

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 302. FIELD LABORATORY ACCREDITATION**

RULE IMPACT STATEMENT

Before the Water Quality Advisory Council, January 8, 2019

Before the Environmental Quality Board, February 15, 2019

1. **DESCRIPTION:** The gist of these rules and the underlying reason for this rulemaking is to make the Laboratory Accreditation Rules internally consistent, to update accreditation requirements to reflect current EPA standards for analysis, and to make program fees more closely approximate program costs for accreditation. The Department is proposing to amend 252:302-1-4, Definitions, to correct typographical errors, and by inclusion of new definitions for the terms finding and critical finding. Additionally, the term interim accreditation is clarified. The Department is proposing to amend 252:302-1-5, Fees, adding a new fee to recover the cost for assessors in performing on-site evaluations. The gist of this rule is to more accurately reflect the Department's full cost for performing laboratory accreditation and reduce reliance on State appropriated funds. The Department is proposing, in 252:302-3-4 and thereafter throughout Chapter 302, to delete the word "inspection" and substitute the term "evaluation." Additionally, the language for conducting evaluations is clarified. The Department is proposing to amend 252:302-5-2, Laboratory technicians, to delete redundant language and broaden the educational and training requirements of the laboratory technician. The Department is proposing to amend 252:302-5-6, On-site inspections, to clarify the circumstances and frequency for conducting on-site evaluations. The Department is proposing to amend 252:302-7-1, Participation required, by adding a requirement that Proficiency Tests must be provided by a National Environmental Laboratory Accreditation Program proficiency testing provider. The Department is proposing to amend 252:302-9-25, Methodology incorporated by reference, to incorporate the latest changes to EPA Test Procedures for the Analysis of Pollutants. A significant result of the update to EPA Test Procedures for the Analysis of Pollutants is amendment of the procedure for the determination of the Method Detection Limit (MDL), which will apply to all permittees and accredited laboratories. The Department is proposing to amend 252:302-9-33, Sample storage for pickup, to include annual verification of all thermometers using a recognized national metrology institute such as National Institute of Standard and Technology (NIST). This change is consistent with EPA required test procedures.
2. **CLASSES OF PERSONS AFFECTED:** The classes of persons affected are the owners and operators of laboratories that are DEQ accredited or applying for DEQ accreditation.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** The classes of persons who will bear costs are the owners of laboratories that are accredited by the DEQ Laboratory Accreditation Program to perform environmental analyses, and potentially their customers.

4. **INFORMATION ON COST IMPACTS FROM PUBLIC/PRIVATE ENTITIES:** The DEQ has not received any information from other public or private entities concerning the cost impacts of the proposed regulation.
5. **CLASSES OF PERSONS BENEFITTED:** Oklahoma laboratories analyzing compliance samples will benefit through the clarification of accreditation requirements and the utilization of new compliance test methods. All citizens may benefit from these rule changes through the redirection of costs from taxpayers to the laboratories.
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Accredited laboratories will pay the cost of \$1000 for the on-site evaluation that occurs every two years. This cost will be invoiced each renewal year at one half of the evaluation fee.
7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department does not foresee any economic impact on political subdivisions due to this rulemaking.
8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** The Department anticipates some small businesses may see an increase in expense from assuming the expense of an on-site evaluation and costs associated with the additional time required in performing MDL verification.
9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The fee changes associated with this rulemaking are intended to make program fees more closely approximate program costs for accreditation. Historically, On-site evaluation expense has been supported by fee and appropriation funds. Costs associated with the evaluation processes have increased as appropriated funding has remained reduced. To maintain a level of competence in the private and industrial laboratory capability to perform compliance environmental testing, an on-site evaluation fee that reflects actual evaluation expenses is implemented.

252:302-1-5. Fees.

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

(1)	Initial accreditation	\$350.00
(2)	Renewal accreditation	\$350.00
(3)	Interim accreditation	\$200.00
(4)	Renewal late fee	\$100.00
(4)	Accreditation amendment	\$ 70.00
(5)	<u>On-site evaluation (initial)</u>	<u>\$1,000.00</u>
(6)	<u>On-site evaluation (renewal)</u>	<u>\$500.00 annually</u>
(7)	<u>On-site evaluation (interim)</u>	<u>\$1,000.00</u>

(c) On-site evaluation fee. The evaluation fee is \$1000 for initial or interim applications. The on-site evaluation fee will be invoiced with initial or renewal application fees.

10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The proposed fees will ensure the program has adequate funding to cover costs of on-site evaluations. The proposed rulemaking ensures that environmental analyses comply with current federal Clean Water Act Regulations.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** There will be no costs to other agencies, but they may benefit with the ability to utilize compliance data produced utilizing the most recent approved analytical test methods.
12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** The cost of the Laboratory Accreditation Program will now be funded almost exclusively by user fees charged to participants. Implementation and enforcement of this rule will be funded by fees.
13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The Department anticipates a slight increase in revenue from the user fees, but this increase will be offset by the increased complexity of accreditation standards utilized in the accreditation of laboratories.
14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** Implementation and enforcement of this rule would be handled solely by the Department, and no cooperation by other political subdivisions would be required.
15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** Oklahoma is the only state in the region that does not charge users for on-site evaluations. The Department evaluated Regional state programs to ensure Oklahoma's program costs are adequate and appropriate.
16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** The Department has determined this method to be the least intrusive and least costly for each category of affected facility to achieve the purpose of the proposed rule.
17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:** The Department has determined this rulemaking would have little to no effect on public health, safety, and environment.
18. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** This proposed rulemaking is not intended to reduce significant risks to public health, safety, and environment.

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

20. PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): Public, private, and industrial laboratory accreditation expenses would increase slightly.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: November 29, 2018