

WAIS Document RetrievalCALIFORNIA CODES
HEALTH AND SAFETY CODE
SECTION 100825-100920

100825. (a) Laboratories that perform, for regulatory purposes, analyses of drinking water, wastewater, air, hazardous wastes, and contaminated soils or sediments, or any combination of these, shall obtain a certificate pursuant to this article. Laboratories that perform analyses for pesticide residues in food pursuant to Section 110490 shall also obtain a certificate pursuant to this article. A laboratory may apply for NELAP accreditation in lieu of certification under this article if it chooses to meet NELAC standards for those fields of testing under Section 100862 that are in common with the two programs. Laboratories meeting the requirements of NELAP accreditation pursuant to this article shall become eligible for recognition by other states and agencies that require or accept NELAP accreditation.

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

(c) The following definitions apply for the purposes of this article:

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

(2) "Approved third-party laboratory assessor body" means an organization that has been approved as a contractor under NELAC standards to assess environmental laboratories.

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

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

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

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

thereunder.

(7) "ELAP" means the State Department of Health Services' Environmental Laboratory Accreditation Program.

(8) "Laboratory" means any facility or vehicle that is owned by a person, or by a public or private entity, and that is equipped and operated to carry out analyses in any of the fields of testing listed in Section 100860.1 or Section 100862.

(9) "NELAC" means the National Environmental Laboratory Accreditation Conference, which is a voluntary organization of state and federal officials.

(10) "NELAC standards" refer to the standards found in EPA publication number 600/R-98/151, November 1998, and any subsequent amendments.

(11) "NELAP" means the National Environmental Laboratory Accreditation Program established by NELAC.

(12) "NELAP accredited laboratory" means a laboratory that has met the standards of NELAC and has been accredited by a primary or secondary NELAP recognized authority.

(13) "NELAP approved accrediting authority" means a state agency that is authorized by NELAC to accredit laboratories.

(14) "NELAP recognized primary accrediting authority" means a state or federal agency that is responsible for the accreditation of environmental laboratories within that state.

(15) "NELAP recognized secondary accrediting authority" means a state or federal agency that grants NELAP accreditation to laboratories based on their accreditation by a NELAP recognized primary accrediting authority.

(16) "Performance based measurement system" means a set of processes wherein the data quality needs, mandates, or limitations of a program or project are specified and serve as criteria for selecting appropriate test methods to meet those needs.

(17) "Pesticide" means any substance that alone, in chemical combination, or in any formulation with one or more substances, is an "economic poison" within the meaning of Section 12753 of the Food and Agricultural Code or a "pesticide" as defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(18) "Regulatory agency" means any federal, state, or local governmental agency that utilizes environmental analyses performed by a laboratory regulated under this section.

(19) "Regulatory purposes" means the use of laboratory analysis required by a regulatory governmental agency for determining compliance with this section or Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, and Chapter 6.8 (commencing with Section 25300) of, Division 20, Article 1 (commencing with Section 116270) of, Article 2 (commencing with

Section 116325) of, and Article 3 (commencing with Section 116350) of, Chapter 4 of Part 12 of Division 104, or Division 7 (commencing with Section 13000) of the Water Code, or the regulations adopted under any of the provisions set forth in this paragraph.

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

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

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

100835. (a) The department may adopt regulations for the following:

- (1) Quality assurance programs in effect at the laboratory.
- (2) Laboratory facilities.
- (3) Methods.
- (4) Equipment.
- (5) Proficiency testing.
- (6) Fields of testing.
- (7) Qualifications of laboratory directors and other laboratory personnel.
- (8) Fees, inspections, hearings and other matters necessary to the

administration and enforcement of this article.

(9) NELAP accreditation.

(10) Any other area concerning the operation or maintenance of a laboratory not inconsistent with this article as may be necessary to carry out this article.

(b) If any regulations governing the minimum standards for certification or NELAP accreditation, or both, of laboratories that perform analysis of food relate to the testing of raw agricultural commodities or dairy products, those regulations shall be adopted, in cooperation with the Department of Food and Agriculture.

100837. The department may contract with approved third-party laboratory assessor bodies in accordance with the criteria developed by the NELAC or other federal agencies.

100840. Any laboratory requesting ELAP certification or NELAP accreditation under this article shall file with the department an application on forms prescribed by the department 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, selected from the activities listed in Section 100860.1 or 100862.

(d) Evidence satisfactory to the department 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 department for administration or enforcement of this article or regulations adopted under this article.

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.

100847. (a) The period of accreditation for NELAP accredited laboratories shall be 12 months. An application for renewal shall be filed with the department 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 NELAP accredited laboratory.

(c) The accrediting authority shall be notified in writing within 30 calendar days of the change in location of a NELAP 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) NELAP accredited laboratories shall conspicuously display their most recent NELAP accreditation certificate or their accreditation fields of testing, or both, in a permanent place in their laboratory.

(f) NELAP accredited laboratories shall not use their NELAP

accreditation document or their accreditation status to imply any endorsement by the accrediting authority.

100850. (a) Upon the filing of an application for ELAP certification or NELAP accreditation and after a finding by the department that there is full compliance with this article and regulations adopted under this article, the department shall issue to the owner certification or accreditation in the fields of testing identified in Section 100860.1 or 100862.

(b) The department 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) Provided that there is compliance with all other provisions of this article, the department may restrict a certificate to the fields of testing of Section 100860 or 100862 or subgroups thereof as defined by regulation for which acceptable proficiency testing results have been produced and the onsite assessment was passed.

(d) Upon the filing of a complete application for certification or accreditation pursuant to subdivision (a) and Section 100870, the department 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.

100851. (a) An application for NELAP accreditation or renewal of NELAP accreditation shall be denied by the accrediting authority 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 NELAC 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 NELAP accreditation.

(b) The NELAP approved accrediting authority may suspend the accreditation of a NELAP 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 authority. A suspended NELAP accredited laboratory shall not be required to reapply for accreditation if the causes for suspension are corrected within six months.

(c) The NELAP approved accrediting authority shall suspend a NELAP 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 Chapter 2 of the NELAC standards.

(4) 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 laboratory assessments within the required time period, as required by the NELAC standards.

(5) Failure to notify the accrediting authority of any changes in key accreditation criteria, as required by Chapter 4 of the NELAC standards.

(6) Failure to perform all accredited tests in accordance with NELAC standards.

(7) Failure to meet all of the requirements of Chapter 5 of the NELAC standards.

(d) A suspended laboratory shall not be required to reapply for any NELAP accreditation if the causes for suspension are corrected within six months. A suspended laboratory may 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 may not be suspended without the right to due process, as set forth in Chapter 4 of the NELAC standards.

100852. (a) Notwithstanding any other provision of law, the department 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 NELAP approved accrediting authority, the department shall accept performance based measurement system methods, when mandated methods are indicated. A fee, as specified in regulations adopted by the department, may be charged for the review of each performance based measurement system method.

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

100855. Upon the denial of any application for ELAP certification or NELAP accreditation, or the revocation or suspension of ELAP certification or NELAP accreditation, the department shall immediately notify the applicant or organization by certified mail, return receipt requested, of the action and the reasons for the action. Within 20 calendar days of receipt, the applicant or organization may present the department with a written petition for a hearing. Upon receipt in proper form by the department, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Section 100171 and the department has all the powers granted in that section.

100860.1. (a) At the time of application and annually thereafter, from the date of the issuance of the certificate, a laboratory shall pay an ELAP certification fee. This fee shall consist of a base or

administrative fee and a fee for each of the ELAP fields of testing listed below for which the laboratory has requested ELAP certification. These fees shall be nonrefundable and adopted in regulations, and shall be sufficient to allow the ELAP program to be fully fee-supported. The fields of testing for ELAP certification and their code numbers are the following:

- (E101) Microbiology of drinking water.
 - (E102) Inorganic chemistry of drinking water.
 - (E103) Toxic chemical elements of drinking water.
 - (E104) Volatile organic chemistry of drinking water.
 - (E105) Semi-volatile organic chemistry of drinking water.
 - (E106) Radiochemistry of drinking water.
 - (E107) Microbiology of wastewater.
 - (E108) Inorganic chemistry of wastewater.
 - (E109) Toxic chemical elements of wastewater.
 - (E110) Volatile organic chemistry of wastewater.
 - (E111) Semi-volatile organic chemistry of wastewater.
 - (E112) Radiochemistry of wastewater.
 - (E113) Whole effluent toxicity of wastewater.
 - (E114) Inorganic chemistry and toxic chemical elements of hazardous waste.
 - (E115) Extraction test of hazardous waste.
 - (E116) Volatile organic chemistry of hazardous waste.
 - (E117) Semi-volatile organic chemistry of hazardous waste.
 - (E118) Radiochemistry of hazardous waste.
 - (E119) Toxicity bioassay of hazardous waste.
 - (E120) Physical properties of hazardous waste.
 - (E121) Bulk asbestos analysis of hazardous waste.
 - (E122) Microbiology of food.
 - (E123) Inorganic chemistry and toxic chemical elements of pesticide residues in food.
 - (E124) Organic chemistry of pesticide residues in food (measurements by MS techniques).
 - (E125) Organic chemistry of pesticide residues in food (excluding measurements by MS techniques).
 - (E126) Microbiology of recreational water.
 - (E127) Air quality monitoring.
 - (E128) Shellfish sanitation.
- (b) In addition to the payment of ELAP certification fees, laboratories located outside the State of California shall reimburse the department for travel and per diem necessary to perform onsite inspections.
- (c) If reciprocity with another jurisdiction is established by regulation as described in Section 100830, the regulations may provide for the waiver of certification fees for program activities considered equivalent.

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

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

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

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

(h) 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 other laboratories for confirmatory analysis. Reference laboratories carry out quality assurance functions for other laboratories and may carry out unusual, highly specialized, and difficult analyses not generally available through commercial laboratories, and a limited number of routine analyses, for regulatory purposes only, and without assessing per-sample fees for the services.

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

100862. (a) At the time of application for NELAP accreditation and annually thereafter, from the date of the issuance of the accreditation, a laboratory shall pay a base fee and a fee for each of the NELAP fields of testing listed below for which a laboratory has requested NELAP accreditation. The fees shall be nonrefundable and set in regulations, and shall be sufficient to allow the NELAP program to be fully fee supported. The fields of testing for NELAP accreditation and their code numbers are all of the following:

(N101) Microbiology of drinking water.

(N102) Inorganic chemistry of drinking water.

(N103) Toxic chemical elements of drinking water.

(N104) Volatile organic chemistry of drinking water.

(N105) Semi-volatile organic chemistry of drinking water.

(N106) Radiochemistry of drinking water.

(N107) Microbiology of wastewater.

(N108) Inorganic chemistry of wastewater.

- (N109) Toxic chemical elements of wastewater.
- (N110) Volatile organic chemistry of wastewater.
- (N111) Semi-volatile organic chemistry of wastewater.
- (N112) Radiochemistry of wastewater.
- (N113) Whole effluent toxicity of wastewater.
- (N114) Inorganic chemistry and toxic chemical elements of hazardous waste.
- (N115) Extraction test of hazardous waste.
- (N116) Volatile organic chemistry of hazardous waste.
- (N117) Semi-volatile organic chemistry of hazardous waste.
- (N118) Radiochemistry of hazardous waste.
- (N119) Toxicity bioassay of hazardous waste.
- (N120) Physical properties of hazardous waste.
- (N121) Bulk asbestos analysis of hazardous waste.

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

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

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.

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

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

(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 department from undertaking the activities authorized by this section.

(c) If a laboratory that is seeking ELAP certification, NELAP accreditation, ELAP recertification, or NELAP 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 NELAP approved accrediting authority, the department, or any employee, agent, or contractor of the department, 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 NELAP accreditation.

100870. (a) Any laboratory that is ELAP certified or holds NELAP accreditation or has applied for ELAP certification or NELAP accreditation or for renewal of ELAP certification or NELAP accreditation under this article shall analyze proficiency testing samples, if these testing samples are available. The department 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 department, or alternate methods of demonstrated adequacy or equivalence, as determined by the department. 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 department 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 department.

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

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

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

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

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

(d) Laboratories shall obtain their proficiency testing samples from proficiency testing sample providers that meet NELAC 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 department, as well as to the laboratory.

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 department.

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

(c) The ELAP certified or NELAP 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.

100875. Whenever the department determines that any person has violated or is violating this article or any certificate, regulation, or standard issued or adopted pursuant to this article, the director may issue an order directing compliance forthwith or directing compliance in accordance with a time schedule set by the department.

100880. If the department determines that a laboratory is in violation of this article or any regulation or order issued or adopted pursuant to this article, the department may, in addition to suspension, denial, or revocation of the certificate or NELAP accreditation, issue a citation to the owner of the laboratory. It shall be the function of the approved accrediting authority to issue citations. The Legislature finds and declares that since NELAC 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 department 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 department-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.

100885. (a) Any person who operates a laboratory that performs work that requires certification or NELAC accreditation under Section 25198, 25298.5, 25358.4, 110490, or 116390 of this code, or Section 13176 of the Water Code, who is not certified or NELAC accredited to do so, may be enjoined from so doing by any court of competent jurisdiction upon suit by the department.

(b) When the department 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 department 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.

100886. Any person who operates a laboratory for the purposes specified in Section 25198, 25298.5, 25358.4, 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.

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, 25358.4, 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 of the fields of testing referred to in Section 100860 or 100862 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.

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, or

by imprisonment in the county jail not to exceed one year, or by both the 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 department in writing and is required to carry out the department's responsibilities pursuant to this article.

(b) If the conviction under subdivision (a) is for a violation committed after a first conviction of the person under this section, the person may be punished by imprisonment in the state prison for up to 24 months, or in the county jail for not to exceed one year, or 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 the fine and imprisonment.

(c) An ELAP certified or NELAP accredited laboratory, upon suspension, revocation, or withdrawal of its ELAP certification or NELAP 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 NELAP accreditation to the department.

(3) Cease all testing of samples for regulatory purposes.

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

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.

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.

100907. (a) The department shall revoke, in whole or in part, the accreditation of a NELAP 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 Chapter 2 of the NELAC standards.

(b) The department shall revoke, in whole, the accreditation of a NELAP 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 Chapter 2 of the NELAC 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 Chapter 3 of the NELAC standards.

(6) Conviction of charges for the falsification of any report of, or that relates to, a laboratory analysis.

(c) The department 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 NELAP accredited laboratory may reapply for accreditation no sooner than six months from the official date of revocation.

(e) A laboratory's NELAP accreditation shall not be revoked without the right to due process, as required by Chapter 4 of the NELAC standards.

100910. Proceedings for the suspension or revocation of a certificate under this article shall be conducted in accordance with Section 100171, and the department shall have all powers granted pursuant to that section.

100915. (a) The department may temporarily suspend, in whole or in part, ELAP certification or NELAP accreditation prior to any hearing, when it has determined that this action is necessary to protect the public. The department shall notify the owner of the temporary suspension and the effective date thereof and at the same time shall serve the owner with an accusation. Upon receipt of a notice of defense by the owner, the matter shall be set for hearing within 15 calendar days. The hearing shall be held as soon as possible but no later than 30 calendar days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the department fails to make a final determination on the merits within 60 calendar days after the original hearing has been completed.

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

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.