

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 307. TNI LABORATORY ACCREDITATION**

SUBCHAPTER 1. INTRODUCTION

252:307-1-3. Definitions

In addition to the definitions contained in Title 27A of the Oklahoma Statutes, OAC 252:4 (Department of Environmental Quality Rules of Practice and Procedure) and the TNI Standard, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise. Any technical term not defined shall be defined by its generally accepted scientific meaning or its standard dictionary meaning.

"Acceptable results", as defined in 27A O.S. § 2-4-101, *means a result within limits determined on the basis of statistical procedures as prescribed by DEQ.*

"Accreditation" or "accredited" means the process by which the DEQ evaluates an environmental laboratory's quality systems, staff, facilities, equipment, test methods, records and reports against the requirements of this Chapter. Laboratories determined to meet the qualifications and standards of this Chapter are thereby accredited. The term certification, as used in 27A O.S. §2-4-101, is synonymous with the term accreditation.

"Accreditation Body" means a governmental agency that holds a current Certificate of Recognition from TNI to administer a laboratory accreditation program.

"Analyte" means the component, compound, element or isotope to be identified or quantified using a test or analysis.

"Applicant" means the owner of a laboratory, or a representative authorized by the owner to act on the owner's behalf, seeking accreditation from the DEQ.

"Applicant laboratory" means the laboratory and its owner or authorized representative for which an application for accreditation has been filed with the DEQ.

"Approved method" means an analytical test method which has been required by law or is recognized by the DEQ as acceptable for a specific usage.

"Assessment" means the evaluation process used to measure or establish the performance, effectiveness, and conformance of a laboratory to the standards and requirements of this Chapter. The term "Evaluation" as used in 27A O.S. § 2-4-101, is synonymous with the term "Assessment".

"Basic environmental laboratory" means a laboratory that is limited to the following analytes: five day biochemical oxygen demand, carbonaceous biochemical oxygen demand, chemical oxygen demand, total organic carbon (TOC), total Kjeldahl nitrogen (TKN), nitrate-nitrite nitrogen, organic nitrogen, ammonia nitrogen, total dissolved solids (filterable residue), total suspended solids (non-filterable residue), volatile residue, total phosphorous, orthophosphate phosphorus (reactive phosphorus), chloride, fluoride, oil and grease, sulfate, pH, specific conductance, dissolved oxygen, turbidity, total residual chlorine, hardness, alkalinity, color, fecal coliform, Escherichia coli, total coliform, cyanide, phenolics, copper, zinc, iron, sulfide, chromium, and hexavalent chromium.

"Blind audit" means a process whereby the DEQ or any other designated agent submits proficiency testing samples to an accredited laboratory in a manner such that the laboratory is not aware of the process.

"Category" means a set of Fields of Accreditation subject to a single fee.

"Certificate" or "Certificate of Accreditation" is a document issued by DEQ acknowledging that an environmental laboratory has met standards for accreditation, and

identifying those Fields of Accreditation for which the laboratory is accredited.

"Critical nonconformity" or "critical finding" means a conclusion of noncompliance that would require an immediate corrective action or an immediate stop to testing.

"Corrective Action Plan" or "Corrective Action Report" is a written plan of action, including a schedule for implementation, to correct deficiencies or findings identified in the DEQ or DEQ-approved agent's assessment report, including a time line for implementation; or to eliminate the causes of an existing nonconformity, defect or other undesirable situation in order to prevent its recurrence.

"DEQ" means the Oklahoma Department of Environmental Quality. For purposes of certifications issued and enforcement matters arising prior to July 1, 1993, "DEQ" also means predecessor agencies of the DEQ which had jurisdiction over environmental water quality laboratories on June 30, 1993.

"Field of Accreditation (FoA)" means those category, matrix, technology/method, and analyte combinations for which DEQ offers accreditation.

"Finding" means a conclusion of noncompliance or nonconformity of the evaluation process, referenced to the TNI Standard and supported by objective evidence.

"Initial accreditation" means a first-time accreditation granted to a laboratory not previously accredited by the DEQ.

"Interim accreditation" means an out-of-time temporary filing for an accreditation status issued to a DEQ accredited laboratory for a Fields of Accreditation or a category not currently accredited by the DEQ, or where appropriate, temporary accreditation status for a laboratory that has met all accreditation criteria except for a pending on-site assessment which has been delayed for reasons beyond the control of the laboratory.

"Laboratory", as defined in 27A O.S. § 2-4-101, *means a facility that performs analyses to determine the chemical, physical or biological properties of air, water, solid waste, hazardous waste, wastewater or soil or subsoil materials or performs any other analyses related to environmental quality evaluations.* "Laboratory" includes mobile laboratories.

"Laboratory waste" means by-products of the analytical process, residues of samples analyzed, discarded reagents or standards and any materials contaminated by any of these.

"Matrix" means the substrate of a test sample, e.g., drinking water, wastewater, other aqueous, or solid.

"Mobile laboratory" means a mobile facility that performs analyses in a self-contained environment with professional analytical instrumentation, excluding field testing of those analytes that require immediate measurement on site (conductivity, residual chlorine, pH, dissolved oxygen, temperature).

"Nonconformity" means a conclusion of noncompliance of the evaluation process, referenced to the TNI Standard and supported by objective evidence. Also may be considered a Finding.

"Owner" means the sole proprietor of an individually owned laboratory, the controlling or managing partner of a laboratory held by a partnership, the major stockholders of a corporate owned laboratory, or a municipality or other local government entity which owns or operates a laboratory.

"Parameter" is synonymous with "analyte".

"Primary accreditation" is authorization issued to an Oklahoma laboratory following an assessment of the laboratory's total quality system, on-site assessment, and proficiency testing for fields of accreditation.

"Primary accreditation body" (Primary AB) means the accreditation body responsible for

assessing a laboratory's total quality system, on-site assessment, and proficiency testing (PT) performance tracking for fields of accreditation.

"Proficiency testing (PT) sample" means a sample submitted to a laboratory by the DEQ or other designated agent for the purpose of assessing the ability of the laboratory to correctly analyze samples using an approved method.

"Program" means the DEQ laboratory accreditation program.

"Quality manual" means a document stating the management policies, objectives, principles, organizational structure and authority, responsibilities, accountability, and implementation of the laboratory to ensure the quality of its product and the utility of its product to its users. The Quality Manual will ensure the generation of data that are scientifically valid, defensible and of known and acceptable limits of precision and accuracy.

"Quality system" means a structured and documented management system describing the policies, objective, principles, organizational authority, responsibilities, accountability, and implementation plan of a laboratory for ensuring quality in its work processes, products and services. The quality system provides the framework for planning, implementing, and assessing work performed by the laboratory and for carrying out required quality assurance and quality control activities.

"Secondary accreditation" is authorization issued to a laboratory based on recognition and review of an existing primary accreditation for the same fields of accreditation.

"Secondary accreditation body" (Secondary AB) means an accreditation body that grants laboratory accreditation for a field of accreditation based on recognition of accreditation from a Primary Accreditation Body for the same fields of accreditation.

"Standard operating procedures" (SOPs) means a written document approved by a laboratory director that details the method for an operation, analysis, or action, with thoroughly prescribed techniques and steps. SOPs include the methods for performing certain routine or repetitive tasks.

"Synthetic organic chemicals" (SOCs) are man-made organic chemicals that are less volatile than volatile organic compounds. SOCs are used as pesticides, defoliants, fuel additives and as ingredients for other organic compounds.

"The NELAC Institute" (TNI) means an organization of federal and state agencies whose purpose is to foster the generation of environmental data of known and documented quality through an open, inclusive, and transparent process that is responsive to the needs of the environmental laboratory community. The TNI Consensus Standards Development Program (CSDP) establishes compliance standards that reflect the best professional practices in the environmental laboratory industry. The TNI National Environmental Laboratories Accreditation Program (NELAP) implements TNI's consensus standards through state agencies recognized by TNI as Accreditation Bodies. DEQ is the TNI Accreditation Body in the State of Oklahoma.

"TNI Standard" means the performance standard for analytical testing of environmental samples and the laboratory accreditation process adopted by TNI, current to the date incorporated by reference in this Chapter.

252:307-1-4. Incorporation by reference

(a) **TNI Standard.** Except as provided in subsection (c), Laboratories accredited under this Chapter shall meet the requirements of the TNI Standard for the Environmental Laboratory Sector, Volume 1, "Management and Technical Requirements for Laboratories Performing Environmental Analysis." Modules 1, 2, 3, 4, 5, 6 and 7 as adopted September 8, 2009, which are hereby incorporated by reference.

(b) **EPA methodology.** Environmental analysis for compliance with the Federal Safe Drinking Water Act, Federal Clean Water Act and Federal Resource Conservation and Recovery Act requires conformance with applicable EPA approved methodology. If EPA has approved a test procedure for analysis of a specific analyte, the laboratory must use an approved test procedure. The following EPA methods, ~~as published in July 2014,~~ are hereby incorporated by reference:

(1) "Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR Part 136 ~~published July 1, 2018;~~

(2) "Test Methods for Evaluating Solid Waste, Laboratory Manual Physical/Chemical Methods," SW-846 Manual, Third Edition as amended by Final Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, IVB ~~and V and VI.~~ See further SW-846-ON-LINE;

(3) "Methodologies set forth in the National Primary Drinking Water Regulations," 40 CFR Part 141; ~~and published July 1, 2018; and~~

(4) "Manual for the Certification of Laboratories Analyzing Drinking Water," Fifth Edition and Supplement 1 (EPA 815-5-05-004, January 2005 and EPA 815-F-08-006, June 2008).

(c) **Excluded provisions.** In Volume 1, Module 1 of the TNI Standard, subsections 4.1.3 and 4.2.1a) are not incorporated by reference.

(d) **DEQ approved methodologies.** The following methods are specifically approved by the DEQ:

(1) TNRCC Method 1005 Total Petroleum Hydrocarbons (>nC6 to nC35) of June 1, 2001;

(2) Oklahoma GRO 8020/8015(Modified) of February 24, 1996;

(3) Oklahoma DRO 8000/8100(Modified) of October 22, 1997;

(4) ASTM mussels of 2006;

(5) ASTM E 1193-97 for whole effluent toxicity tests; and

(6) On a case by case basis as approved by DEQ.

(e) **Inconsistencies between test methods and rules.** In the event there are inconsistencies between the requirements of this Chapter and requirements of those provisions incorporated by reference, the laboratory must meet all applicable requirements. Laboratories are encouraged to consult with DEQ when in doubt about the proper or applicable test method.

252:307-1-5. Accreditation classes ~~and fields of accreditation~~

(a) **Classes.** Laboratories may be accredited in Drinking Water and/or ~~as a~~ General Environmental Laboratory.

(b) **Drinking water laboratory.** A drinking water laboratory may be accredited for Fields of Accreditation in the following categories: metals, general chemistry, microbiology, asbestos, synthetic organic chemicals (SOCs), volatile organic compounds (VOCs) and/or radionuclides.

(c) **General environmental laboratory.** A laboratory may be accredited for Fields of Accreditation in the following categories: metals, nutrients, oxygen demands, semi-volatile organic compounds (SVOCs), general chemistry I and/or II, microbiology, asbestos, synthetic organic chemicals (SOCs), volatile organic compounds (VOCs), radionuclides, whole effluent toxicity (WET) testing, hazardous waste characterization, petroleum hydrocarbons, perchlorate, and/or basic environmental laboratory

252:307-1-7. Annual fees

(a) **Applicable fees.** The following fees apply:

(1) Initial accreditation \$1,183.00

(2) Interim accreditation 696.00

(3) Renewal fee 35.31

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| (4) | Renewal late fee | 347.86 |
| (5) | Accreditation amendment | 69.57 |
| (6) | Fee for 1 category | 488.05 |
| (7) | Fee for 2 categories | 976.09 |
| (8) | Fee for 3 categories | 1,464.14 |
| (9) | Fee for 4 categories | 1,952.18 |
| (10) | Fee for 5 or more categories | 2,440.23 |
| (11) | <u>Onsite Assessment Fee</u> | <u>Reimbursable Expenses</u> |

(b) **Calculation of fees.** In addition to the application fee required for initial, renewal and interim accreditation, a laboratory must submit the applicable category fee. Fees for accreditation amendment, as described in OAC 252:307-5-2, consist of the accreditation amendment fee. The onsite assessment fee shall be calculated at actual cost and includes but is not limited to the following: assessor(s) time and labor (preliminary document review, total travel, time-on-site, report preparation, and corrective action review), transportation, per diem (if required), as described in 252:307-7-1. The onsite assessment will be invoiced at the closing of the assessment.

(c) **Annual fee adjustment.** To assist in meeting rising costs to the DEQ of the environmental services and regulatory programs associated with the laboratory services program, the fees set out in this Section shall be automatically adjusted on July 1 every year after 2008 to correspond to the percentage, if any, by which the Consumer Price Index (CPI) for the most recent calendar year exceeds the CPI for the previous calendar year. The DEQ may round the adjusted fees up to the nearest dollar. The DEQ may waive collection of an automatic increase in a given year if it determines other revenues, including appropriated state general revenue funds, have increased sufficiently to make the funds generated by the automatic adjustment unnecessary in that year. A waiver does not affect future automatic adjustments. Current laboratory accreditation fees are available on the DEQ website.

(1) Any automatic fee adjustment under this subsection may be averted or eliminated, or the adjustment percentage may be modified, by rule promulgated pursuant to the Oklahoma Administrative Procedures Act. The rulemaking process may be initiated in any manner provided by law, including a petition for rulemaking pursuant to 75 O.S. § 305 and OAC 252:4-5-3 by any person affected by the automatic fee adjustment.

(2) If the United States Department of Labor ceases to publish the CPI or revises the methodology or base years, no further automatic fee adjustments shall occur until a new automatic fee adjustment rule is promulgated pursuant to the Oklahoma Administrative Procedures Act.

(3) For purposes of this subsection, "Consumer Price Index" or "CPI" means the Consumer Price Index - All Urban Consumers (U.S. All Items, Current Series, 1982-1984=100, CUUR0000SA0) published by the United States Department of Labor. The CPI for a calendar year is the figure denoted by the Department of Labor as the "Annual" index figure for that calendar year.

(d) **Onsite assessment fee.** All laboratories must pay an onsite assessment fee for each assessment to continue accreditation or as a result of just cause according to this chapter.

SUBCHAPTER 7. ONSITE ASSESSMENT REQUIREMENTS

252:307-7-1. Reasons for an onsite assessment

(a) Prior to granting primary accreditation to a laboratory, DEQ will perform an onsite assessment of the laboratory.

- (b) Prior to granting accreditation for an additional field of accreditation to a laboratory, DEQ may perform an onsite assessment of the laboratory.
- (c) DEQ may conduct an onsite assessment of a laboratory to ensure compliance with the conditions of accreditation, this Chapter, or orders issued by DEQ.

SUBCHAPTER 9. MANAGEMENT AND TECHNICAL REQUIREMENTS

PART 1. PROFICIENCY TESTING

252:307-9-8. Failure to perform PT

~~The DEQ shall not renew accreditation for a failed or omitted FoA or category for a laboratory which does not meet the requirements of this subchapter.~~ A laboratory's accreditation for a field of proficiency testing will be suspended when a laboratory fails to comply with Subchapter 9 Section 3: failing to maintain a history of at least two acceptable PT studies out of the most recent three. The suspension will be temporary lasting no more than six months or when the accreditation expires whichever is less. The laboratory must notify the Laboratory Accreditation Program of its intent to regain accreditation through submission of a corrective action plan. Once accreditation for a FoA field of proficiency testing or category has been lost, the procedures for initial or interim accreditation shall apply.