

Ark. Code Ann. §§ 8-2-201 et seq.
State Environmental Laboratory Accreditation Program Act
Effective: August 1, 2017

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Ark. Code Ann. §§ 8-2-201 et seq.

The constitution and statutes are current through the ends of the 2017 Regular Session and the 2017 First Extraordinary Session of the 91st Arkansas General Assembly, and include changes made by the Arkansas Code Revision Commission received through November 15, 2017.

§ 8-2-201. Title

This subchapter may be called the “Environmental Laboratory Accreditation Program Act”.

Credits: Acts of 1985, Act 876, § 1; Acts of 2017, Act 244, § 1, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.

§ 8-2-202. Purpose

This subchapter authorizes the Arkansas Department of Environmental Quality to establish and administer an environmental laboratory accreditation program so that laboratories that submit data and analyses to the department may be accredited by the department as having demonstrated acceptable compliance with laboratory standards so that the validity of scientific data submitted to the department may be further assured.

Credits: Acts of 1985, Act 876, § 2; Acts of 1993, Act 322, § 1; Acts of 1993, Act 440, § 1; Acts of 1999, Act 1164, § 14, eff. July 30, 1999; Acts of 2017, Act 244, § 1, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.1.

§ 8-2-203. Definitions

As used in this subchapter:

- (1) “Acceptable results” means results within limits determined on the basis of statistical procedures as prescribed by the Arkansas Department of Environmental Quality;
- (2) “Accreditation” means the process by which the department recognizes a laboratory as meeting certain predetermined qualifications or standards, thereby accrediting the laboratory;
- (3) “Analyte” means the characteristics of a laboratory sample determined by an analytical laboratory testing procedure;
- (4) “Certificate” means a document issued by the department showing the analytes for which a laboratory has received accreditation;
- (5)(A) “Consulting laboratory” means a laboratory that performs analyses for any person other than itself.
- (B) “Consulting laboratory” does not include a laboratory that is wholly owned by the person for whom the analyses are performed;

(6) “Evaluation” means a review of the quality control and quality assurance procedures, recordkeeping, reporting procedures, methodology, and analytical techniques of a laboratory for measuring or establishing specific analytes;

(7)(A) “Laboratory” means any 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 that performs any other analyses related to environmental quality evaluations required by the department or which will be submitted to the department.

(B) “Laboratory” does not include evaluations to determine the engineering properties related to soil mechanics;

(8)(A) “Matrix” means the components of a sample other than the one (1) or more analyte of interest.

(B) “Matrix” includes without limitation nonpotable water, soil, or oil;

(9) “Method” means procedures and techniques for performing an activity systematically presented in the order in which the procedures and techniques are to be executed;

(10) “Person” means any individual, corporation, company, firm, partnership, association, trust, joint-stock company or trust, venture, municipal, state, or federal government or agency, or any other legal entity, however organized; and

(11) “Proficiency test sample” means a sample of composition that is unknown to the laboratory and is provided to test whether the laboratory can produce analytical results within the specified acceptance criteria.

Credits: Acts of 1985, Act 876, § 3; Acts of 1993, Act 322, § 2; Acts of 1993, Act 440, § 2; Acts of 1999, Act 1164, § 15, eff. July 30, 1999; Acts of 2017, Act 244, § 1, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.2.

§ 8-2-204. Powers and duties of department and commission

(a) The Arkansas Department of Environmental Quality shall have the following powers and duties under this subchapter:

(1) To establish and administer the Environmental Laboratory Accreditation Program for laboratories applying for accreditation by the department;

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

- (3) To issue, deny, revoke, or suspend the accreditation of a laboratory for cause; and
- (4) To refuse to accept analytical results from a laboratory when the department reasonably determines that the results do not meet reasonable criteria for validation, regardless of whether the laboratory is accredited.

(b) The Arkansas Pollution Control and Ecology Commission shall have the following powers and duties under this subchapter:

- (1) To establish by regulation reasonable fees for the accreditation procedures under this subchapter and to cover the expenses of administering the program; and
- (2) To promulgate necessary regulations to effect the purpose and administration of the program, including without limitation, provisions governing accreditation, modification, and renewal of accreditation and reaccreditation after revocation.

Credits: Acts of 1985, Act 876, § 4; Acts of 1993, Act 322, § 3; Acts of 1993, Act 440, § 3; Acts of 2017, Act 244, § 1, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.3.

§ 8-2-205. Violations--Rules and regulations

(a) Any person that violates any provision of this chapter or of any rule, regulation, or order issued pursuant to this chapter or that commits an unlawful act under this chapter shall be subject to the same penalty and enforcement provisions as are contained in the Arkansas Water and Air Pollution Control Act, § 8-4-101 *et seq.*

(b) Except as otherwise provided in this chapter, the procedure of the Arkansas Pollution Control and Ecology Commission for issuance of any rules and regulations, conduct of hearings, notice, review of actions on certificates, right of appeal, presumptions, finality of actions, and related matters shall be as provided in Part I of the Arkansas Water and Air Pollution Control Act, §§ 8-4-101--8-4-106, 8-4-201--8-4-229, including, without limitation, §§ 8-4-202, 8-4-205--8-4-210, 8-4-212--8-4-214, and 8-4-218--8-4-229.

Credits: Acts of 1985, Act 876, § 8; Acts of 1993, Act 322, § 4; Acts of 1993, Act 440, § 4.

Formerly A.S.A. 1947, § 82-1993.7.

§ 8-2-206. Accreditation--Criteria and procedure

(a)(1)(A)(i) All consulting laboratories performing analyses for which results are to be submitted to the Arkansas Department of Environmental Quality shall obtain a laboratory accreditation under this subchapter.

(ii) An analyte, method, or matrix for which the Environmental Laboratory Accreditation Program does not provide accreditation shall be evaluated by the department for acceptance.

(B) The department, in its sole discretion, may refuse to accept results of analyses performed by a consulting laboratory that does not hold a laboratory accreditation under the program for the reason that the laboratory is not accredited.

(2) Accreditation for laboratories other than consulting laboratories shall not be mandatory.

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

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

(1)(A) The laboratory must successfully complete an evaluation.

(B) The department shall establish evaluation criteria on proper analytical techniques, quality assurance, recordkeeping, and reporting methods and procedures and facilities, equipment, and personnel requirements; and

(2) The laboratory must submit to the department acceptable results from its analysis of proficiency test samples for the specific analytes, methods, and matrices selected for accreditation.

(d) Upon completion of the laboratory evaluation and the review of the proficiency test sample results, the department shall notify the laboratory of its determination to award or deny accreditation.

(e)(1) If the adequacy of the laboratory's capability and its recordkeeping have been sufficiently established to the satisfaction of the department, a certificate will be issued to the laboratory for the evaluated categories of analytes, methods, and matrices.

(2) If accreditation is denied, the department shall set forth, in writing, the reasons for denial.

Credits: Acts of 1985, Act 876, § 5; Acts of 1993, Act 322, § 5; Acts of 1993, Act 440, § 5; Acts of 2017, Act 244, § 2, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.4.

§ 8-2-207. Accreditation--Duration--Renewal

(a) A certificate of accreditation shall be effective for a period of one (1) year from the date of issuance, after which time the accreditation will lapse.

(b) Accreditation may be renewed for additional periods of one (1) year's duration upon application for renewal made to the Arkansas Department of Environmental Quality.

Credits: Acts of 1985, Act 876, § 5; Acts of 2017, Act 244, § 2, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.4.

§ 8-2-208. Accreditation--Revocation

(a) After a laboratory is accredited, the laboratory's accreditation may be revoked or suspended by the Arkansas Department of Environmental Quality for:

(1) Knowingly falsifying any data submitted to the department or any data related to laboratory analysis;

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

(3) Knowingly misrepresenting procedures or documentation used in sampling or laboratory analysis;

(4) Failing to comply with any one (1) or more of the following requirements under which the accreditation was issued:

(A) Methods or procedures pertaining to analytical techniques, quality assurance, recordkeeping, or reporting methods; or

(B) Facility, equipment, or personnel requirements; or

(5) Failing to achieve acceptable results for specific analytes, methods, or matrices for which it has been accredited.

(b) It shall be unlawful for any person:

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

- (2) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document issued by or sent to the department or related to laboratory analysis;
- (3) To knowingly misrepresent sampling procedures or methods used in laboratory analysis;
- (4) To knowingly render inaccurate any accreditation issued under this subchapter; or
- (5) To knowingly represent that a person is accredited when that person is not accredited.

Credits: Acts of 1985, Act 876, § 6; Acts of 1993, Act 322, § 6; Acts of 1993, Act 440, § 6; Acts of 2017, Act 244, § 2, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.5.

§ 8-2-209. Fees

(a)(1) The Arkansas Department of Environmental Quality may assess and collect reasonable fees from participating laboratories for the administrative costs of the Environmental Laboratory Accreditation Program.

(2) The costs shall include without limitation, the expense of conducting evaluations.

(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 accreditation procedures under this subchapter and costs of enforcing the terms and conditions of accreditations, the Arkansas Pollution Control and Ecology Commission may establish reasonable fees for initial issuance, annual review, and modification of accreditations authorized by this subchapter.

Credits: Acts of 1985, Act 876, § 7; Acts of 1993, Act 322, § 7; Acts of 1993, Act 440, § 7; Acts of 2017, Act 244, § 2, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 82-1993.6.