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HEALTH AND SAFETY CODE - HSC

DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH [100100 - 101997] (*Division 101 added by Stats. 1995, Ch. 415, Sec. 3.)*

PART 1. CALIFORNIA DEPARTMENT OF HEALTH SERVICES [100100 - 100922] (*Part 1 added by Stats. 1995, Ch. 415, Sec. 3.)*

CHAPTER 4. Regulation of Laboratory Services [100700 - 100922] (*Chapter 4 added by Stats. 1995, Ch. 415, Sec. 3.)*

ARTICLE 3. Environmental Laboratories [100825 - 100920.5] (*Article 3 added by Stats. 1995, Ch. 415, Sec. 3.)*

100825. (a) This article shall be known, and may be cited, as the Environmental Laboratory Accreditation Act.

(b) Laboratories that perform analyses on any combination of environmental samples, or raw or processed agricultural products for regulatory purposes shall obtain a certificate of accreditation pursuant to this article.

(c) Unless the express language or context requires otherwise, the definitions in this article shall govern the construction of the article.

(1) "Accreditation" means the recognition of a laboratory by the state board to conduct analyses of environmental samples for regulatory purposes.

(2) "Assessor body" means the organization that actually executes the accreditation process, including receiving and reviewing applications, documents, PT sample results, and onsite assessments.

(3) "Certificate" means a document issued by the state board to a laboratory that has received accreditation pursuant to this article.

(4) "Department" means the state board.

(5) "ELAP" means state accreditation program established under this article.

(6) "Environmental samples" means potable and nonpotable surface waters or groundwaters, soils and sediments, hazardous wastes, biological materials, or any other sample designated for regulatory purposes.

(7) "Proficiency testing (PT)" is a means of evaluating a laboratory's performance under controlled conditions relative to a given set of criteria through analysis of unknown samples provided by an external source.

(8) "PT sample" means a sample used for proficiency testing.

(9) "Regulatory purposes" means a statutory or regulatory requirement of a state board, office, or department, or of a division or program that requires a laboratory certified under this article or of any other state or federal agency that requires a laboratory to be accredited.

(10) "Revocation" means the permanent loss of a certificate of accreditation, including all units and fields of accreditation for state accreditation and all fields of accreditation for TNI accreditation.

(11) "State accreditation" means accreditation of a laboratory, that has met the requirements of this article and regulations adopted by the state board pursuant to this article.

(12) "State board" means the State Water Resources Control Board.

(13) "Suspension" means the temporary loss of a certificate of accreditation or a unit or field of accreditation.

(14) "TNI" means The NELAC Institute, a nonprofit corporation created to combine the functions of the National Environmental Laboratory Accreditation Conference and the Institute for National Environmental Laboratory Accreditation.

(15) "TNI accreditation" means the accreditation of a laboratory that has met the requirements of TNI standards, and the requirements of this article.

(16) "TNI accredited laboratory" means a laboratory that has met the standards of TNI and has been accredited by a primary or secondary TNI-recognized accrediting body.

(17) "TNI-recognized accrediting body" means a state agency that is authorized by TNI to accredit laboratories.

(18) "TNI-recognized primary accrediting authority" means a state agency that is responsible for the accreditation of environmental laboratories within that state or that performs the primary accreditation of a lab from a non-TNI state or where the laboratory's home state does not offer accreditation in a given field of accreditation.

(19) "TNI-recognized secondary accrediting authority" means a state agency that is authorized by TNI to accredit environmental laboratories within that state that have been accredited by a TNI-approved accrediting authority in another state.

(20) "TNI standards" means the laboratory standards adopted by TNI.

(Amended by Stats. 2017, Ch. 327, Sec. 1. (AB 1438) Effective January 1, 2018.)

100827. (a) A laboratory accredited by the state board shall report, in a timely fashion and in accordance with the request for analysis, the full and complete results of all detected contaminants and pollutants to the person or entity that submitted the material for testing. The state board may adopt regulations to establish reporting requirements for this section.

(b) A laboratory accredited by the state board shall report the results of each drinking water analysis the laboratory conducts to the state board in the form or format and at intervals specified by the state board.

(Amended by Stats. 2019, Ch. 120, Sec. 3. (SB 200) Effective July 24, 2019.)

100829. The State Water Resources Control Board may do all of the following related to accrediting environmental laboratories in the state:

(a) Offer both state accreditation and TNI accreditation, which shall be considered equivalent for regulatory activities covered by this article.

(b) Adopt regulations to establish the accreditation procedures for both types of accreditation.

(c) Retain exclusive authority to grant TNI accreditation.

(d) Accept certificates of accreditation from laboratories that have been accredited by other TNI-recognized accrediting authorities.

(e) Adopt regulations to establish procedures for recognizing the accreditation of laboratories located outside California for activities regulated under this article.

(f) (1) Adopt a schedule of fees to recover costs incurred for the accreditation of environmental laboratories. Consistent with Section 3 of Article XIII A of the California Constitution, the state board shall set the fees under this section in an amount sufficient to recover all reasonable regulatory costs incurred for the purposes of this article.

(2) The state board shall set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Environmental Laboratory Improvement Fund for expenditure for the administration of this article, taking into account the reserves in the Environmental Laboratory Improvement Fund. The state board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated by the Legislature. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the state board may further adjust the fees to compensate for the over or under collection of revenue.

(3) The state board shall adopt the schedule of fees by emergency regulation. The emergency regulations may include provisions concerning the administration and collection of the fees. Any emergency regulations adopted pursuant to this section, any amendment to those regulations, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board,

or adjustments to the annual fees made by the state board pursuant to this section, are not subject to review by the Office of Administrative Law and remain in effect until revised by the state board.

(4) Fees shall be set for the two types of accreditation provided for in subdivision (a), including application fees.

(5) Programs operated under this article shall be fully fee-supported.

(Amended by Stats. 2017, Ch. 327, Sec. 2. (AB 1438) Effective January 1, 2018.)

100830. The department may do all of the following:

(a) Adopt regulations establishing requirements for both types of accreditation. The regulations shall include, but not be limited to, all of the following:

(1) Laboratory personnel.

(2) Quality assurance procedures.

(3) Laboratory equipment.

(4) Facilities.

(5) Standard operating procedures.

(6) Proficiency testing.

(7) Onsite assessments.

(8) Recordkeeping.

(9) Units and fields of accreditation.

(b) Adopt regulations establishing conditions under which the department may issue, deny, renew, or suspend a certificate of accreditation for individual units or fields. Suspension and denial of units or fields of accreditation shall be based on a laboratory's failure to comply with this article and regulations adopted thereunder.

(Repealed and added by Stats. 2005, Ch. 406, Sec. 6. Effective January 1, 2006.)

100832. All regulations adopted by the department pursuant to this article, as they read immediately preceding January 1, 2006, shall remain in full force and effect until repealed or amended by the department in accordance with the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Repealed and added by Stats. 2005, Ch. 406, Sec. 9. Effective January 1, 2006.)

100837. The state board may contract with approved third-party laboratory assessor bodies in accordance with the criteria developed by the TNI or a federal agency.

(Amended by Stats. 2017, Ch. 327, Sec. 3. (AB 1438) Effective January 1, 2018.)

100840. Any laboratory requesting ELAP certification or TNI accreditation under this article shall file with the state board an application on forms prescribed by the state board containing all of the following:

(a) The names of the applicant and the laboratory.

(b) The location of the laboratory.

(c) A list of fields of testing for which the laboratory is seeking certification.

(d) Evidence satisfactory to the state board that the applicant has the ability to comply with this article and the regulations adopted under this article.

(e) Any other information required by the state board for administration or enforcement of this article or regulations adopted under this article.

(Amended by Stats. 2017, Ch. 327, Sec. 4. (AB 1438) Effective January 1, 2018.)

100845. (a) Each certificate issued pursuant to this article for ELAP certification shall be issued to the owner of the laboratory and shall expire 24 months from the date of issuance. An application for renewal shall be filed with the department prior to the expiration date of the certificate. Failure to make timely application for renewal shall result in expiration of the certificate.

(b) A certificate shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(1) The owner sells or otherwise transfers the ownership of the laboratory, except that the certificate shall remain in force 90 calendar days if the department receives written assurance and appropriate documentation within 30 calendar days after the change has occurred that one or more of the conditions in subdivision (c) are met. The department shall accept or reject the assurance in writing within 30 calendar days after it has been received.

(2) There is a change in the location of the laboratory (except a mobile laboratory) or structural alteration that may affect adversely the quality of analysis in the fields of testing for which the laboratory has been certified or is seeking certification, without written notification to the department within 30 calendar days.

(3) The certificate holder surrenders the certificate to the department.

(c) Upon change of ownership of a laboratory, the department may extend a certificate to the expiration date of the original certificate upon written assurance by the new owner that the operation of the laboratory will continue so as not to adversely affect the conditions regulated by this article.

(d) The department shall be notified in writing within 30 calendar days whenever there is a change of director or other person in charge of a laboratory certified under this article. The notification shall include documentation of the qualifications of the new director or other person in charge of the laboratory.

(Amended by Stats. 2002, Ch. 215, Sec. 4. Effective January 1, 2003.)

100847. (a) The period of accreditation for TNI accredited laboratories shall be 12 months. An application for renewal shall be filed with the state board prior to the expiration date of the accreditation. Failure to make timely application for renewal shall result in expiration of the accreditation.

(b) The accrediting authority shall be notified in writing within 30 calendar days of the sale or other transfer of ownership of a TNI accredited laboratory.

(c) The accrediting authority shall be notified in writing within 30 calendar days of the change in location of a TNI accredited laboratory, other than a mobile laboratory.

(d) The accrediting authority shall be notified within 30 calendar days whenever there is a change of laboratory director, or other individual in charge of the laboratory.

(e) TNI accredited laboratories shall conspicuously display their most recent TNI accreditation certificate or their accreditation fields of testing, or both, in a permanent place in their laboratory.

(f) TNI accredited laboratories shall not use their TNI accreditation document or their accreditation status to imply any endorsement by the accrediting authority.

(Amended by Stats. 2017, Ch. 327, Sec. 5. (AB 1438) Effective January 1, 2018.)

100850. (a) Upon the filing of an application for ELAP certification or TNI accreditation and after a finding by the state board that there is full compliance with this article and regulations adopted under this article, the state board shall issue to the owner certification or accreditation in the fields of testing for which the laboratory is seeking certification and with respect to which the state board has determined there is full compliance.

(b) The state board shall deny or revoke a certificate if it finds any of the following:

(1) The laboratory fails to report acceptable results in the analysis of proficiency testing samples.

(2) The laboratory fails to analyze proficiency testing samples.

(3) The laboratory submits, as its own, proficiency testing sample results generated by another laboratory.

(4) The laboratory fails to pass an onsite assessment.

(5) The laboratory is not in compliance with any other provision of this article or regulations adopted under this article.

(c) Upon the filing of a complete application for certification or accreditation pursuant to subdivision (a) and Section 100870, the state board may issue to a laboratory interim certification or accreditation pending the completion of onsite assessment. Interim

certification and accreditation shall be nonrenewable and shall remain in effect until certification and accreditation is either granted under subdivision (a) or denied under subdivision (b), but not later than one year after the date of issuance.

(Amended by Stats. 2017, Ch. 327, Sec. 6. (AB 1438) Effective January 1, 2018.)

100851. (a) An application for TNI accreditation or renewal of TNI accreditation shall be denied by the accrediting body for any of the following reasons:

- (1) Failure to submit all information necessary to determine the laboratory's eligibility for its accreditation or continued compliance with this section or regulations adopted thereunder.
- (2) Failure of the laboratory staff to meet TNI standards for personnel requirements. These qualifications may include education, training, and experience requirements.
- (3) Failure to successfully analyze and report proficiency testing samples.
- (4) Failure to respond to a deficiency report from the onsite assessment with a corrective action report within 30 calendar days of the receipt of the report.
- (5) Failure to implement the corrective actions detailed in the corrective action report within the specified amount of time.
- (6) Misrepresentation of any material fact pertinent to receiving or maintaining TNI accreditation.

(b) The TNI-recognized accrediting body may suspend the accreditation of a TNI-accredited laboratory, in whole or in part, for failure to correct the deficiencies, within a specified amount of time, as identified in the onsite assessment. The laboratory shall retain those areas of accreditation where it continues to meet the requirements of the accrediting body. A suspended TNI-accredited laboratory shall not be required to reapply for accreditation if the causes for suspension are corrected within six months.

(c) The TNI-approved accrediting body shall suspend a TNI accreditation, in whole or in part for the following reasons:

- (1) Failure to complete proficiency testing studies.
- (2) Failure to maintain a history of at least two successful, out of the most recent three, proficiency testing studies for each affected accreditation field of testing, subgroup, or analyte for which the laboratory is accredited.
- (3) Failure to successfully analyze and report proficiency testing sample results pursuant to TNI standards.
- (4) Failure to submit an acceptable corrective action report in response to a deficiency report and failure to implement corrective action related to deficiencies found during laboratory assessments within the required time period, as required by the TNI standards.
- (5) Failure to notify the accrediting body of any changes in key accreditation criteria, as required by TNI standards.
- (6) Failure to perform all accredited tests in accordance with TNI standards.
- (7) Failure to meet all applicable quality system requirements in TNI standards.

(d) A suspended laboratory shall not be required to reapply for TNI accreditation if the causes for suspension are corrected within six months. A suspended laboratory shall not continue to analyze samples for the affected fields of testing for which it holds accreditation. A suspended laboratory shall remain suspended without a right to appeal if the suspension is caused by unacceptable proficiency testing sample results.

(e) If a laboratory is unable to correct the reason for suspension, the laboratory's accreditation shall be revoked in whole or in part.

(f) A laboratory's accreditation shall not be suspended without the right to due process, as set forth in TNI standards.

(Amended by Stats. 2018, Ch. 92, Sec. 146. (SB 1289) Effective January 1, 2019.)

100852. (a) Notwithstanding any other law, the state board may issue a certificate to the owner of a laboratory in a field of testing or method adopted by the federal Environmental Protection Agency pursuant to Part 136 of Title 40 of the Code of Federal Regulations, as amended September 11, 1992, as published in the Federal Register (57 FR 41830), or Part 141 of Title 40 of the Code of Federal Regulations, as amended July 17, 1992, as published in the Federal Register (57 FR 31776), and as subsequently amended and published in the Code of Federal Regulations.

(b) As a TNI-recognized accrediting body, the state board shall accept performance-based measurement system methods, when mandated methods are indicated. A fee, as specified in regulations adopted by the state board, may be charged for the review of each performance-based measurement system method.

(c) Notwithstanding any other law, the state board shall not be required to meet the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code in order to issue a certificate pursuant to subdivision (a).

(Amended by Stats. 2018, Ch. 92, Sec. 147. (SB 1289) Effective January 1, 2019.)

100855. Upon the denial of an application for ELAP certification or TNI accreditation, the state board shall immediately notify the applicant or organization by certified mail, return receipt requested, of the action and the reasons for the action. The owner of a laboratory may petition for reconsideration under Section 116701.

(Repealed and added by Stats. 2017, Ch. 327, Sec. 10. (AB 1438) Effective January 1, 2018.)

100860.1. (a) At the time of application for ELAP certification and annually thereafter, from the date of the issuance of the certificate, a laboratory shall pay an ELAP certification fee, according to the fee schedule established by the State Water Resources Control Board pursuant to Section 100829.

(b) State and local government-owned laboratories in California performing work only in a reference capacity as a reference laboratory are exempt from the payment of the fees prescribed pursuant to Section 100829.

(c) In addition to the payment of fees authorized by Section 100829, laboratories certified or applying for certification shall pay directly to the designated proficiency testing provider the cost of the proficiency testing study.

(d) For the purpose of this section, a reference laboratory is a laboratory owned and operated by a governmental regulatory agency for the principal purpose of analyzing samples referred by another governmental regulatory agency or another laboratory for confirmatory analysis.

(Amended by Stats. 2016, Ch. 340, Sec. 26. (SB 839) Effective September 13, 2016.)

100862. (a) At the time of application for TNI accreditation and annually thereafter, from the date of the issuance of the accreditation, a laboratory shall pay a TNI accreditation fee, according to the fee schedule established by the state board pursuant to Section 100829.

(b) In addition to the payment of fees authorized by Section 100829, laboratories accredited or applying for accreditation shall pay directly to the designated proficiency testing provider the cost of the proficiency testing studies.

(Amended by Stats. 2017, Ch. 327, Sec. 11. (AB 1438) Effective January 1, 2018.)

100863. The department shall appoint a multidisciplinary committee to assist, advise, and make recommendations regarding technical, scientific, and administrative matters concerning the accreditation or certification of environmental laboratories. Appointments to the committee shall be made from lists of nominees solicited by the department, and shall provide adequate representation of interested parties and environmental laboratories subject to this chapter. Subcommittees of the committee may be appointed consisting of committee members and other persons having particular knowledge of a subject area, for the purpose of assisting the department on special problems and making recommendations to the committee for consideration in the establishment of rules and regulations. The department shall determine the terms of office of appointees to the committee and any subcommittee. Members of the committee and of any subcommittee shall serve without compensation and shall pay their own expenses incurred as a result of attending meetings or engaging in any other activity pursuant to this section.

(Added by Stats. 1999, Ch. 372, Sec. 16. Effective January 1, 2000.)

100865. (a) In order to carry out the purpose of this article, any duly authorized representative of the state board may do the following:

(1) Enter and inspect a laboratory that is ELAP certified or TNI accredited pursuant to this article or that has applied for ELAP certification or TNI accreditation.

(2) Inspect and photograph any portion of the laboratory, equipment, any activity, or any samples taken, or copy and photograph any records, reports, test results, or other information related solely to certification under this article or regulations adopted pursuant to this article.

(3) Require an owner of a laboratory to provide, within 15 days of receiving a request from a duly authorized representative of the state board, reports, test results, and other information required to implement this article, including, but not limited to, applicable standard operating procedures, quality control or quality assurance manuals, quality control or quality assurance data, employee

qualifications, training records, or information relating to accreditation with another state or agency. The state board may require a laboratory to conduct proficiency testing in any of the laboratory's accredited fields of testing.

(b) It shall be a misdemeanor for any person to prevent, interfere with, or attempt to impede in any way, any duly authorized representative of the state board from undertaking the activities authorized by this section.

(c) If a laboratory that is seeking ELAP certification, TNI accreditation, ELAP recertification, or TNI reaccreditation refuses entry of a duly authorized representative during normal business hours for either an announced or unannounced onsite assessment, the certification, accreditation, recertification, or reaccreditation shall be denied or revoked.

(d) Refusal of a request by a TNI approved accrediting authority, the state board, or any employee, agent, or contractor of the state board, for permission to inspect, pursuant to this section, the laboratory and its operations and pertinent records during the hours the laboratory is in operation shall result in denial or revocation of ELAP certification or TNI accreditation.

(Amended by Stats. 2017, Ch. 327, Sec. 12. (AB 1438) Effective January 1, 2018.)

100870. (a) Any laboratory that is ELAP certified or holds TNI accreditation or has applied for ELAP certification or TNI accreditation or for renewal of ELAP certification or TNI accreditation under this article shall analyze proficiency testing samples, if these testing samples are available. The state board shall have the authority to contract with third parties for the provision of proficiency testing samples for those laboratories that hold or are applying for ELAP certification. The samples shall be tested by the laboratory according to methods specifically approved for this purpose by the United States government or the state board, or alternate methods of demonstrated adequacy or equivalence, as determined by the state board. Proficiency testing sample sets shall be provided, when available, not less than twice, nor more than four times, a year to each certified laboratory that performs analyses of food for pesticide residues.

(b) (1) The state board may provide, directly or indirectly, proficiency testing samples to a laboratory for the purpose of determining compliance with this article with or without identifying the state board.

(2) When the state board identifies itself, all of the following shall apply:

(A) The results of the testing shall be submitted to the state board on forms provided by the state board on or before the date specified by the state board, and shall be used in determining the competency of the laboratory.

(B) There shall be no charge to the state board for the analysis.

(3) When the state board does not identify itself, the state board shall pay the price requested by the laboratory for the analyses.

(c) If a certified or TNI accredited laboratory submits proficiency testing sample results generated by another laboratory as its own, the certification or TNI accreditation shall be immediately revoked.

(d) Laboratories shall obtain their proficiency testing samples from proficiency testing sample providers that meet TNI standards. Laboratories shall bear the cost of any proficiency testing study fee charged for participation. Each laboratory shall authorize the providers of proficiency testing samples to release the report of the study results directly to the state board, as well as to the laboratory.

(Amended by Stats. 2017, Ch. 327, Sec. 13. (AB 1438) Effective January 1, 2018.)

100872. (a) An ELAP certified laboratory shall successfully analyze proficiency testing samples for those fields of testing for which they are certified, not less than once a year, where applicable. Proficiency testing procedures shall be approved by the United States government or by the state board.

(b) A TNI accredited laboratory shall participate in, and meet the success rate for, proficiency testing studies as required in the TNI standards.

(c) The ELAP certified or TNI accredited laboratory shall discontinue the analyses of samples for the fields of testing or subgroups which have been suspended for failure to comply with the proficiency testing requirements in this section.

(Amended by Stats. 2017, Ch. 327, Sec. 14. (AB 1438) Effective January 1, 2018.)

100875. Whenever the state board determines that any laboratory has violated or is violating this article or any certificate, regulation, or standard issued or adopted pursuant to this article, any officer or employee of the state board delegated such authority may issue an order directing compliance forthwith or directing compliance in accordance with a time schedule set by the state board. The owner of a laboratory issued an order under this section may petition for reconsideration under Section 116701.

(Amended by Stats. 2017, Ch. 327, Sec. 15. (AB 1438) Effective January 1, 2018.)

100880. If the state board determines that a laboratory is in violation of this article or any regulation or order issued or adopted pursuant to this article, the state board may, in addition to suspension, denial, or revocation of the certificate or TNI accreditation, issue a citation to the owner of the laboratory. It shall be the function of the recognized accrediting authority to issue citations. The Legislature finds and declares that since TNI is a standard setting body, it cannot, as such, enforce civil or criminal penalties.

(a) The citation shall be served personally or by registered mail.

(b) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, order, or regulation alleged to have been violated.

(c) The citation shall fix the earliest feasible time for elimination or correction of the condition constituting the violation.

(d) Citations issued pursuant to this section shall specify a civil penalty for each violation, not to exceed one thousand dollars (\$1,000), for each day that the violation occurred.

(e) If the owner fails to correct a violation within the time specified in the citation, the state board may assess a civil penalty as follows:

(1) For failure to comply with any citation issued for a violation of this article or a regulation, an amount not to exceed two hundred fifty dollars (\$250) for each day that the violation continues beyond the date specified for correction in the citation.

(2) For failure to comply with any citation issued for violation of any state board-issued order, an amount not to exceed two hundred dollars (\$200) for each day the violation continues beyond the date specified for correction in the citation.

(f) The owner of a laboratory issued a citation under this section or assessed a penalty under subdivision (e) may petition for reconsideration under Section 116701.

(Amended by Stats. 2017, Ch. 327, Sec. 16. (AB 1438) Effective January 1, 2018.)

100885. (a) Any person who operates a laboratory that performs work that requires certification or TNI accreditation under Section 25198, 25298.5, 78510, 110490, or 116390 of this code, or Section 13176 of the Water Code, who is not certified or TNI accredited to do so, may be enjoined from so doing by any court of competent jurisdiction upon suit by the state board.

(b) When the state board determines that any person has engaged in, or is engaged in, any act or practice that constitutes a violation of this article, or any regulation or order issued or adopted thereunder, the state board may bring an action in the superior court for an order enjoining these practices or for an order directing compliance and affording any further relief that may be required to ensure compliance with this article.

(Amended by Stats. 2022, Ch. 258, Sec. 108. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

100886. Any person who operates a laboratory for the purposes specified in Section 25198, 25298.5, 78510, or 116390 of this code, or Section 13176 of the Water Code, shall report the full and complete results of all detected contamination and pollutants to the person or entity that submitted the material for testing.

(Amended by Stats. 2022, Ch. 258, Sec. 109. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

100890. (a) Any person who knowingly makes any false statement or representation in any application, record, or other document submitted, maintained, or used for purposes of compliance with this article, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Any person who operates a laboratory for purposes specified pursuant to Section 25198, 25298.5, 78510, 110490, or 116390 of this code, or Section 13176 of the Water Code that requires certification, who is not certified by the department pursuant to this article, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(c) A laboratory that advertises or holds itself out to the public or its clients as having been certified for any field of testing without having a valid and current certificate in each field of testing identified by the advertisement or other representation may be liable, as determined by the court, for a civil penalty not to exceed one thousand dollars (\$1,000) or, for continuing violations, for each day that violation continues.

(d) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

(Amended by Stats. 2022, Ch. 258, Sec. 110. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

100895. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment:

- (1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this article.
- (2) Has in his or her possession any record required to be maintained pursuant to this article that has been altered or concealed.
- (3) Destroys, alters, or conceals any record required to be maintained pursuant to this article.
- (4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the state board in writing and is required to carry out the state board's responsibilities pursuant to this article.

(b) A second or subsequent violation of subdivision (a) is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months or in a county jail for not more than one year, by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, or by both that imprisonment and fine.

(c) An ELAP certified or TNI accredited laboratory, upon suspension, revocation, or withdrawal of its ELAP certification or TNI accreditation, shall do all of the following:

- (1) Discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, or their materials that contain reference to their past certification or accreditation status.
- (2) Return its ELAP certificate or its TNI accreditation to the state board.
- (3) Cease all testing of samples for regulatory purposes.

(d) The penalties cited in subdivisions (a) and (b) shall also apply to TNI accredited laboratories.

(Amended by Stats. 2017, Ch. 327, Sec. 19. (AB 1438) Effective January 1, 2018.)

100900. The remedies provided by this article are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this article shall preclude any party from obtaining additional relief based upon the same facts.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100905. The department may suspend or revoke any certificate issued under of this article for any of the following reasons:

- (a) Violation by the owner of the laboratory of any of the provisions of this article or any regulation adopted under this article.
- (b) Aiding, abetting, or permitting the violation of any provision of this article or regulations adopted under this article.
- (c) Proof that the certificateholder or owner has made false statements in any material regard on the application for certification.
- (d) Conviction of an owner of the laboratory of any crime that is substantially related to the qualifications or duties of that owner and that is related to the functions of the laboratory. For purposes of this subdivision, a "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Action to revoke or suspend the certificate may be taken when: (1) the time for appeal has elapsed, or (2) the judgment of conviction has been affirmed on appeal, or (3) when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting withdrawal of a plea of guilty and entry of a plea of not guilty, or (4) setting aside a verdict of guilty, or (5) dismissing the accusation, information, or indictment. The department shall take into account all judicial decisions on rehabilitation furnished by the owner of the laboratory.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100907. (a) The state board shall revoke, in whole or in part, the accreditation of a TNI accredited laboratory for either of the following reasons:

- (1) Failure to submit an acceptable corrective action report in response to a deficiency report, and failure to implement corrective action related to any deficiencies found during a laboratory assessment. The laboratory may submit two corrective actions within the time limits specified by the accrediting authority.
- (2) Failure to successfully analyze and report proficiency testing sample results pursuant to TNI standards.

(b) The state board shall revoke, in whole, the accreditation of a TNI accredited laboratory for any of the following reasons:

- (1) Failure to respond with a corrective action report within the required 30-day period.
- (2) Failure to participate in the proficiency testing program, as required by TNI standards.
- (3) Submittal of proficiency test sample results generated by another laboratory as its own.
- (4) Misrepresentation of any material fact pertinent to receiving or maintaining accreditation.
- (5) Denial of entry during normal business hours for an onsite assessment, as required by TNI standards.
- (6) Conviction of charges for the falsification of any report of, or that relates to, a laboratory analysis.

(c) The state board may also revoke, in whole, a laboratory's accreditation for failure to remit the accreditation fees within the time limit established by the accrediting authority.

(d) After correcting the reason or reasons for revocation, the TNI accredited laboratory may reapply for accreditation no sooner than six months from the official date of revocation.

(e) A laboratory's TNI accreditation shall not be revoked without the right to due process, in accordance with Section 100910.

(Amended by Stats. 2017, Ch. 327, Sec. 20. (AB 1438) Effective January 1, 2018.)

100910. (a) The state board, after providing notice to the owner of the laboratory and opportunity for a hearing, may suspend or revoke an ELAP certification or TNI accreditation issued pursuant to this article. The notice shall inform the owner of the laboratory that the owner may request a hearing not later than 20 days from the date on which the notice is received, and shall contain a statement of facts and information that show a basis for the suspension or revocation. If the owner submits a timely request for a hearing, the hearing shall be before the state board or a member of the state board, in accordance with Section 183 of the Water Code and the rules for adjudicative proceedings adopted under Section 185 of the Water Code. If the owner does not submit a timely request for a hearing, the state board may suspend or revoke the permit without a hearing.

(b) If the certification or accreditation at issue has been temporarily suspended pursuant to Section 100915, the notice shall be provided within 15 days of the effective date of the temporary suspension order. The hearing shall be commenced as soon as practicable, but no later than 60 days after the effective date of the temporary suspension order, unless the owner requests an extension of the 60-day period.

(Repealed and added by Stats. 2017, Ch. 327, Sec. 22. (AB 1438) Effective January 1, 2018.)

100915. (a) (1) The state board may temporarily suspend, in whole or in part, ELAP certification or TNI accreditation prior to any hearing, when it has determined that this action is necessary to protect the public. The state board shall notify the owner of the temporary suspension and the effective date of the suspension. The notice shall inform the owner of the laboratory that the owner may request a hearing not later than 20 days from the date on which the notice is received, and shall contain a statement of facts and information that show a basis for the suspension.

(2) (A) If the owner submits a timely request for a hearing, the hearing shall be commenced as soon as possible but no later than 30 calendar days after receipt of the notice or 15 calendar days after the request for a hearing is submitted, whichever is later, unless the owner requests a later date for the hearing. The hearing shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing under Section 100910.

(B) The hearing shall be conducted under the rules for adjudicative proceedings adopted by the state board under Section 185 of the Water Code.

(C) The temporary suspension shall remain in effect until the hearing is completed and the state board has made a final determination on the merits under Section 100910. However, the temporary suspension shall be deemed vacated if the state board fails to make a final determination on the merits within 60 calendar days after the hearing under Section 100910 has been completed. Vacation of the temporary suspension does not deprive the state board of jurisdiction to proceed with a hearing on the merits under Section 100910.

(b) During the suspension, the laboratory shall discontinue the analysis of samples for the fields of testing specified in the notice.

(Repealed and added by Stats. 2017, Ch. 327, Sec. 24. (AB 1438) Effective January 1, 2018.)

100920. Fees and civil penalties collected under this article shall be deposited in the Environmental Laboratory Improvement Fund, that is hereby created. Moneys in the fund shall be available for expenditure by the department for the purposes of this article, upon appropriation by the Legislature.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100920.5. (a) Within 30 days after service of a copy of a decision or order issued by the state board under this chapter, an aggrieved party may file with the superior court a petition for a writ of mandate for review of the order.

(b) Except as otherwise provided in this section, subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section. For the purposes of subdivision (c) of Section 1094.5 of the Code of Civil Procedure, the court shall uphold the findings of the state board if those findings are supported by substantial evidence in light of the whole record.

(c) If no aggrieved party petitions for a writ of mandate within the time provided by this section, the decision or order of the state board is not subject to review by any court.

(Added by Stats. 2017, Ch. 327, Sec. 25. (AB 1438) Effective January 1, 2018.)