

**Introduced by Committee on Environmental Quality
(Senators Sher (Chair), Alarcon, Alpert, Chesbro, Hayden,
McPherson, O'Connell, Solis, and Wright)**

March 30, 2000

An act to amend Sections 100825, 100830, 100831, 100832, 100837, 100852, 100860, 100862, 100870, and 100872 of, *and to add Section 100860.1 to*, the Health and Safety Code, relating to environmental laboratories.

LEGISLATIVE COUNSEL'S DIGEST

SB 2203, as amended, Committee on Environmental Quality. Environmental laboratories.

(1) Existing law requires laboratories that perform analyses for pesticide residues in food to obtain certification by the State Department of Health Services and permits these laboratories to also apply for accreditation under the National Environmental Laboratory Accreditation Program (NELAP) if it chooses to meet standards adopted by the National Environmental Laboratory Accreditation Conference (NELAC) and become eligible for recognition by other states and agencies that require or accept NELAP accreditation.

This bill would permit these laboratories to apply for NELAP accreditation in lieu of certification *in certain circumstances*.

(2) Existing law requires the department to adopt regulations governing the application criteria for acceptance and approval of approved 3rd-party laboratory accrediting

organizations (~~ATPLAO's~~) (ATPLAOs) in accordance with specified criteria.

This bill would ~~permit the department to recognize~~ delete this requirement and instead would authorize the department to contract with ATPLAOs in accordance with the criteria developed by NELAC or other federal agencies ~~for the required approval.~~

(3) Existing law requires a laboratory to pay a specified certification fee to the department at the time of application and annually thereafter.

This bill would revise this fee schedule.

(4) Existing law requires laboratories certified or applying for certification in certain fields of testing relating to pesticides in food to pay to the department a fee of \$400 for the preparation and handling of each proficiency testing sample set.

This bill would instead require laboratories, commencing January 1, 2002, to pay a fee directly to the designated proficiency testing provider for the ~~cost costs of preparation and handling~~ of each proficiency testing sample set and the proficiency testing study.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 100825 of the Health and Safety
2 Code is amended to read:
3 100825. (a) Laboratories that perform, for regulatory
4 purposes, analyses of drinking water, wastewater, air,
5 hazardous wastes, and contaminated soils or sediments, or
6 any combination of these, shall obtain a certificate
7 pursuant to this article. Laboratories that perform
8 analyses for pesticide residues in food pursuant to Section
9 110490 shall ~~also~~ obtain a certificate pursuant to this
10 article. A laboratory may apply for NELAP accreditation
11 in lieu of certification under this article if it chooses to
12 meet NELAC standards *for those fields of testing under*
13 *Section 100862 that are in common with the two*
14 *programs.* Laboratories meeting the requirements of



1 NELAP accreditation pursuant to this article shall
2 become eligible for recognition by other states and
3 agencies that require or accept NELAP accreditation.

4 (b) In any arrangement between laboratories that
5 involves the transfer of samples or portions of samples,
6 the analyzing laboratory shall be identified in all sample
7 reports and shall be the laboratory for purposes of
8 certification or NELAP accreditation.

9 (c) For the purposes of this article:

10 (1) "Accreditation" means the recognition of a
11 laboratory that is approved by a NELAP approved
12 accrediting authority to conduct environmental analyses
13 in those fields of testing specifically designated in Section
14 100862.

15 (2) "Approved third-party laboratory accreditation
16 organization" or "ATPLAO" means ~~a nongovernmental~~
17 *an* organization which has been approved ~~by the~~
18 ~~department to audit as a contractor under NELAC~~
19 *standards to assess* environmental laboratories.

20 (3) "Certificate" means a document issued to a
21 laboratory that has received certification or accreditation
22 pursuant to this article.

23 (4) "Certification" means the granting of approval by
24 the department to a laboratory that has met the standards
25 and requirements of this chapter and the regulations
26 adopted thereunder. Certification shall not include
27 NELAP accreditation.

28 (5) "Corrective action report" means a written
29 document signed by or on behalf of a person, entity, or
30 laboratory which states the corrective actions proposed
31 by the person, entity, or laboratory to correct the
32 deficiencies or violations stated in a report of deficiencies.

33 (6) "Deficiency" means noncompliance with one or
34 more of the requirements of this article or any rule or
35 regulation adopted thereunder.

36 (7) "ELAP" means the State Department of Health
37 Services' ~~environmental laboratory accreditation~~
38 ~~program~~ *Environmental Laboratory Accreditation*
39 *Program*.



- 1 (8) “Laboratory” means any facility or vehicle that is
2 owned by a person or persons, or by a public or private
3 entity, and that is equipped and operated to carry out
4 analyses in any of the fields of testing listed in Section
5 100860 or Section 100862.
- 6 (9) “NELAC” means the National Environmental
7 Laboratory Accreditation Conference.
- 8 (10) “NELAC standards” refer to the standards found
9 in EPA publication number 600/R-98/151, November
10 1998, and any subsequent amendments.
- 11 (11) “NELAP” means the National Environmental
12 Laboratory Accreditation Program established by
13 NELAC.
- 14 (12) “NELAP accredited laboratory” means a
15 laboratory which has met the standards of NELAP and
16 has been accredited by a primary or secondary NELAP
17 recognized authority.
- 18 (13) “NELAP approved accrediting authority” means
19 a state agency which is authorized by NELAC to accredit
20 laboratories.
- 21 (14) “NELAP recognized primary accrediting
22 authority” means a state agency which is responsible for
23 the accreditation of environmental laboratories within
24 that state.
- 25 (15) “NELAP recognized secondary accrediting
26 authority” means a state agency which is authorized by
27 NELAP to accredit environmental laboratories, within
28 that state, which have been accredited by a NELAP
29 approved accrediting authority in another state.
- 30 (16) “Performance based measurement system” or
31 “PBMS” means methods which are alternate analytical
32 methods of demonstrated adequacy of equivalence, as
33 determined by the department, other state agencies, or
34 the United States government.
- 35 (17) “Pesticide” means any substance that alone, in
36 chemical combination, or in any formulation with one or
37 more substances, is an “economic poison” within the
38 meaning of Section 12753 of the Food and Agricultural
39 Code or a “pesticide” as defined in the Federal



1 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
2 Sec. 136 et seq.).

3 (18) “Regulatory agency” means any federal, state, or
4 local governmental agency that utilizes environmental
5 analyses performed by a laboratory regulated under this
6 section.

7 (19) “Regulatory purposes” means the use of
8 laboratory analysis required by a regulatory
9 governmental agency for determining compliance with
10 this section or Chapter 1 (commencing with Section
11 116275), Chapter 2 (commencing with Section 116300),
12 and Chapter 3 (commencing with Section 116350) of Part
13 11 of Division 104, Chapter 6.5 (commencing with Section
14 25100) of, Chapter 6.7 (commencing with Section 25280)
15 of, and Chapter 6.8 (commencing with Section 25300) of,
16 Division 20, or Division 7 (commencing with Section
17 13000) of the Water Code, or the regulations adopted
18 under any of the provisions set forth in this paragraph.

19 SEC. 2. Section 100830 of the Health and Safety Code
20 is amended to read:

21 100830. The department shall adopt regulations
22 governing the administration and enforcement of this
23 article. Regulations adopted by the department under
24 this article shall specify conditions for recognizing on the
25 basis of reciprocity the certification or NELAP
26 accreditation of laboratories located outside of the State
27 of California for activities regulated under this article by
28 another state or by an agency of the United States
29 government. Certification by another jurisdiction may be
30 recognized for purposes of this article with regard to one
31 or several program activities, including, but not limited
32 to, onsite inspections, the analysis of proficiency testing
33 samples, or the evaluation of personnel qualifications.

34 SEC. 3. Section 100831 of the Health and Safety Code
35 is amended to read:

36 100831. NELAP accreditation by another jurisdiction
37 shall be recognized, for purposes of this article, for the
38 granting of accreditation by reciprocity.

39 SEC. 4. Section 100832 of the Health and Safety Code
40 is amended to read:

1 100832. The department shall adopt or amend the
2 regulations relating to environmental laboratories as
3 necessary to enable California environmental
4 laboratories to participate in the National Environmental
5 Laboratory Accreditation Program.

6 SEC. 5. Section 100837 of the Health and Safety Code
7 is amended to read:

8 ~~100837. (a) The department shall adopt regulations~~
9 ~~governing the application criteria for acceptance and~~
10 ~~approval of ATPLAO's, or may recognize the criteria~~
11 ~~developed by NELAC or other federal agencies for the~~
12 ~~required approval. Applicants may be any private or~~
13 ~~public entity, whether or not for profit, that demonstrates~~
14 ~~to the department's satisfaction compliance with the~~
15 ~~criteria set forth in the regulations adopted pursuant to~~
16 ~~this section at the time of application and thereafter as~~
17 ~~provided by the department. The regulations adopted~~
18 ~~pursuant to this section shall include:~~

19 ~~(1) Minimum requirements for the applicant~~
20 ~~ATPLAO's, and objective criteria for department~~
21 ~~approval that assure accreditation assessments~~
22 ~~comparable to those conducted by the department~~
23 ~~pursuant to this article.~~

24 ~~(2) Criteria for the minimum content of accreditation~~
25 ~~examination and laboratory performance level that are,~~
26 ~~to the extent feasible, comparable to department~~
27 ~~accreditation practices and procedures that apply to~~
28 ~~environmental laboratories pursuant to this article.~~

29 ~~(3) Procedures for the notification of the department~~
30 ~~when an ATPLAO approved laboratory fails to meet~~
31 ~~performance criteria.~~

32 ~~(4) Provisions for the department to periodically~~
33 ~~review performance and procedures of an ATPLAO, and~~
34 ~~enforcement procedures including revocation of~~
35 ~~approval. The department shall recover the costs of~~
36 ~~approving and sustaining the approval of an ATPLAO~~
37 ~~from the person or entity seeking that approval.~~

38 ~~(5) Procedures for inspection and auditing of~~
39 ~~laboratories, including inspection and auditing by the~~
40 ~~department.~~



1 ~~(6) Procedures for interim certification of~~
2 ~~laboratories.~~

3 ~~(7) Fees that result in a lower fee structure than, but~~
4 ~~parallel to, that adopted in subdivision (a) of Section~~
5 ~~100860. These regulations shall include a basic fee plus an~~
6 ~~additional fee for each field of testing that the laboratory~~
7 ~~performs and the fees shall be sufficient to support the~~
8 ~~program.~~

9 ~~(b) The department may consult with ATPLAO's,~~
10 ~~laboratories, and other interested parties and consider~~
11 ~~any national or international guidance for accreditation~~
12 ~~programs in adopting regulations as set forth in this~~
13 ~~section.~~

14 ~~(c) An ATPLAO shall not be prohibited from~~
15 ~~establishing and implementing, on its own initiative or at~~
16 ~~the request of a laboratory, standards that exceed the~~
17 ~~minimum standards established by the department.~~

18 ~~(d) The regulations adopted pursuant to this section~~
19 ~~shall be proposed on or before June 30, 2000. Recognition~~
20 ~~of ATPLAO's shall commence on or before December 31,~~
21 ~~2000.~~

22 ~~(e) Every ATPLAO that approves laboratories for~~
23 ~~NELAP accreditation shall comply with all NELAC~~
24 ~~standards.~~

25 *100837. The department may contract with approved*
26 *third-party laboratory accreditation organizations in*
27 *accordance with the criteria developed by the National*
28 *Environmental Laboratory Accreditation Conference or*
29 *other federal agencies.*

30 SEC. 6. Section 100852 of the Health and Safety Code
31 is amended to read:

32 100852. (a) Notwithstanding any other provision of
33 law, the department may issue a certificate to the owner
34 of a laboratory in a field of testing or method adopted by
35 the federal Environmental Protection Agency pursuant
36 to Part 136 of Title 40 of the Code of Federal Regulations,
37 as amended September 11, 1992, as published in the
38 Federal Register (57 FR 41830), or Part 141 of Title 40 of
39 the Code of Federal Regulations, as amended July 17,
40 1992, as published in the Federal Register (57 FR 31776),



1 and as subsequently amended and published in the
2 Federal Register.

3 (b) As a NELAP approved accrediting authority,
4 the department shall accept performance based
5 measurement system methods, when mandated methods
6 are indicated. A fee, as specified in regulations adopted by
7 the department, may be charged for the review of each
8 performance based measurement system method.

9 (c) Notwithstanding any other provision of law, the
10 department shall not be required to meet the
11 requirements of Chapter 3.5 (commencing with Section
12 11340) of the Government Code in order to issue a
13 certificate pursuant to subdivision (a).

14 ~~SEC. 7. Section 100860 of the Health and Safety Code~~
15 ~~is amended to read:~~

16 ~~100860. (a) At the time of application and annually~~
17 ~~thereafter, from the date of the issuance of the certificate,~~
18 ~~a laboratory shall pay an ELAP certification fee. This fee~~
19 ~~shall consist of a base or administrative fee and fees based~~
20 ~~on the subfields of each of the ELAP fields of testing listed~~
21 ~~below. These fees shall be nonrefundable and adopted in~~
22 ~~regulations, and shall be sufficient to allow the ELAP~~
23 ~~program to be fully fee supported. The fields of testing for~~
24 ~~ELAP certification and their code numbers are the~~
25 ~~following:~~

- 26 ~~(101) Microbiology of drinking water.~~
- 27 ~~(102) Inorganic chemistry of drinking water.~~
- 28 ~~(103) Toxic chemical elements of drinking water.~~
- 29 ~~(104) Volatile organic chemistry of drinking water.~~
- 30 ~~(105) Nonvolatile organic chemistry of drinking~~
- 31 ~~water.~~
- 32 ~~(106) Radiochemistry of drinking water.~~
- 33 ~~(107) Microbiology of wastewater.~~
- 34 ~~(108) Inorganic chemistry of wastewater.~~
- 35 ~~(109) Toxic chemical elements of wastewater.~~
- 36 ~~(110) Volatile organic chemistry of wastewater.~~
- 37 ~~(111) Nonvolatile organic chemistry of wastewater.~~
- 38 ~~(112) Radiochemistry of wastewater.~~
- 39 ~~(113) Whole effluent toxicity of wastewater.~~



- 1 ~~(114) Inorganic chemistry and toxic chemical~~
- 2 ~~elements of hazardous waste.~~
- 3 ~~(115) Extraction test of hazardous waste.~~
- 4 ~~(116) Volatile organic chemistry of hazardous waste.~~
- 5 ~~(117) Nonvolatile organic chemistry of hazardous~~
- 6 ~~waste.~~
- 7 ~~(118) Radiochemistry of hazardous waste.~~
- 8 ~~(119) Toxicity bioassay of hazardous waste.~~
- 9 ~~(120) Physical properties of hazardous waste.~~
- 10 ~~(121) Bulk asbestos analysis of hazardous waste.~~
- 11 ~~(122) Microbiology of food.~~
- 12 ~~(123) Inorganic chemistry and toxic chemical~~
- 13 ~~elements of pesticide residues in food.~~
- 14 ~~(124) Organic chemistry of pesticide residues in food~~
- 15 ~~(measurements by MS techniques).~~
- 16 ~~(125) Organic chemistry of pesticide residues in food~~
- 17 ~~(excluding measurements by MS techniques).~~
- 18 ~~(126) Microbiology of recreational water.~~
- 19 ~~(127) Air quality monitoring.~~
- 20 ~~(128) Operation of a mobile laboratory in any field of~~
- 21 ~~testing listed in (101) to (127), inclusive, in addition to~~
- 22 ~~activity in the same field of testing in a certified~~
- 23 ~~stationary laboratory under the same owner.~~
- 24 ~~(b) In addition to the payment of ELAP certification~~
- 25 ~~fees, laboratories located outside the State of California~~
- 26 ~~shall reimburse the department for travel and per diem~~
- 27 ~~necessary to perform onsite inspections.~~
- 28 ~~(c) If reciprocity with another jurisdiction is~~
- 29 ~~established by regulation as described in Section 100830,~~
- 30 ~~the regulations may provide for the waiver of~~
- 31 ~~certification fees for program activities considered~~
- 32 ~~equivalent.~~
- 33 ~~(d) Fees collected under this section shall be adjusted~~
- 34 ~~annually as specified in Section 100425. The adjustment~~
- 35 ~~shall be rounded to the nearest whole dollar. It is the~~
- 36 ~~intent of the Legislature that the programs operated~~
- 37 ~~under this article be fully fee-supported.~~
- 38 ~~(e) State and local government owned laboratories in~~
- 39 ~~California established under Section 101150 or~~
- 40 ~~performing work only in a reference capacity as a~~



1 reference laboratory are exempt from the payment of the
2 fee prescribed under subdivision (a).

3 (f) In addition to the payment of certification fees,
4 laboratories certified or applying for certification in fields
5 of testing for pesticide residues in food shall pay a fee
6 directly to the designated proficiency testing provider for
7 the cost of preparation and handling of each proficiency
8 testing sample set.

9 (g) For the purpose of this section, a reference
10 laboratory is a laboratory owned and operated by a
11 governmental regulatory agency for the principal
12 purpose of analyzing samples referred by other
13 laboratories for confirmatory analysis. Reference
14 laboratories carry out quality assurance functions for
15 other laboratories and may carry out unusual, highly
16 specialized, and difficult analyses not generally available
17 through commercial laboratories, and a limited number
18 of routine analyses, for regulatory purposes only, and
19 without assessing per-sample fees for the services.

20 (h) Notwithstanding subdivision (a), a laboratory that
21 is applying for or has received certification pursuant to
22 third party laboratory accreditation as set forth in
23 paragraph (2) of subdivision (a) of Section 100850 shall
24 pay an initial fee at the time of application and an annual
25 fee thereafter. The initial and annual fee shall be
26 established by the department in the regulations
27 authorized by paragraph (9) of subdivision (a) of Section
28 100837. The fees collected under these regulations shall
29 be adjusted annually as specified in Section 100425. The
30 adjustment shall be rounded to the nearest whole dollar.
31 It is the intent of the Legislature that the programs
32 operated under this article be fully fee-supported.

33 ~~SEC. 8.—~~

34 *SEC. 7. Section 100860 of the Health and Safety Code*
35 *is amended to read:*

36 100860. (a) At the time of application and annually
37 thereafter, from the date of the issuance of the certificate,
38 a laboratory shall pay an annual certification fee. The fee
39 shall consist of a basic nonrefundable fee of eight hundred
40 seventy-nine dollars (\$879) and an additional fee of three



1 hundred ninety-six dollars (\$396) for certification in each
2 of the following fields of testing for which accreditation
3 is sought: (1) microbiology of drinking water and
4 wastewater; (2) inorganic chemistry and physical
5 properties of drinking water excluding toxic chemical
6 elements; (3) analysis of toxic chemical elements in
7 drinking water; (4) organic chemistry of drinking water
8 (measurement by gc/ms combination); (5) organic
9 chemistry of drinking water (excluding measurements
10 by gc/ms combination); (6) radiochemistry; (7) shellfish
11 sanitation; (8) aquatic toxicity bioassays; (9) physical
12 properties testing of hazardous waste; (10) inorganic
13 chemistry and toxic chemical elements of hazardous
14 waste; (11) extraction tests of hazardous waste; (12)
15 organic chemistry of hazardous waste (measurement by
16 gc/ms combination); (13) organic chemistry of
17 hazardous waste (excluding measurements by gc/ms
18 combination); (14) bulk asbestos analysis; (15) substances
19 regulated under the California Safe Drinking Water and
20 Toxic Enforcement Act and not included in other listed
21 groups; (16) wastewater inorganic chemistry, nutrients,
22 and demand; (17) toxic chemical elements in wastewater;
23 (18) organic chemistry of wastewater (measurements by
24 gc/ms combination); (19) organic chemistry of
25 wastewater (excluding measurements by gc/ms
26 combination); (20) inorganic chemistry and toxic
27 chemical elements of pesticide residues in food; (21)
28 organic chemistry of pesticide residues in food
29 (measurement by gc/ms combination); (22) organic
30 chemistry of pesticide residues in food (excluding
31 measurement by gc/ms combination); and (23)
32 operation of a mobile laboratory in any one of the above
33 fields of testing in addition to activity in the same field of
34 testing in a certified stationary laboratory under the same
35 owner.

36 Fees for certification in a specified field of testing may
37 be refunded if the department nullifies the application
38 due to failure by the laboratory to complete the
39 application process in the time and manner prescribed by
40 regulation.



1 (b) In addition to the payment of certification fees,
2 laboratories located outside the State of California shall
3 reimburse the department for travel and per diem
4 necessary to perform onsite inspections.

5 (c) If reciprocity with another jurisdiction is
6 established by regulation as described in Section 100830,
7 the regulations may provide for the waiver of
8 certification fees for program activities considered
9 equivalent.

10 (d) Fees collected under this section shall be adjusted
11 annually as specified in Section 100425. The adjustment
12 shall be rounded to the nearest whole dollar. It is the
13 intent of the Legislature that the programs operated
14 under this article be fully fee-supported.

15 (e) State and local government-owned laboratories in
16 California established under Section 101150 or
17 performing work only in a reference capacity as a
18 reference laboratory are exempt from the payment of the
19 fee prescribed under subdivision (a).

20 (f) In addition to the payment of certification fees,
21 laboratories certified or applying for certification in fields
22 of testing (20), (21), or (22) under subdivision (a) shall
23 pay the department a fee of four hundred dollars (\$400)
24 for the preparation and handling of each proficiency
25 testing sample set.

26 (g) For the purpose of this section, a reference
27 laboratory is a laboratory owned and operated by a
28 governmental regulatory agency for the principal
29 purpose of analyzing samples referred by other
30 laboratories for confirmatory analysis. Reference
31 laboratories carry out quality assurance functions for
32 other laboratories and may carry out unusual, highly
33 specialized, and difficult analyses not generally available
34 through commercial laboratories, and a limited number
35 of routine analyses, for regulatory purposes only, and
36 without assessing per-sample fees for the services.

37 ~~(h) Notwithstanding subdivision (a), a laboratory that~~
38 ~~is applying for or has received certification pursuant to~~
39 ~~third-party laboratory accreditation as set forth in~~
40 ~~paragraph (2) of subdivision (a) of Section 100850 shall~~



1 ~~pay an initial fee at the time of application and an annual~~
2 ~~fee thereafter. The initial and annual fee shall be~~
3 ~~established by the department in the regulations~~
4 ~~authorized by paragraph (9) of subdivision (a) of Section~~
5 ~~100837. The fees collected under these regulations shall~~
6 ~~be adjusted annually as specified in Section 100425. The~~
7 ~~adjustment shall be rounded to the nearest whole dollar.~~
8 ~~It is the intent of the Legislature that the programs~~
9 ~~operated under this article be fully fee supported. This~~
10 ~~section shall remain in effect only until January 1, 2002,~~
11 ~~and as of that date is repealed, unless a later enacted~~
12 ~~statute, that is enacted before January 1, 2002, deletes or~~
13 ~~extends that date.~~

14 *SEC. 8. Section 100860.1 is added to the Health and*
15 *Safety Code, to read:*

16 *100860.1. (a) At the time of application and annually*
17 *thereafter, from the date of the issuance of the certificate,*
18 *a laboratory shall pay an ELAP certification fee. This fee*
19 *shall consist of a base or administrative fee and a fee for*
20 *each of the ELAP fields of testing listed below for which*
21 *the laboratory has requested ELAP certification. These*
22 *fees shall be nonrefundable and adopted in regulations,*
23 *and shall be sufficient to allow the ELAP program to be*
24 *fully fee-supported. The fields of testing for ELAP*
25 *certification and their code numbers are the following:*

- 26 *(E101) Microbiology of drinking water.*
- 27 *(E102) Inorganic chemistry of drinking water.*
- 28 *(E103) Toxic chemical elements of drinking water.*
- 29 *(E104) Volatile organic chemistry of drinking water.*
- 30 *(E105) Semi-volatile organic chemistry of drinking*
31 *water.*
- 32 *(E106) Radiochemistry of drinking water.*
- 33 *(E107) Microbiology of wastewater.*
- 34 *(E108) Inorganic chemistry of wastewater.*
- 35 *(E109) Toxic chemical elements of wastewater.*
- 36 *(E110) Volatile organic chemistry of wastewater.*
- 37 *(E111) Semi-volatile organic chemistry of wastewater.*
- 38 *(E112) Radiochemistry of wastewater.*
- 39 *(E113) Whole effluent toxicity of wastewater.*



- 1 (E114) Inorganic chemistry and toxic chemical
2 elements of hazardous waste.
- 3 (E115) Extraction test of hazardous waste.
- 4 (E116) Volatile organic chemistry of hazardous waste.
- 5 (E117) Semi-volatile organic chemistry of hazardous
6 waste.
- 7 (E118) Radiochemistry of hazardous waste.
- 8 (E119) Toxicity bioassay of hazardous waste.
- 9 (E120) Physical properties of hazardous waste.
- 10 (E121) Bulk asbestos analysis of hazardous waste.
- 11 (E122) Microbiology of food.
- 12 (E123) Inorganic chemistry and toxic chemical
13 elements of pesticide residues in food.
- 14 (E124) Organic chemistry of pesticide residues in food
15 (measurements by MS techniques).
- 16 (E125) Organic chemistry of pesticide residues in food
17 (excluding measurements by MS techniques).
- 18 (E126) Microbiology of recreational water.
- 19 (E127) Air quality monitoring.
- 20 (E128) Shellfish sanitation.
- 21 (b) In addition to the payment of ELAP certification
22 fees, laboratories located outside the State of California
23 shall reimburse the department for travel and per diem
24 necessary to perform onsite inspections.
- 25 (c) If reciprocity with another jurisdiction is
26 established by regulation as described in Section 100830,
27 the regulations may provide for the waiver of
28 certification fees for program activities considered
29 equivalent.
- 30 (d) Fees collected under this section shall be adjusted
31 annually as specified in Section 100425. The adjustment
32 shall be rounded to the nearest whole dollar. It is the
33 intent of the Legislature that the programs operated
34 under this article be fully fee-supported.
- 35 (e) State and local government-owned laboratories in
36 California established under Section 101150 or
37 performing work only in a reference capacity as a
38 reference laboratory are exempt from the payment of the
39 fee prescribed under subdivision (a).



1 (f) In addition to the payment of certification fees,
2 laboratories certified or applying for certification in fields
3 of testing for pesticide residues in food shall pay a fee
4 directly to the designated proficiency testing provider for
5 the cost of each proficiency testing sample set.

6 (g) In addition to the payment of certification fees,
7 laboratories certified or applying for certification shall
8 pay directly to the designated proficiency testing
9 provider the cost of the proficiency testing study.

10 (h) For the purpose of this section, a reference
11 laboratory is a laboratory owned and operated by a
12 governmental regulatory agency for the principal
13 purpose of analyzing samples referred by other
14 laboratories for confirmatory analysis. Reference
15 laboratories carry out quality assurance functions for
16 other laboratories and may carry out unusual, highly
17 specialized, and difficult analyses not generally available
18 through commercial laboratories, and a limited number
19 of routine analyses, for regulatory purposes only, and
20 without assessing per-sample fees for the services.

21 (i) This section shall become operative January 1, 2002.

22 SEC. 9. Section 100862 of the Health and Safety Code
23 is amended to read:

24 100862. (a) At the time of application for NELAP
25 accreditation and annually thereafter, from the date of
26 the issuance of the accreditation, a laboratory shall pay a
27 base fee and a fee ~~based on the subfields of the field for~~
28 ~~each of the NELAP fields~~ of testing listed below for which
29 a laboratory has requested NELAP accreditation. The
30 fees shall be nonrefundable and set in regulations, and
31 shall be sufficient to allow the NELAP program to be fully
32 fee supported. The fields of testing for NELAP
33 accreditation and their code numbers are all of the
34 following:

- 35 ~~(101) Microbiology of drinking water.~~
- 36 ~~(102) Inorganic chemistry of drinking water.~~
- 37 ~~(103) Toxic chemical elements of drinking water.~~
- 38 ~~(104) Volatile organic chemistry of drinking water.~~
- 39 ~~(105) Nonvolatile organic chemistry of drinking~~
40 ~~water.~~



- 1 ~~(106) Radiochemistry of drinking water.~~
- 2 ~~(107) Microbiology of wastewater.~~
- 3 ~~(108) Inorganic chemistry of wastewater.~~
- 4 ~~(109) Toxic chemical elements of wastewater.~~
- 5 ~~(110) Volatile organic chemistry of wastewater.~~
- 6 ~~(111) Nonvolatile organic chemistry of wastewater.~~
- 7 ~~(112) Radiochemistry of wastewater.~~
- 8 ~~(113) Whole effluent toxicity of wastewater.~~
- 9 ~~(114) Inorganic chemistry and toxic chemical~~
- 10 ~~elements of hazardous waste.~~
- 11 ~~(115) Extraction test of hazardous waste.~~
- 12 ~~(116) Volatile organic chemistry of hazardous waste.~~
- 13 ~~(117) Nonvolatile organic chemistry of hazardous~~
- 14 ~~waste.~~
- 15 ~~(118) Radiochemistry of hazardous waste.~~
- 16 ~~(119) Toxicity bioassay of hazardous waste.~~
- 17 ~~(120) Physical properties of hazardous waste.~~
- 18 ~~(121) Bulk asbestos analysis of hazardous waste.~~
- 19 *(N101) Microbiology of drinking water.*
- 20 *(N102) Inorganic chemistry of drinking water.*
- 21 *(N103) Toxic chemical elements of drinking water.*
- 22 *(N104) Volatile organic chemistry of drinking water.*
- 23 *(N105) Semi-volatile organic chemistry of drinking*
- 24 *water.*
- 25 *(N106) Radiochemistry of drinking water.*
- 26 *(N107) Microbiology of wastewater.*
- 27 *(N108) Inorganic chemistry of wastewater.*
- 28 *(N109) Toxic chemical elements of wastewater.*
- 29 *(N110) Volatile organic chemistry of wastewater.*
- 30 *(N111) Semi-volatile organic chemistry of wastewater.*
- 31 *(N112) Radiochemistry of wastewater.*
- 32 *(N113) Whole effluent toxicity of wastewater.*
- 33 *(N114) Inorganic chemistry and toxic chemical*
- 34 *elements of hazardous waste.*
- 35 *(N115) Extraction test of hazardous waste.*
- 36 *(N116) Volatile organic chemistry of hazardous waste.*
- 37 *(N117) Semi-volatile organic chemistry of hazardous*
- 38 *waste.*
- 39 *(N118) Radiochemistry of hazardous waste.*
- 40 *(N119) Toxicity bioassay of hazardous waste.*



1 (N120) *Physical properties of hazardous waste.*

2 (N121) *Bulk asbestos analysis of hazardous waste.*

3 (b) Fees for NELAP accreditation shall be adjusted
4 annually as specified in Section 100425.

5 (c) In addition to the payment of accreditation fees,
6 laboratories accredited or applying for accreditation shall
7 pay directly to the designated proficiency testing
8 provider the cost of ~~participating in~~ the proficiency
9 testing studies.

10 ~~SEC. 9.—~~

11 *SEC. 10.* Section 100870 of the Health and Safety Code
12 is amended to read:

13 100870. (a) Any laboratory that is certified or holds
14 NELAP accreditation or has applied for certification or
15 NELAP accreditation or for renewal of certification or
16 NELAP accreditation under this article, shall analyze
17 proficiency testing samples. The department shall have
18 the authority to contract with third parties for the
19 provision of proficiency testing samples. The samples
20 shall be tested by the laboratory according to methods
21 specifically approved for this purpose by the United
22 States government or the department, or alternate
23 methods of demonstrated adequacy or equivalence, as
24 determined by the department. Proficiency testing
25 sample sets shall be provided, *when available*, not less
26 than twice, nor more than four times, a year to each
27 certified ~~or accredited~~ ~~laboratory~~ *laboratory that*
28 *performs analyses of food for pesticide residues.*

29 (b) The department may provide directly or
30 indirectly proficiency testing samples to a laboratory for
31 the purpose of determining compliance with this article
32 with or without identifying the department.

33 (1) When the department identifies itself, all of the
34 following shall apply:

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

39 (B) There shall be no charge to the department for the
40 analysis.



1 (2) When the department does not identify itself, the
2 department shall pay the price requested by the
3 laboratory for the analyses.

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

8 (d) Laboratories shall obtain their proficiency testing
9 samples from ~~a list of NELAP, federal, or state approved~~
10 proficiency testing sample providers *that are acceptable*
11 *to, or are approved by, the federal government or the*
12 *State Department of Health Services*. Laboratories shall
13 bear the cost of any proficiency testing study fee charged
14 for participation. Each laboratory shall authorize the
15 proficiency testing providers to report the study results
16 directly to the accrediting authority and NELAP, as well
17 as to the laboratory.

18 ~~SEC. 10.—~~

19 *SEC. 11.* Section 100872 of the Health and Safety Code
20 is amended to read:

21 100872. (a) An ~~ELAP certified or a NELAP~~
22 ~~accredited laboratory shall analyze proficiency testing~~
23 ~~samples not less than twice a year for those fields of testing~~
24 ~~approved in Section 100860 or 100862~~ *laboratory shall*
25 *successfully analyze proficiency testing samples for those*
26 *fields of testing for which they are certified, not less than*
27 *once a year; where applicable*. Proficiency testing
28 procedures shall be approved by the United States
29 government or by the department.

30 ~~(b) The laboratory must be successful in at least two~~
31 ~~out of the most recent three proficiency testing studies~~
32 ~~for each field of testing, subgroup, or analyte for which it~~
33 ~~is accredited.~~

34 (b) A *NELAP accredited laboratory shall participate*
35 *in, and meet the success rate for, proficiency testing*
36 *studies as required in the NELAP standards.*

37 (c) The ELAP certified or NELAP accredited
38 laboratory shall discontinue the analyses of samples for
39 the fields of testing or subgroups which have been



1 suspended for failure to comply with the proficiency
2 testing requirements in this section.

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