

By: Easley of the Senate  
and  
Leist of the House

An Act relating to environment and natural resources; amending 27A O.S. 2001, Sections 2-4-101, 2-4-201, 2-4-301, 2-4-302, 2-4-303, 2-4-304 and 2-4-305, which relate to laboratory services and certification; modifying definitions; clarifying statutory references; requiring fee schedule for certain analytes; authorizing the Department of Environmental Quality to contract with certain accredited laboratories; stating requirements for certain accreditation for laboratories; requiring Board of Environmental Quality to promulgate rules for laboratory accreditation; removing requirement for Board to promulgate rules certifying laboratory operators for municipal wastewater and municipal waterworks; providing for Board to promulgate fee schedule for administrative costs of accreditation program; authorizing the Department to establish application process for accreditation; requiring Department to issue certain letter of accreditation to certain laboratories; providing for written notice of denial; requiring Department to accept certain laboratory analyses from accredited laboratories; authorizing Department to reject analyses from non-accredited laboratories; authorizing the Department to require reports or laboratory analyses shall be performed by accredited laboratories; stating process for reports and analyses for operational testing of municipal wastewater treatment systems and water supply systems; authorizing the Department to suspend, revoke or refuse to renew accreditation of certain laboratories not in compliance with Board rules; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-4-101, is amended to read as follows:

Section 2-4-101. As used in this article:

1. "Acceptable results" means a result within limits determined on the basis of statistical procedures as prescribed by the Department;

2. ~~"Certificate" means that document issued by the Department showing those parameters for which a laboratory has received certification;~~

3. ~~"Certification" means the same as laboratory accreditation~~  
"Accreditation" means the act of certifying that a laboratory maintains suitable standards and includes primary accreditation and reciprocity accreditation;

3. "Analyte" means the characteristics of a laboratory sample determined by an analytic laboratory testing procedure;

4. "Department" means the Department of Environmental Quality;

5. "Evaluation" means a review of the quality control and quality assurance procedures, recordkeeping, reporting procedures, methodology, personal qualifications, equipment, facilities and analytical technique of a laboratory for measuring or establishing specific ~~parameters~~ analytes;

6. "Laboratory" 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; and

7. ~~"Parameter" means the characteristics of a laboratory sample determined by an analytic laboratory testing procedure~~ "Letters of Accreditation" means a document issued by the Department showing those analytes for which a laboratory is accredited.

SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-4-201, is amended to read as follows:

Section 2-4-201. A. The Department is authorized to acquire, operate and maintain laboratories to analyze samples:

1. From pollution studies;

2. To obtain factual data to support any order, permit, function or program of the Department;

3. To provide accurate information on wastewater flows and discharges or the chemical, physical or biological characteristics of wastewater;

4. To check the operations of treatment or disposal systems or works to determine whether they meet plans and specifications approved by the Department;

5. To provide laboratory service for individuals, cities, towns, counties, state institutions and other state and federal agencies;

6. From studies and investigations of any waste or pollutant entering treatment systems or waters of the state or any media in which the presence of a contaminant or pollutant is suspected; and

7. To provide such services and perform such other analyses as is necessary to implement and enforce the programs and functions under the jurisdiction of the Department pursuant to this Code.

B. The Board shall promulgate rules for laboratory services under this Code. The Board shall follow the procedures required by the Administrative Procedures Act for promulgation of such rules.

C. 1. The Board, pursuant to ~~Section 24 of this act~~ and the Administrative Procedures Act, shall promulgate as a rule a fee schedule based on actual cost of analyses and the costs of the provision of laboratory services. The schedule shall include fees for specific ~~parameters~~ analytes and procedures.

2. Fees charged pursuant to this section shall be paid into the Department of Environmental Quality Revolving Fund and shall only be used by the Department in administering the Department's environmental laboratory ~~pursuant to Section 24 of this act~~.

D. The Department may, if necessary to meet the demand for laboratory services, contract, pursuant to the provisions of the Central Purchasing Act, for the performance of analyses with laboratories ~~certified~~ accredited by the Department.

SECTION 3. AMENDATORY 27A O.S. 2001, Section 2-4-301, is amended to read as follows:

Section 2-4-301. The Department is hereby designated as the administrative agency for national environmental laboratory accreditation programs and shall:

1. Establish and administer the state water quality and environmental laboratory ~~certification~~ accreditation programs for laboratories which apply; and

2. Issue, modify, renew, reinstate, revoke, or suspend the ~~certification~~ accreditation of a laboratory or deny a new or renewal ~~certification~~ accreditation application.

SECTION 4. AMENDATORY 27A O.S. 2001, Section 2-4-302, is amended to read as follows:

Section 2-4-302. A. The Board of Environmental Quality shall promulgate rules for ~~certification~~ accreditation of privately and publicly owned laboratories for performance of environmental analyses ~~and for certification of laboratory operators for municipal wastewater works and municipal waterworks.~~ The Board may also promulgate rules which adopt standards of a national environmental laboratory accreditation program and the United States Environmental Protection Agency by reference.

B. The Board, pursuant to Section 2-2-101 of this title and the Administrative Procedures Act, shall promulgate rules for the assessment of reasonable fees to participating laboratories for the administrative costs of the ~~certification~~ accreditation program.

C. Fees charged pursuant to this section shall be paid into the Department of Environmental Quality Revolving Fund and shall only be used by the Department in administering the Department's laboratory ~~certification~~ accreditation program.

SECTION 5. AMENDATORY 27A O.S. 2001, Section 2-4-303, is amended to read as follows:

Section 2-4-303. A. Applications for ~~certification~~ accreditation shall be made in the form and manner established by the ~~Board~~ Department.

B. The Department may make on-site evaluations of applicant laboratories.

C. 1. Based upon completion of the criteria evaluation by the Department or other evaluations, the Department shall either issue or deny ~~certification~~ accreditation to an applicant laboratory.

2. Only those laboratories that meet Department rules shall be ~~certified~~. ~~A certificate~~ accredited. Letters of Accreditation shall be issued only for the categories or ~~parameters~~ analytes for which the capabilities and adequacy of the laboratory ~~has~~ have been demonstrated.

3. Causes for denial of an application shall include, but not be limited to, the misrepresentation of or the omission of fact or facts from any ~~certification~~ accreditation application or the failure to demonstrate compliance with Board rules. If ~~certification~~ accreditation is denied, the Department shall give written notice to the applicant of such denial and the reasons therefor.

SECTION 6. AMENDATORY 27A O.S. 2001, Section 2-4-304, is amended to read as follows:

Section 2-4-304. A. The Department shall accept reports or laboratory analyses performed by ~~certified~~ accredited laboratories ~~unless the~~ but may reject analyses that were not performed in compliance with the Department's rules or the laboratory's ~~certification~~. ~~The Department may reject reports or analyses from any certified laboratory not in compliance with terms of its~~ accreditation. ~~certification or the Board's rules~~ accreditation. The Department ~~shall not~~ may require, ~~pursuant to rules promulgated by the Board,~~ that reports or laboratory analyses which are submitted ~~to the~~ Department pursuant to this Code, ~~rules promulgated thereunder,~~ and

~~permits and orders issued pursuant thereto~~ or Department rules,  
permits or orders shall be performed by laboratories ~~certified~~  
accredited by the Department ~~unless if~~ the submission of reports or  
laboratory analyses performed by ~~a certified~~ an accredited  
laboratory is specifically required or authorized by this Code,  
rules adopted thereunder, or federal law or federal regulations.

B. ~~For purposes of operational testing of municipal wastewater~~  
~~treatment systems and water supply systems, the~~ The Department shall  
accept laboratory reports and analyses prepared and performed by  
~~such system's laboratories operated by~~ Department-certified  
laboratory operators ~~certified by the Department unless~~ for  
operational testing of municipal wastewater treatment systems and  
water supply systems provided that the analyses were ~~not~~ performed  
in compliance with the Department's rules or the terms of the  
laboratory operator's certification.

C. Acceptance of such reports or analyses shall not preclude  
the Department from declining for cause to rely on such results or  
from requiring additional laboratory analyses or reports from the  
person submitting such analyses or reports.

SECTION 7. AMENDATORY 27A O.S. 2001, Section 2-4-305, is  
amended to read as follows:

Section 2-4-305. A. The Department of Environmental Quality  
may suspend, revoke, or refuse to renew in part or in whole the  
~~certification~~ accreditation of any laboratory which does not  
continue to comply with Board of Environmental Quality rules or  
conditions of ~~certification~~ accreditation, or for cause, including  
but not limited to:

1. The knowing and willful falsification of data submitted to  
the Department;

2. The misrepresentation or omission of material data in any  
report submitted to any person relying on such report because of the  
laboratory's ~~certification~~ accreditation;

3. Failure to maintain or utilize approved quality control procedures, recordkeeping, reporting procedures, methodology, personnel requirements, equipment, facilities or analytical techniques on which the ~~certification~~ accreditation was issued;

4. Failure to achieve acceptable results on ~~performance evaluation~~ proficiency testing samples; or

5. For laboratories holding Department-issued ~~certification accreditation~~, the expiration, suspension or revocation of the laboratory's reciprocal out-of-state certification or accreditation.

B. The Department may conduct on-site evaluations of ~~certified accredited~~ laboratories.

SECTION 8. This act shall become effective November 1, 2002.

Passed the Senate the 21st day of March, 2002.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2002.

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Presiding Officer of the House  
of Representatives