[\$255]; and

(B) agency method 1005 and/or any fields of accreditation other than
agency method 1005—\$1020 [\$510];

(9) organic compounds by high performance liquid chromatography—\$1020
[\$510];

(10) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$770; [\$385; and]

(11) aquatic toxicity—\$1020; and [\$510.]

(12) per and polyfluoroalkyl substances by solid phase extraction, liquid chromatography, and tandem mass spectrometry/mass spectrometry -- \$1020.

(m) After August 31, 2025 [2011], the categories and annual fees for accreditation relating to air and emissions are:

(1) radiochemistry—\$1020 [\$510];

(2) particulate matter—\$385 [\$255];

(3) metals—\$770 [\$385];

(4) general chemistry—\$1020 [\$510];

(5) volatile organic compounds by gas chromatograph mass spectrometry—\$385
[\$255];

(6) semivolatile organic compounds by gas chromatograph mass spectrometry—
\$770 [\$385];

(7) organic compounds by gas chromatography using detection other than mass
spectrometry—\$1020 [\$510];

(8) organic compounds by high performance liquid chromatography—\$1020
[\$510]; and

(9) polychlorinated dibenzo-p-dioxins and dibenzofurans—\$770; and [\$385].

(10) per and polyfluoroalkyl substances by solid phase extraction, liquid
chromatography, and tandem mass spectrometry/mass spectrometry -- \$1020.

[(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.]

(n) [(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.

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

(1) until September 1, 2025, to modify an existing accreditation and add one or more fields of accreditation during the term of the accreditation—\$250;

(2) until September 1, 2025, to replace an accreditation certificate-\$50; and

(3) until September 1, 2025, to reinstate a suspended accreditation—\$250.

(4) after August 31, 2025, to modify an existing accreditation and add one or more fields of accreditation during the term of the accreditation--\$500;

(5) after August 31, 2025, to replace an accreditation certificate--\$100; and

(6) after August 31, 2025, to reinstate a suspended accreditation--\$500.

(p) [(q)] All fees are nonrefundable.

(q) [(r)] On September 1 of each subsequent year, the commission shall adjust the maximum fee amount for each fee category, as necessary, to reflect the percentage change during the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U), U.S.

City Average, published monthly by the United States Bureau of Statistics, or its successor in function. The updated fees will be made available on the commission's public facing website.

SUBCHAPTER C: ENVIRONMENTAL TESTING LABORATORY CERTIFICATION

**§§25.50, 25.52, 25.54, 25.56, 25.58, 25.60, 25.62, 25.64, 25.66, 25.68, 25.70, 25.74, 25.76,
25.78.**

Statutory Authority

The repeal of §§25.50, 25.52, 25.54, 25.56, 25.58, 25.60, 25.62, 25.64, 25.66, 25.68, 25.70, 25.74, 25.76, and 25.78 are proposed under the general authority granted in Texas Water Code (TWC), §5.013 which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under the TWC and other laws of the state; TWC, §5.103 and §5.101, which authorizes the commission to adopt rules and polices necessary to carry out its responsibilities and duties under the TWC, §§5.134, 5.801, 5.802, 5.803, 5.804, 5.805, 5.806, and 5.807, which require the agency to adopt rules and establish fees for the administration of the laboratory accreditation program.

The proposed repeal implements TWC, §§5.134, 5.801, 5.802, 5.803, 5.804, 5.805, 5.806, 8.587.

[§25.50 Standards for Environmental Testing Laboratory Certification][Certification of an environmental testing laboratory that analyzes samples for compliance with the Safe Drinking Water Act shall be based on a laboratory's conformance to standards contained in the *Manual for the Certification of Laboratories Analyzing Drinking Water*, Fourth Edition, EPA 815-B-97-001, March 1997; and the *Lab Cert Manual Errata*, Labcert Bulletin, EPA-815-N-99-002a, April 1999, published by the EPA, and the requirements of this chapter.]

[§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.]

[§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.]

[§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.]

[§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.]

§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.]

[§25.62 Proficiency Test Sample Analyses]

[(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.]

[§25.64 Secondary Certification of Out-of-State Environmental Testing Laboratories]

[(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.]

[§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.]

[§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.]

[§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.]

§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

(3) 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.]

[§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.]