

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 301. LABORATORY ACCREDITATION**

RULE IMPACT STATEMENT

Before the Water Quality Advisory Council, April 30, 2024
Before the Environmental Quality Board, June 11, 2024

DESCRIPTION: This Chapter contains rules about the accreditation of privately-owned and publicly owned laboratories by the Department. The proposed rule changes intend to clarify program definitions, correct references, standardize language between OK DEQ Lab Accreditation Program (LAP) rules where feasible, simplify the renewal and application processes, fee calculations, and reset the yearly accreditation period to run from January through December. Additional proposed changes will serve to update incorporations by reference for EPA methodologies, and to make other amendments for conformity with past, present, and future method requirements under the following national programs: EPA Primary Drinking Water Regulations, National Standards for Solid Waste Test Methods, and EPA Test Procedures for the Analysis of Pollutants. One significant result of these proposed changes is that they will give additional flexibility to labs in the program to select from methods that are both historically and most recently approved for use in the programs mentioned above and allow LAP to offer accreditation for these methods.

The Department is proposing to modify the title of Chapter 301 to be more descriptive of the accreditation program to improve clarity and understanding of differences among the three accreditation program chapters.

Specifically, the Department is proposing to create a new section 252:301-1-10, to establish a new accreditation period that runs from January through December. This change to a calendar year will allow program labs to better manage their finances and renewal applications. This change will also allow for more fluid and timely processing of applications and invoices by LAP staff. The Department is proposing to amend 252:301-1-9, "Fees," to accommodate the new section above. This amendment will simplify the calculation of accreditation application and renewal fees and eliminate a fee for late applications. There are no new fee increases or new fees. This change will make it easier for the program labs to determine the fee for participation in the program. This change will also make the rule language more consistent with other LAP rules.

The Department is proposing the clarification and specification of certain requirements in 252:301-1-5, 252:301-3-3, 252:301-5-4, and 252:301-7 for laboratories applying and maintaining accreditation regarding accreditation type, performance of proficiency tests (PTs), and assessments.

Further, the Department is proposing to amend 252:301-3-4, "Renewals," to establish a new September 15 deadline for submitting renewal documentation and proficiency test (PT) provider reports along with a December 15 deadline to pay renewal invoices to allow for continued participation in the program. Additional information has been added to better define the renewal process and make it more consistent with other LAP rules.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and staff of laboratories that are DEQ accredited or applying for DEQ accreditation under this Chapter.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners of laboratories that are accredited by DEQ LAP or applying for DEQ accreditation under this Chapter.

INFORMATION ON COST IMPACTS FROM PUBLIC/PRIVATE ENTITIES: DEQ has not received any information from other public or private entities concerning the cost impacts of the proposed regulation.

CLASSES OF PERSONS BENEFITTED: The classes of persons benefitted are the owners and staff of laboratories that are DEQ accredited or applying for DEQ accreditation under this Chapter.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: The probable economic impact is negligible. Accredited laboratories will no longer be charged late fees for delinquent application submissions. In the event of delinquent renewal applications, the laboratory would be required to seek initial accreditation to maintain accreditation. This would incur the initial accreditation fee for the affected laboratory. Accredited laboratories outside of the State of Oklahoma may experience additional cost of assessment due to requiring assessment to The NELAC Institute standard. The other changes will allow laboratories to have greater choice of analytical methods available for accreditation.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: DEQ has not received or discovered any information to indicate economic impact on political subdivisions due to this rulemaking.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: DEQ has not received or discovered any information to indicate adverse effects on small businesses.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: No fee changes are within this proposed rulemaking.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: DEQ anticipates significant reduction in administrative costs with this proposed rulemaking. DEQ anticipates more efficient and effective processing of applications and issuance of certificates and scopes. Benefits to DEQ also include clarification of language in rules and ensuring that environmental analyses comply with current federal regulations.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There will be no additional costs to other agencies; however, there may be a benefit with laboratory data produced utilizing the most recent approved analytical test methods.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: The LAP is funded by fees charged to the participating laboratories. There is no impact to LAP funding from this proposed rulemaking.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: DEQ anticipates no change in revenue from this proposed rulemaking.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: Implementation and enforcement of this rule would be handled solely by DEQ, and no cooperation by other political subdivisions would be required.

EXPLANATION OF THE MEASURES DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: DEQ is minimizing compliance costs through efforts to improve efficiency, effectiveness, and clarity through this proposed rulemaking.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY, NONREGULATORY, OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: DEQ has determined this method to be the least intrusive and least costly for the affected laboratories to achieve the purpose of the proposed rule.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT: DEQ has determined this rulemaking will have the potential to increase statewide laboratory testing capacity and statewide compliance. An increase in capacity and compliance will have a positive influence on public health, safety, and the environment.

IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT, AN EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK: This proposed rulemaking is not expected to reduce significant risks to public health, safety, and environment; however, the proposed rulemaking has potential to reduce some risk of limited statewide testing capacity due to enhanced laboratory choice. Additionally, the enhanced consistency of assessments may reduce risks to public health, safety, and environment that arise from variable laboratory evaluations.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: This proposed rulemaking is not expected to have any detrimental effect on public health, safety, or environment if not implemented.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): This proposed rulemaking will reduce time between application submittal and certificate issuance. Movement of renewal cycle to align with calendar year will also improve ease of use for accredited laboratories as well as benefit DEQ for improved time of invoice generation. The increased selection of analytical methods for accreditation will allow accredited laboratories to utilize approved methods that are preferable to them.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: February 29, 2024
AMENDED, April 5, 2024