

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

SUBCHAPTER 1. INTRODUCTION [NEW]

252:307-1-1. Purpose [NEW]

(a) **Intent.** The purpose of this Chapter is to foster the generation of environmental data of known and documented quality through a laboratory accreditation program administered by the Department of Environmental Quality. This Chapter sets standards for accreditation consistent with standards of The NELAC Institute (TNI).

(b) **Authority.** This Chapter was promulgated and adopted pursuant to the Oklahoma Environmental Quality Code (Code), 27A O.S. § 2-4-101 *et seq.*, and shall apply to laboratories accredited or applying to be accredited by DEQ.

(c) **Implementation Date.** The implementation date of this Chapter is January 1, 2016.

252:307-1-2. Scope [NEW]

(a) **Voluntary program.** These rules apply to any environmental laboratory that seeks accreditation.

(b) **Requirements of other authorities.** Accreditation as described in these rules may be required of environmental laboratories reporting drinking water analyses to DEQ. (See National Primary Drinking Water Regulations at 40 CFR 141.28; Oklahoma Pollutant Discharge Elimination System Standards (OPDES) in OAC 252:606; and Public Water Supply Operations in OAC 252:631.) Accreditation may also be imposed as a requirement of other applicable environmental statutes or rules, or imposed as a contract requirement by a laboratory customer.

252:307-1-3. Definitions [NEW]

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, 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.

"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 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 accreditation status issued to a DEQ accredited laboratory for Fields of Accreditation 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).

"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 a 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 [NEW]

(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 require 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;

(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. See further SW-846-ON-LINE;

(3) "Methodologies set forth in the National Primary Drinking Water Regulations," 40 CFR Part 141; 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 [NEW]

(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.

252:307-1-6. Annual accreditation [NEW]

The term of accreditation is annual, running from September 1 to August 31 the following year. Notwithstanding, an applicant laboratory may apply at any time for initial, interim or renewal accreditation. A laboratory applying for interim accreditation shall meet the same requirements as a laboratory applying for initial accreditation.

252:307-1-7. Annual fees [NEW]

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

<u>(1) Initial accreditation</u>	<u>\$1,183.00</u>
<u>(2) Interim accreditation</u>	<u>696.00</u>
<u>(3) Renewal fee</u>	<u>35.31</u>
<u>(4) Renewal late fee</u>	<u>347.86</u>
<u>(5) Accreditation amendment</u>	<u>69.57</u>
<u>(6) Fee for 1 category</u>	<u>488.05</u>
<u>(7) Fee for 2 categories</u>	<u>976.09</u>
<u>(8) Fee for 3 categories</u>	<u>1,464.14</u>
<u>(9) Fee for 4 categories</u>	<u>1,952.18</u>
<u>(10) Fee for 5 or more categories</u>	<u>2,440.23</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.

(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 1st 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.

SUBCHAPTER 3. LABORATORY ACCREDITATION PROCESS [NEW]

252:307-3-1. Application requirements [NEW]

(a) **General.** A laboratory shall submit one copy of the application, whether for primary accreditation or secondary accreditation. Application forms are available on the DEQ website. Applications shall be accurate and complete, signed, and submitted to the DEQ electronically or by regular mail, with all required attachments.

(b) **TNI Standard.** Laboratories shall obtain a copy of the TNI Standard for use in their accredited laboratory programs. Standards may be obtained from The NELAC Institute, ordered on-line at <http://www.nelac-institute.org/standards.php>.

(c) **Signature and verification.** An application shall be signed by the sole proprietor of an individually owned laboratory, the controlling or managing partner or partners of a laboratory held by a partnership, the authorized agent of a corporate owned laboratory, or the principal executive officer or ranking elected official of a municipality or other local government entity which owns or operates the applicant laboratory. The signer shall verify in the application that it was prepared under his direction or supervision and that the information it contains is, to the best of his knowledge, true, accurate and complete.

(d) **Certification of compliance.** A "Certification of Compliance" statement must accompany the application for laboratory accreditation in accordance with the 2009 TNI Standard. The statement must be signed and dated by both the laboratory management and the quality assurance officer, or other designated person, for that laboratory. The certification statement must contain at least the following statements: "The applicant understands and acknowledges that the laboratory is required to be continually in compliance with the Oklahoma Department of Environmental Quality standards and is subject to the enforcement and penalty provisions of that accreditation body. I hereby certify that I am authorized to sign this application on behalf of the applicant/owner and that there are no misrepresentations in my answer to the questions on this application."

(e) **Application fees.** Fees shall be submitted to the DEQ at the same time that applications are submitted. Applications will not be reviewed until fees are received.

(f) **Environmental permit.**

(1) All laboratory accreditation applicants are subject to the tiered application procedural requirements of the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 *et seq.*, and Subchapter 7 of OAC 252:4 Rules of Practice and Procedure. Laboratory Accreditation is a Tier 1 action.

(2) Applicant laboratories must certify by affidavit that they own the real property where the laboratory is located, have a current lease or easement for the purpose, or have provided legal notice to the landowner. The landowner affidavits must be filed with the initial application, and thereafter any time there is a change in location or ownership. Landowner affidavit forms are available on the DEQ website.

(g) **Primary accreditation.** Applicants for primary accreditation shall submit the application and required attachments which shall address all information requirements in 252:307-3-2 and 307-3-3.

(h) **Secondary accreditation.** Applicants for secondary accreditation shall submit the application plus the Primary AB's general scope of accreditation in a format required by DEQ. Applicants for secondary accreditation need not submit information required in 252:307-3-3.

(i) **Processing.** Applications for primary and secondary accreditation shall be processed in the chronological order in which they are received.

252:307-3-2. Contact information [NEW]

In addition to other information required by this Chapter, an application shall contain the following information:

- (1) The name, mailing address, street address, telephone number, e-mail address and telefax number (if any) of the applicant.
- (2) The signature, typewritten name, address, telephone number and telefax number (if any) of the owner or owner's authorized representative.
- (3) The name, mailing address, street address, telephone and telefax number (if any) of the applicant laboratory's authorized manager.
- (4) The location(s) (address or legal description) of the laboratory, including county and driving directions and latitude/longitude.
- (5) Identification of the accreditation class and categories, analytes and/or methods sought.

252:307-3-3. Operational information [NEW]

The application for primary accreditation shall include the following:

- (1) A report of an onsite assessment conducted by the DEQ or a DEQ approved assessor within the eighteen (18) months prior to the date of filing or, for in-state laboratories only, a letter requesting the DEQ to conduct an on-site assessment. The assessment report shall verify data submitted in an application, list any deficiencies and be signed by the DEQ or DEQ approved assessor.
- (2) A listing of equipment to be used for sample analysis, storage and reporting.
- (3) Standard Operating Procedures (SOPs) for every analyte or method performed by the laboratory. An SOP may be a copy of a published or referenced method or may be written by the laboratory. Each SOP shall include or reference the following topics, as applicable:
 - (A) Identification of the method;
 - (B) Applicable matrix or matrices;
 - (C) Limits of detection and quantitation;
 - (D) Scope and application, including parameters to be analyzed;
 - (E) Summary of the method;
 - (F) Definitions;
 - (G) Interferences;
 - (H) Safety;
 - (I) Equipment and supplies;
 - (J) Reagents and standards;
 - (K) Sample collection, preservation, shipment and storage;
 - (L) Quality control;
 - (M) Calibration and standardization;
 - (N) Procedure;
 - (O) Data analysis and calculations;
 - (P) Method performance;

- (Q) Pollution prevention;
- (R) Data assessment and acceptance criteria for quality control measures;
- (S) Corrective actions for out-of-control data;
- (T) Contingencies for handling out-of-control or unacceptable data;
- (U) Waste management;
- (V) References; and
- (W) Any tables, diagrams, flowcharts and validation data.

(4) A written quality manual which shall meet all requirements, for inclusion or reference, of the TNI Standard.

(5) A statement of personnel qualifications showing that laboratory employees meet the applicable personnel requirements of the TNI Standard. Educational requirements will be considered only if awarded by an accredited institution of higher education.

(6) Results of laboratory's two most recent proficiency testing rounds, at least 15 calendar days apart. All PT laboratory records shall be made readily available prior to and during on-site assessments of the laboratory.

(7) If deficiencies are listed in an assessment report, the applicant shall submit a corrective action plan which specifies deadlines for implementation and completion of the plan. The DEQ may establish conditions, including compliance schedules, for the applicant's corrective action plan.

252:307-3-4. Multiple site and mobile facility accreditation [NEW]

(a) A laboratory with multiple sites shall be treated as one accreditation if the sites are within one (1) mile of each other and under the same direct management. Laboratory sites include the laboratory's permanent facilities, sites away from its permanent facility, and associated temporary or mobile facilities.

(b) Mobile laboratories that are affiliated with an out-of-state laboratory need to be accredited by DEQ to operate within the State.

252: 307-3-5. Reasons to deny an initial or renewal application [NEW]

(a) An application for accreditation shall be denied in the following circumstances:

- (1) Failure to submit a completed application, including SOPs and quality manual;
- (2) Failure to pay required fees;
- (3) Failure of laboratory staff to meet the personnel qualifications of education, training and experience as required by the TNI standards;
- (4) Failure to successfully analyze and report proficiency testing samples as required by the TNI standards and requirements of this Chapter at Part 1 of Subchapter 9;
- (5) Failure to respond to an assessment report from the on-site assessment with a corrective action report within the 30 calendar days after receipt of the assessment report;
- (6) Failure to implement the corrective actions detailed in the corrective action report within the specified time frame as approved by the primary accreditation body;
- (7) Failure to implement a quality system as defined in the TNI standards;
- (8) Failure to pass required on-site assessment(s) as specified in the TNI standards;
- (9) Misrepresentation of any fact pertinent to receiving or maintaining accreditation; or
- (10) Denial of entry during normal business hours for an on-site assessment as required by the TNI standards.

(b) If the laboratory is not successful in correcting the deficiencies as required by TNI standards, the laboratory must wait six months before again reapplying for accreditation.

(c) Laboratory accreditation will not be denied without the right to due process as addressed in OAC 252: 4, Rules of Practice and Procedure.

252:307-3-6. Renewal and expiration [NEW]

(a) **Annual renewal required.** A laboratory must timely submit an application for renewal each year, or its accreditation will expire on August 31.

(b) **Laboratory responsibility.** Each laboratory is responsible for renewing its accreditation by the annual renewal date. Failure to receive a renewal notification and invoice does not exempt laboratories from meeting the renewal deadline.

(c) **DEQ invoice date.** By April 15 of each year, the DEQ mails invoices to each accredited laboratory.

(d) **Deadline.** All applicable fees shall be submitted to the DEQ by 4:30 p.m. on or before June 15 or postmarked on or before that date. Any renewal application which is not received electronically by the DEQ on or before June 15 shall be considered only if the electronic application form, renewal fee and a late fee are submitted on or before July 15. Applications and fees received or postmarked after July 15 will be returned and accreditation shall not be renewed.

(e) **PT provider.** Laboratories shall ensure that the PT provider has submitted all pertinent PT reports to the DEQ electronically or postmarked on or before July 15 of each year. PTs received later than July 15 will not be considered for accreditation renewal.

(f) **Specified dates.** If any date specified in this section falls on a weekend or holiday, the date of the following working day shall be the effective date.

(g) **Failure to renew.** To become accredited again, a laboratory that failed to renew its accreditation in a timely manner must apply for initial accreditation as a new laboratory.

SUBCHAPTER 5. CONDITIONS OF ACCREDITATION [NEW]

252:307-5-1. Conditions applicable to all accreditations [NEW]

The following conditions shall apply to all existing accreditations and shall be incorporated expressly or by reference into all accreditations issued or renewed after the effective date of this Chapter.

(1) **Proper operation and maintenance.** The laboratory shall at all times properly operate and maintain all facilities and equipment installed or used by the laboratory to achieve compliance with the laboratory accreditation requirements of 27A O.S. § 2-4-101 *et seq.*, rules for laboratory accreditation at 252 OAC: 307, and the provisions and conditions of its Accreditation. Proper operation and maintenance includes effective performance of operations and adequate funding, operator staffing and training, and the provision of appropriate sample-handling equipment. All operational practices and procedures used shall conform to the best possible public health and safety practices.

(2) **Duty to mitigate.** The laboratory shall take all reasonable steps to minimize or correct any endangerment of human health resulting from noncompliance with this Accreditation and to minimize or correct any adverse impact on the environment arising from its analytical activities.

(3) **Duty to provide information.** The laboratory shall furnish to the DEQ, within a time specified, any information which the DEQ may request to determine:

(A) whether cause exists for amending, suspending, or revoking Accreditation;

(B) compliance with Accreditation; or

(C) whether an accreditation should be issued or renewed.

(4) **Reporting requirements.** The laboratory shall give advance notice to the DEQ as soon as possible of any planned physical alterations, additions to the accredited facility or planned changes in the accredited facility which may result in noncompliance with accreditation requirements.

(5) **Signatory requirement.** All applications, reports, or information submitted to the DEQ shall be signed by the applicant.

(6) **Consent to conditions.** Commencing analytical activities as an accredited laboratory under DEQ accreditation shall constitute consent to all conditions of accreditation.

(7) **Transfer of accreditation.** Accreditation is not transferable. An accredited laboratory may apply to amend its accreditation to reflect a change of ownership or name change, provided that facilities, equipment, personnel and all other conditions of accreditation remain unchanged.

(8) **Duty to apply.** To maintain its accredited status, the laboratory shall make timely application for annual renewal of accreditation.

(9) **Severability.** The provisions of accreditation are severable, and if any of its provisions or the application of its provisions are held invalid, the application of such provisions to other circumstances and the remaining provisions of the accreditation shall not be affected thereby.

(10) **Use of TNI logo.** The laboratory is allowed to use the TNI symbol on its reports or certificates issued within the scope of its accreditation. Misuse of the logo constitutes a failure to comply with accreditation requirements.

(11) **Withdrawal from TNI.** If a laboratory wishes to withdraw from this program, in total or in part, it must notify DEQ in writing.

252:307-5-2. Amendments to accreditations [NEW]

(a) **Changes to be reported.** Changes in laboratory name, ownership, form of ownership, location, and other changes, including personnel, main policies, and/or equipment, which may significantly affect the performance of analyses for which the laboratory was originally accredited shall be reported in writing to the DEQ within 30 days of occurrence. If requested by owner, the DEQ may amend the accreditation to reflect reported changes.

(b) **Amendment fee.** An amendment fee shall be assessed in accordance with OAC 252:307-1-7.

(c) **Cause.** The DEQ may amend an accreditation for cause, with notice to the affected accredited laboratory and opportunity for hearing.

252:307-5-3. Self-reporting [NEW]

(a) An accredited laboratory shall promptly submit correct facts or information to the DEQ and/or to the client when:

(1) it becomes aware that it failed to submit a material fact or submitted incorrect information in an application or a report to the DEQ or to a client for submission to the DEQ; or

(2) the DEQ becomes aware of same and notifies the laboratory.

(b) Failure to make a prompt submission may result in an enforcement action.

252:307-5-4. Failure to comply [NEW]

(a) Any person or laboratory to whom this Chapter applies must comply with the requirements of this Chapter and the statutory requirements of 27A O.S. § 2-3-501 *et seq.*, § 2-4-305(A) and OAC 252:4-7-15. Failure to apply for or receive any part of an accreditation does not negate the requirement to meet any applicable requirement. Failure to comply may result in denial of

applications, administrative and monetary penalties, suspension, reduction in scope, revocation or denial of renewal in part or in whole of the accreditation of any laboratory, and civil and/or criminal prosecution. Failure to comply includes:

- (1) repeat or significant errors in analyses, erroneous reporting or evidence of professional or technical incompetence;
- (2) misrepresentation to others regarding the type and conditions of DEQ accreditation and the potential or actual reliance of others on such misrepresentation;
- (3) failure to perform any of the following:
 - (A) to correct deficiencies, comply with a corrective action plan, or take other action required by the DEQ pursuant to these rules;
 - (B) to participate in or produce acceptable results in required proficiency testing;
 - (C) to cooperate with or allow on-site laboratory evaluations, assessments, or access to records;
 - (D) to notify or submit reports to the DEQ as required by this Chapter; or
 - (E) to maintain required records on file.
- (4) submission of a proficiency testing sample to another laboratory for analysis, and reporting data received as its own;
- (5) collaboration with another laboratory or any other individual on PT sample results prior to submittal to DEQ or prior to the closing date of the study;
- (6) allowing persons other than qualified laboratory employees to perform and report results of accredited analytes;
- (7) making any false statement or representation in or omitting material information from any required application, analysis, or report;
- (8) when the primary accreditation body (Primary AB) suspends a laboratory; or
- (9) failure to pay fees when due.

(b) The DEQ reserves the right to enforce against a secondary accredited laboratory if the Primary AB does not take action or during the Primary AB's enforcement action.

(c) As a part of any administrative order issued to a laboratory found to have unacceptable practices, the laboratory may be required, at its own cost, to hire a third party NELAP assessor to conduct an extraordinary assessment. The third party assessor must send the report to DEQ, and results or recommendations from the assessment may be incorporated as requirements of the administrative order.

(d) All information included and documented in an extraordinary assessment report is public information and is subject to the Oklahoma Open Records Act, 51 Oklahoma Statutes, Section 24A *et seq.*

(e) Laboratory accreditation will not be suspended or revoked without the right to due process as addressed in OAC 252: 4, Rules of Practice and Procedure.

252:307-5-5. Notice [NEW]

The DEQ may require an accredited laboratory to give written notice to its clients of the suspension or revocation of any part of its accreditation.

252:307-5-6. Individual proceedings [NEW]

Proceedings for accreditation revocation, suspension or reinstatement shall be conducted in accordance with 27A O.S. § 2-3-501 *et seq.*, and OAC 252:4, DEQ Rules of Practice and Procedure.

SUBCHAPTER 7. ONSITE ASSESSMENT REQUIREMENTS [NEW]

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

- (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 onsite assessment of a laboratory to ensure compliance with the conditions of accreditation, this Chapter, or orders issued by DEQ.

252:307-7-2. Conduct of onsite assessments [NEW]

- (a) Onsite assessments may be unannounced.
- (b) During an onsite assessment the DEQ, or DEQ's subcontractor, may require analyses of proficiency test samples by laboratory personnel. Laboratories shall make all employees available for interviews during onsite assessments.
- (c) Following the onsite assessment, the DEQ will provide the laboratory with a written assessment report. The laboratory will be afforded 30 days from the date of receipt in which to develop a corrective action plan, and 90 days in which to correct any listed deficiencies unless extended by written agreement of the parties or unless the laboratory is under an administrative order.
- (d) All information included and documented in an assessment report is public information and is subject to the Oklahoma Open Records Act.

252:307-7-3. Corrective action plan [NEW]

- (a) A corrective action plan shall detail the actions the laboratory will implement to correct each deficiency, and the time period required to accomplish the corrective action. Upon request of DEQ, documentation showing the implementation of corrective action(s) shall be forwarded to the primary accreditation body within the time frame specified in the corrective action plan.
- (b) The laboratory may submit two corrective action plans within the time limits specified herein.
- (c) If the corrective action plan is not acceptable to DEQ after the second submission, the laboratory's accreditation shall be revoked, as applicable, for all or any portion of its scope of accreditation for any or all of a field of accreditation, a method, or analyte within a field of accreditation.
- (d) All information included and documented in a corrective action plan is public information and is subject to the Oklahoma Open Records Act.

252:307-7-4. Corrective action(s) [NEW]

If the laboratory fails to implement and maintain corrective actions as stated in its corrective action plan(s), the laboratory's accreditation shall be revoked for all or any portion of its scope of accreditation for any or all of a field of accreditation, a method, or analyte within a field of accreditation.

SUBCHAPTER 9. MANAGEMENT AND TECHNICAL REQUIREMENTS [NEW]

PART 1. PROFICIENCY TESTING [NEW]

252:307-9-1. Applicability [NEW]

The requirements of this Part shall apply to proficiency testing (PT) for drinking water and general environmental laboratories applying for accreditation or maintaining accreditation.

252:307-9-2. Participation required [NEW]

Except as provided in 252:307-1-4(c), a laboratory must meet the PT requirements for initial and continued accreditation as specified in the TNI Standard for each field of proficiency testing for which it seeks accreditation or maintenance of accreditation. PT samples must be obtained from a TNI accredited PT provider.

252:307-9-3. Initial and continuing PT studies evaluation [NEW]

A laboratory seeking to obtain or maintain accreditation shall successfully complete two initial or continuing PT studies for each requested field of proficiency testing within the most recent three rounds attempted. For a laboratory seeking to obtain accreditation, the most recent three rounds attempted shall have occurred within 18 months of the laboratory's application date. When a laboratory has been granted accreditation status, it shall continue to complete PT studies for each field of proficiency testing and maintain a history of at least two acceptable PT studies for each field of proficiency testing out of the most recent three. For initial accreditation, the laboratory must successfully analyze two sets of PT studies, the analyses to be performed at least 15 calendar days apart from the closing date of one study to the shipment date of another study for the same field of proficiency testing. For continuing accreditation, completion dates of successive proficiency rounds for a given field of proficiency testing shall be approximately six months apart. Failure to meet the semiannual schedule shall be regarded as a failed study on the last day of the seventh (7th) month. Initial or continuing PT studies must meet all applicable criteria described in this Chapter and the TNI Standard.

252:307-9-4. Cost responsibility [NEW]

Laboratories shall bear the cost of any proficiency testing required by the DEQ.

252:307-9-5. DEQ PT samples [NEW]

As part of a laboratory's proficiency testing, the DEQ may also submit blind audit samples to an accredited laboratory.

252:307-9-6. Restrictions on exchanging information [NEW]

A laboratory shall not attempt to obtain the prepared value of any PT sample from its PT Provider or any other person or laboratory prior to the conclusion of the PT study.

252:307-9-7. Maintenance of PT records [NEW]

The laboratory shall maintain copies of all written, printed and electronic records, including but not limited to bench sheets, raw data, instrument strip charts or printouts, data calculations, and data reports, resulting from the analysis of any PT sample for a minimum of five (5) years. The records shall include a copy of the PT study report forms used by the laboratory to record PT results.

252:307-9-8. Failure to perform [NEW]

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. Once accreditation for a FoA or category has been lost, the procedures for initial or interim accreditation shall apply.

252:307-9-9. Supplemental PT testing [NEW]

A laboratory may elect to participate in PT testing more frequently than required by the semiannual schedule. Any additional tests performed by a laboratory must be submitted to DEQ in the same manner as required tests. Additional PT tests are counted and scored the same way as required tests, and must be at least fifteen (15) calendar days apart.

252:307-9-10. Corrective action [NEW]

When a laboratory receives an evaluation of not acceptable for any FoA, the laboratory shall determine the cause for the failure and take any necessary corrective action. The laboratory shall then document both the investigation and the action(s) in a corrective action report (CAP). The CAP shall be submitted to the DEQ within forty-five (45) days of the PT report issuance.

252: 307-9-11. Alternate PT provider [NEW]

The DEQ may designate an alternative proficiency testing provider if it determines such designation is appropriate.

PART 3. PERSONNEL AND SUBCONTRACTORS [NEW]

252:307-9-20. All accredited laboratories [NEW]

All accredited laboratories shall meet the applicable personnel requirements of the TNI Standards. Educational requirements will be considered only if awarded by an accredited institution of higher education.

252:307-9-21. Subcontractors [NEW]

A laboratory may subcontract with another laboratory (subcontractor) for performance of environmental analysis. Such subcontracting shall be only for those FoAs for which the subcontractor is DEQ-accredited.

252:307-9-22. Reports to customers [NEW]

Any analytical report given to a customer by an accredited laboratory shall identify:

(a) the analytes for which the laboratory is DEQ-accredited;

(b) the class of DEQ-issued accreditation of each analyte; and

(c) which analytes were subcontracted out for analysis and the subcontractor's accreditation number for each of the subcontracted analytes.

PART 5. QUALITY SYSTEMS [NEW]

252:307-9-40. Applicability [NEW]

The requirements of this Part shall apply to drinking water and general environmental laboratories applying for accreditation or maintaining accreditation.

252:307-9-41. Participation required [NEW]

A laboratory must meet all quality system requirements specified in the TNI Standard including, as applicable, requirements for asbestos, chemical, microbiological, radiochemical, and toxicity testing.

252:307-9-42. Quality manual [NEW]

A laboratory shall establish and maintain a written quality manual appropriate to the scope of its activities. At a minimum, the quality manual shall document the laboratory's policies, systems, programs, procedures and instructions in sufficient detail and clarity to allow the history of each sample and associated data to be readily understood. The quality manual shall include or make reference to the laboratory's supporting procedures, including technical procedures, and shall outline the structure of the documentation used in the management system.

PART 7. RECORD KEEPING AND REPORTING [NEW]

252: 307-9-60. Required records [NEW]

All required laboratory records must be written in a clear and unambiguous manner, be readily available for reference or inspection, and shall include:

(a) **Records of accreditation.** The laboratory shall keep the following records on file at its main facility.

(1) Scope of accreditation and the application on which it is based;

(2) Copies of final reports and quality documents associated with reported data submitted to the DEQ or clients;

(3) Internal audits and quality assurance plans; also

(4) Each laboratory shall maintain on file the list of analytes for which it is accredited, and shall provide a copy of the list upon request.

(b) **Quality manual,** which is addressed in 252:307-9-42;

(c) **Bench records.** All raw data, whether hard copy or electronic data associated with testing, including analysts' worksheets and data output records (chromatograms, strip charts, and other instrument response readout records); date, time, analyst, method, amounts (volume and weights), clean up, separation protocols, incubation periods, calculations, sample matrix, and sample identification.

(d) **Calibration data.** Calibration criteria, frequency and acceptance criteria including the curve or coefficient of the linear equation which describes the calibration curve; concentration/response data (or relative response data) for standards; percent recovery of all calibration checks (MRL, PSC initial) standard and the date it was analytically determined; percent recovery of the continuing calibration check standard; and laboratory sample identification of the samples run with the curve.

(e) **Sample history and associated data.** All data is to be clearly and unambiguously documented so that all steps of the method are indicated. This shall include but is not limited to the following: Date, analyst, type of extraction or digestion for each sample, and laboratory sample identification.

(f) **Surrogate and tracer records.** Surrogates or tracers, when required, are chosen to reflect the chemistries of the targeted components of the method and are added prior to sample preparation/extraction. The laboratory shall document the amount of surrogate or tracer spiked, percent recovery of each surrogate, date, analyst, and laboratory sample identification. The results are compared to the acceptance criteria as published in the method. If there are no established criteria, the laboratory shall determine internal criteria and document the method used to establish the limits.

(g) **Maintenance logs.** Maintenance logs shall be kept for each instrument, to include dates and

description of repairs, preventive maintenance, malfunctions, and other actions or events affecting performance. All instruments not in service must be tagged out of service. Maintenance logs shall also be kept for all devices that are necessary to support laboratory operations. These include, but are not limited to: balances, ovens, refrigerators, freezers, incubators, water baths, temperature measuring devices (including thermometers and thermistors), thermal/pressure sample preparation devices and volumetric dispensing devices (such as Eppendorf® or automatic dilutor/dispensing devices), if quantitative results are dependent on their accuracy, as in standard preparation and dispensing or dilution into a specified volume. Each balance shall be annually serviced and calibrated by a recognized accredited metrological service.

(h) **Corrective action procedures.** Procedures for evaluating, documenting and reporting corrective action used for audits, PT failures, out-of-control situations and in response to enforcement actions.

(i) **Quality protocols.** Procedures for monitoring the validity of the environmental testing and the resulting data shall be recorded in such a way that trends are detectable, and statistical techniques shall be applied to the reviewing of the results. All laboratories shall have documentation for positive and negative controls, variability, repeatability, and accuracy of the method.

(j) **Chain of custody and sample accession.** Procedural plans for sample login, unique sample identification (all sample containers), date, time, source of sample (including name, location (location code) and sample matrix), preservative used, analysis required, name of collectors and any pertinent field data.

(k) **Spike duplicates and spike-duplicate data.** The laboratory shall document procedures for determining the effect of the sample matrix on method performance. These procedures relate to the analyses of quality system matrix-specific quality control samples, and are designed as data quality indicators for a specific sample using the designated method. Information shall include but is not limited to: date, analyst, laboratory sample number, amount spiked, percent recovery, percent of difference, and makeup and concentration in the spiking solution.

(l) **Electronic data.** All electronic data including security, software documentation and verification, software and hardware audits, backups, and records of any changes to automated data entries shall be preserved.

(m) **Sensitivity, LOD/LOQ.** Procedures used for determining limits of detection and quantitation shall be documented. Documentation shall include the quality system matrix type. All supporting data shall be retained. LOQ shall be verified annually within the established control limits.

252:307-9-61. Record retention [NEW]

(a) The laboratory shall have a plan to ensure that the records are maintained and transferred according to the clients' instructions in the event that a laboratory transfers ownership or goes out of business. In addition, applicable regulatory and state legal requirements concerning laboratory records shall be followed routinely.

(b) Records shall be retained for a minimum of five (5) years from generation of the last entry in the record.

SUBCHAPTER 11. SECONDARY ACCREDITATION [NEW]

252:307-11-1. DEQ as a secondary accreditation body [NEW]

(a) The DEQ shall grant accreditation to laboratories accredited by any other TNI primary accreditation body in accordance with 27A O.S. § 2-4-306 on a laboratory-by-laboratory basis. No additional proficiency testing, quality assurance, or on-site assessment requirements for the fields of testing for which the laboratory holds primary TNI accreditation shall be required.

(b) When granting secondary accreditation to a laboratory, the DEQ shall grant accreditation:

(1) for only the fields of testing, methods and analytes for which the laboratory holds current accreditation from a primary AB, and that fall within the scope of this Chapter; and

(2) issue certificates to the applicant laboratory within 30 calendar days of receipt of the laboratory's application unless potential noncompliance with TNI standards is noted.

252:307-11-2. Potential noncompliance when DEQ is secondary AB [NEW]

(a) If the DEQ notes any potential noncompliance with the TNI standards by a laboratory during the initial application process for secondary accreditation, the DEQ shall immediately notify, in writing, the applicable TNI-recognized primary AB.

(b) The applicant laboratory is to be notified only in situations where no administrative or judicial prosecution is contemplated.

(c) The notification must cite the applicable sections within the TNI standards for which noncompliance by the laboratory has been noted.

(d) If the alleged noncompliance is noted during the initial application process for secondary accreditation, final action on the application shall not be taken until the alleged noncompliance issue has been resolved.

(e) If the alleged nonconformance is noted after the secondary accreditation has been granted, the laboratory shall maintain its current secondary accreditation status until the alleged noncompliance issue has been resolved.

252:307-11-3. Potential noncompliance when DEQ is primary AB [NEW]

(a) When the DEQ receives notification of potential noncompliance from a secondary AB, it shall review and investigate the alleged noncompliance and take appropriate action in accordance with 252:307-5-4, including the addition of any change of accreditation status in the TNI National Environmental Laboratory Accreditation Database.

(b) Within 20 days of the notification of potential noncompliance from a secondary AB, the DEQ shall respond in writing with a copy to the secondary AB, providing the following information:

(1) an initial report of the findings;

(2) a description of the actions to be taken; and

(3) a schedule for implementation of corrective action, if necessary.

252:307-11-4. Dispute resolution between primary and secondary accreditation bodies

[NEW]

If, in the opinion of DEQ, a secondary AB or primary AB does not take timely and appropriate action on DEQ's complaint, DEQ may notify the TNI Accreditation Council of the dispute between the two accreditation bodies regarding proper disposition of the complaint.