

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Edwards**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED TITLE 8, CHAPTER
9 7, SUBCHAPTER 8, TO MAKE CERTIFICATION FOR CERTAIN
10 ENVIRONMENTAL TESTING LABORATORIES MANDATORY; TO CLARIFY
11 THE DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY_S EXISTING
12 POWER TO REFUSE TO ACCEPT INVALID TEST RESULTS; TO EXPAND
13 THE DEPARTMENT_S ENFORCEMENT POWERS OVER ENVIRONMENTAL
14 TESTING; AND FOR OTHER PURPOSES."

Subtitle

17 "AN ACT TO MAKE CERTIFICATION FOR CERTAIN ENVIRONMENTAL
18 TESTING LABORATORIES MANDATORY."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Arkansas Code §8-2-202 is amended to read as follows:

23 "8-2-202. Purpose. It is the purpose of this subchapter to authorize
24 the Arkansas Department of Pollution Control and Ecology to establish and
25 administer an environmental laboratory certification program so that
26 laboratories that submit data and analyses to the department may be certified
27 by the department as having demonstrated acceptable compliance with laboratory
28 standards so that the validity of scientific data submitted to the department
29 may be further assured."

31 SECTION 2. Arkansas Code §8-2-203 is amended to read as follows:

32 "8-2-203. Definitions. As used in this subchapter, unless the context
33 otherwise requires:

34 (1) Acceptable results means results within limits determined on the
35 basis of statistical procedures as prescribed by the department;

1 (2) Certificate means a document issued by the department showing the
2 parameters for which a laboratory has received certification;

3 (3) Commission means the Arkansas Commission on Pollution Control and
4 Ecology or its successor;

5 (4) Consulting laboratory means a laboratory, as defined herein,
6 which performs analyses for any person other than itself, and does not include
7 laboratories which are wholly owned by the person for whom the analyses are
8 performed;

9 (5) Department means the Arkansas Department of Pollution Control and
10 Ecology;

11 (6) Evaluation means a review of the quality control and quality
12 assurance procedures, record keeping, reporting procedures, methodology, and
13 analytical techniques of a laboratory for measuring or establishing specific
14 parameters;

15 (7) Laboratory means any facility that performs analyses to determine
16 the chemical, physical, or biological properties of air, water, solid waste,
17 hazardous waste, waste water, or soil or subsoil materials or performs any
18 other analyses related to environmental quality evaluations required by the
19 department or which will be submitted to the department, except that
20 evaluations to determine the engineering properties related to soil mechanics
21 shall not be included herein;

22 (8) Parameter means the characteristics of a laboratory sample
23 determined by an analytic laboratory testing procedure;

24 (9) Performance audit sample means a sample intended for laboratory
25 analysis in which the concentrations of the constituents are known only to the
26 department and which is used in a test procedure to determine a laboratory's
27 analytic, quality control, and quality assurance precision and accuracy;

28 (10) Person means any individual; corporation; company; firm;
29 partnership; association; trust; joint-stock company or trust; venture;
30 municipal, state, or federal government or agency; or any other legal entity,
31 however organized;"

32

33 SECTION 3. Arkansas Code §8-2-204 is amended to read as follows:

34 "8-2-204. Powers and duties of department.

35 (a) The department shall have the following powers and duties under

1 this subchapter:

2 (1) To establish and administer the State Environmental
3 Laboratory Certification Program for laboratories applying for certification
4 by the department;

5 (2) To enforce the provisions of this subchapter and all laws,
6 rules, and regulations relating to the program and to environmental testing;

7 (3) To issue, deny, revoke, or suspend the certification of a
8 laboratory for cause; and

9 (4) To refuse to accept analytical results from a laboratory when
10 the department reasonably determines that the results do not meet reasonable
11 criteria for validation, regardless of whether the laboratory is certified.

12 (b) The commission shall have the following powers and duties under
13 this subchapter.

14 (1) To establish by regulation reasonable fees for the
15 certification procedures set forth in this subchapter and to cover the
16 expenses of administering the program; and

17 (2) To promulgate as may be necessary regulations to effect the
18 purpose and administration of the program including, but not limited to,
19 provisions governing applications for certifications, modifications, and
20 renewal of certification and recertification after revocation."

21

22 SECTION 4. Arkansas Code §8-2-205 is amended to read as follows:

23 "8-2-205. Procedure for issuance of rules or regulations, appeals,
24 hearings, etc.

25 (a) Any person who violates any provision of this chapter, or of any
26 rule, regulation, or order issued pursuant thereto, or who commits an unlawful
27 act hereunder, shall be subject to the same penalty and enforcement provisions
28 as are contained in the Arkansas Water and Air Pollution Control Act, §8-4-
29 103, as amended.

30 (b) Except as otherwise provided in this chapter, the procedure of the
31 Arkansas Pollution Control and Ecology Commission for issuance of any rules
32 and regulations, conduct of hearings, notice, review of actions on
33 certificates, rights of appeal, presumptions, finality of actions, and related
34 matters shall be as provided in Part I of the Arkansas Water and Air Pollution
35 Control Act as amended, §§ 8-4-101 - 8-4-106, 8-4-201 - 8-4-229, including

1 without limitation §§ 8-4-202, 8-4-205 - 8-4-210, 8-4-212 - 8-4-214, 8-4-218 -
2 8-4-229."

3

4 SECTION 5. Arkansas Code §8-2-206 is amended to read as follows:

5 "8-2-206. Certification - Criteria and procedure.

6 (a) (1) All consulting laboratories performing analyses for which
7 results are to be submitted to the department shall obtain a laboratory
8 certification under this subchapter. The department, in its sole discretion,
9 may refuse to accept results of analyses performed by a consulting laboratory
10 which does not hold a certification pursuant to the program for the reason
11 that the laboratory is not certified.

12 (2) Certification for laboratories other than consulting
13 laboratories shall not be mandatory.

14 (b) Applications for certification shall be made in the form and manner
15 established by the department.

16 (c) Upon receipt of an application for certification, the department
17 shall evaluate and act upon the application in accordance with the following
18 procedures and criteria:

19 (1) The laboratory must successfully complete an evaluation. The
20 department shall establish evaluation criteria on analytical, quality
21 assurance, recordkeeping and reporting methods and procedures and facilities,
22 equipment, and personnel requirements.

23 (2) The laboratory must submit to the department acceptable
24 results from its analysis of performance audit samples for the specific
25 parameters selected for certification. The department shall make available to
26 the applicant laboratory performance audit samples for the selected
27 parameters. In accordance with procedures required by the department, the
28 laboratory shall return the analyzed results to the department, and the
29 department shall determine if the laboratory has achieved acceptable results
30 in the analysis of each sample.

31 (d) Upon completion of the laboratory evaluation and the review of the
32 audit sample results, the department shall notify the laboratory of its
33 determination to award or deny certification.

34 (e) (1) If the adequacy of the laboratory's capability and its adequacy
35 have been sufficiently established to the satisfaction of the department, a

1 certificate will be issued to the laboratory for the evaluated categories of
2 parameters.

3 (2) If certification is denied, the department shall set forth,
4 in writing, the reasons for denial."

5

6 SECTION 6. Arkansas Code §8-2-208 is amended to read as follows:

7 "8-2-208. Certification - Revocation.

8 (a) Once certified, a laboratory's certification may be revoked by the
9 department:

10 (1) For knowing falsification of any data submitted to the
11 department or any data related to laboratory analysis;

12 (2) For knowingly making any false statement, representation, or
13 certification in any application, record, report, plan, or other document
14 issued by or sent to the department or related to laboratory analysis;

15 (3) For knowing misrepresentation of procedures or documentation
16 used in sampling or laboratory analysis;

17 (4) If the laboratory in question is no longer entitled to the
18 certification by reason of its failure to comply with the proper analytical,
19 quality assurance, recordkeeping and reporting methods and procedures and
20 facilities, the equipment, and personnel requirements on which the
21 certification was issued.

22 (5) If the laboratory demonstrably fails to achieve acceptable
23 results for specific parameters for which it has been certified.

24 (b) It shall be unlawful for any person:

25 (1) To knowingly falsify any data submitted to the department or
26 any data related to laboratory analysis;

27 (2) To knowingly make any false statement, representation, or
28 certification in any application, record, report, plan, or other document
29 issued by or sent to the department or related to laboratory analysis;

30 (3) To knowingly misrepresent sampling procedures or methods used
31 in laboratory analysis;

32 (4) To knowingly render inaccurate any certification issued under
33 this subchapter; or

34 (5) While knowing that a person is not certified pursuant to the
35 program, to knowingly represent that that person is so certified."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 7. Arkansas Code §8-2-209 is amended to read as follows:

"8-2-209. Fees.

(a) The department shall be authorized to assess reasonable fees to participating laboratories for the administrative costs of the program. The costs will include, but are not limited to, the expense of conducting evaluations and the procurement of performance audit samples.

(b) Fees may be assessed at the time of initial application, renewal application, application for modification, or at the time a certificate is awarded.

(c) Following a public hearing and based upon a record calculating the reasonable administrative costs of conducting certification procedures set forth herein and costs of enforcing the terms and conditions of certificates, the commission may establish reasonable fees for initial issuance, annual review, and modification of certificates authorized by this subchapter."

SECTION 8. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

- 1
- 2
- 3
- 4
- 5
- 6