

**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**



18 AAC 78

Underground Storage Tanks

Public Comment Draft

November 14, 2016

**Comment Period Ends
December 19, 5:00 p.m.**

**Bill Walker
Governor**

**Larry Hartig
Commissioner**

18 AAC 78.007 is amended to read:

18 AAC 78.007. UST procedures manual. The department’s *Underground Storage Tanks Procedures Manual (UST Procedures Manual)*, dated **November 14, 2016** [AUGUST 18, 2014], is adopted by reference. The department will use this version of the *UST Procedures Manual* in making determinations under this chapter. (Eff. 1/22/99, Register 149; am 6/25/99; Register 150; am 4/16/2000, Register 154; am 1/30/2003, Register 165; am 6/17/2015, Register 214; am __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.03.365

18 AAC 78.090(g) is amended to read:

(g) Laboratory analyses submitted to fulfill the requirements of this section must be performed by a laboratory approved by the department under **18 AAC 78.800 – 18 AAC 78.815** [18 AAC 78.800 - 18 AAC 78.810].

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am 1/22/99, Register 149; am 6/25/99, Register 150; am 1/30/2003, Register 165; am 7/25/2012, Register 203; am 6/17/2015, Register 214; am __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.03.380 AS 46.03.405
AS 46.03.365

...

18 AAC 78.235(d) is amended to read:

(d) Laboratory analyses submitted to fulfill the requirements of this section must be

performed by a laboratory approved by the department under 18 AAC 78.800 - 18 AAC 78.815
[18 AAC 78.800 - 18 AAC 78.810].

(Eff. 11/3/95, Register 136; am 1/22/99, Register 149; am 1/30/2003, Register 165; am
6/17/2015, Register 214; am __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.03.365

...

18 AAC 78.271(c) is amended to read:

(c) Laboratory analyses that are submitted to comply with this section must be performed
by a laboratory approved [OR PROVISIONALLY APPROVED] under 18 AAC 78.800 - 18
AAC 78.815 for each analyte and matrix [PARAMETER] analyzed and analytical method
used.

(Eff. 1/22/99, Register 149; am 6/17/2015, Register 214; am __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

...

18 AAC 78.275(e) is amended to read:

(e) Laboratory analysis submitted to comply with this chapter must be performed by a
laboratory approved under 18 AAC 78.800 - 18 AAC 78.815 for each analyte and matrix
[PARAMETER] analyzed and analytical method used.

(Eff. 1/22/99, Register 149; 6/25/99, Register 150; am 4/16/2000, Register 154; am 6/17/2015,
Register 214; am __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.03.745 AS 46.04.070
AS 46.03.740 AS 46.04.020 AS 46.09.020

...

18 AAC 78.600(a) is amended to read:

(a) Soil samples from an excavation or stockpile created as part of a corrective action must be collected as required by 18 AAC 78.605, analyzed in accordance with Chapter 2 of the UST Procedures Manual, **analyzed by a laboratory approved by the department under 18 AAC 78.800 - 18 AAC 78.815**, and reported as required by 18 AAC 78.276. If laboratory results indicate that the concentrations of a contaminant are below the applicable soil cleanup levels determined under 18 AAC 75.340 and 18 AAC 75.341, the department will determine soil corrective actions to be adequate, unless subsequent evidence shows that the testing was not representative or that sampling did not detect all contamination.

18 AAC 78.600(d) is amended to read:

(d) If using method two or method three for determining the applicable soil cleanup levels as described in 18 AAC 75.340 and 18 AAC 75.341, or if applying the groundwater cleanup levels at Table C in 18 AAC 75.345, the owner or operator shall ensure that, after completing site corrective action activities, the risk from contaminants does not exceed a cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and a cumulative noncarcinogenic risk standard at a hazard index of one, reported to one significant figure across all exposure pathways. **Instructions for determining** [GUIDANCE ON] cumulative risk **are** [DETERMINATIONS IS] provided in the department's **Procedures for Calculating Cumulative Risk, dated September 15, 2016, and** [CUMULATIVE RISK GUIDANCE, DATED JUNE 9, 2008. THE DEPARTMENT'S CUMULATIVE RISK GUIDANCE, DATED JUNE 9, 2008, IS] adopted by reference.

18 AAC 78.600(e) is amended to read:

(e) If proposing an alternative cleanup level for soil or groundwater, based on a site specific risk assessment under method four in 18 AAC 75.340(f) or under the provisions of 18 AAC 75.345(b)(2), the owner or operator shall ensure that the risk from contaminants does not exceed a cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and a cumulative noncarcinogenic risk standard at a hazard index of **one, reported to one significant figure, across all** [1.0 FOR EACH] exposure **pathways** [PATHWAY]. **Instructions for determining** [GUIDANCE ON] cumulative risk **are** [DETERMINATIONS IS] provided in the department's **Procedures for Calculating Cumulative Risk** [CUMULATIVE RISK GUIDANCE], adopted by reference in (d) of this section [INSTEAD OF THE RISK STANDARD REQUIRED BY THIS SUBSECTION, THE DEPARTMENT MAY CONSIDER A RISK STANDARD CONSISTENT WITH THE RANGE ACCEPTABLE UNDER 40 C.F.R. 300.430, REVISED AS OF JULY 1, 2002, ADOPTED BY REFERENCE, BASED ON

- (1) SITE-SPECIFIC CONDITIONS;
- (2) LAND USE;
- (3) CONTAMINANT CHARACTERISTICS;
- (4) STATUTORY COMPLIANCE;
- (5) PROTECTION OF HUMAN HEALTH AND SAFETY, AND OF THE ENVIRONMENT;
- (6) ABILITY OF CORRECTIVE ACTION TO BE IMPLEMENTED;
- (7) LONG-TERM AND SHORT-TERM EFFECTIVENESS;
- (8) USE OF TREATMENT TECHNOLOGIES;

(9) PUBLIC COMMENT; AND

(10) COST].

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 6/17/2015, Register 214; am __/__/____, Register ____)

Authority:	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.365	AS 46.03.822	AS 46.09.020
	AS 46.03.710		

Editor’s note: The department’s *Procedures for Calculating Cumulative Risk* [CUMULATIVE RISK GUIDANCE], adopted by reference in 18 AAC 78.600, may be viewed at or obtained from the department’s offices in Anchorage, Fairbanks, Juneau, and Soldotna or the department’s Internet website at http://dec.alaska.gov/spar/csp/guidance_forms/csguidance.htm.

As of Register 188 (January 2009), the regulations attorney made technical revisions under AS 44.62.125(b)(6), to 18 AAC 78.600(e) and (f), reflecting the Department of Environmental Conservation’s renumbering of paragraphs in 18 AAC 78.345(b), effective 10/9/2008 (Register 188).

18 AAC 78.615(b) is amended to read:

(b) Groundwater monitoring wells must be installed, developed, and decommissioned in accordance with **an approved method that is** [THE DEPARTMENT'S RECOMMENDED PRACTICES FOR MONITORING WELL DESIGN, INSTALLATION, AND DECOMMISSIONING, APRIL 1992, ADOPTED BY REFERENCE, OR ANOTHER

METHOD THAT THE DEPARTMENT DETERMINES TO BE] protective of human health and safety, and of the environment. Samples must be collected in accordance with the *UST Procedures Manual*.

(Eff. 1/22/99, Register 149; am 6/25/99, Register 150; am __/__/____, Register ____)

Authority: AS 46.03.020 AS 46.03.050 AS 46.03.365

[EDITOR’S NOTE: RECOMMENDED PRACTICES FOR MONITORING WELL DESIGN, INSTALLATION, AND DECOMMISSIONING, ADOPTED BY REFERENCE IN 18 AAC 78.615, MAY BE VIEWED AT OR REQUESTED FROM THE DEPARTMENT’S ANCHORAGE, FAIRBANKS, JUNEAU, AND SOLDOTNA OFFICES.]

...

The heading of 18 AAC 78, Article 8 is changed to read:

Article 8. [UNDERGROUND STORAGE TANK] Laboratory Approval.

18 AAC 78.800(a) is amended to read:

(a) Laboratory chemical analyses of soil, [AND] water, **and air** required to be conducted under this chapter **or under 18 AAC 75 Article 3** must be performed by a laboratory approved by the department under 18 AAC 78.800 - 18 AAC 78.815. If an owner, [OR] operator, **responsible person, or other party** submits samples of soil, [OR] water, **or air** under **18 AAC 75.355**, 18 AAC 78.090, 18 AAC 78.235, **18 AAC 78.271, 18 AAC 78.275** or 18 AAC 78.600 - 18 AAC 78.620, the manager of the laboratory that performs the chemical analysis shall include with each analysis the current state laboratory [UST] identification number. The department will assign a laboratory **identification** number if the department **approves**

[RECEIVES] an application **under (b) of this section.** [AND FEE UNDER THIS SECTION FROM THE LABORATORY]. The department will not accept the submission of a soil, [OR] water, **or air** sample analysis without that number. **For purposes of this subsection, "responsible party" has the meaning given in 18 AAC 75.990.**

(b) To obtain approval of the laboratory, the laboratory manager must **submit**

(1) [SUBMIT] a complete application on a form supplied by the department [AND PAY A NONREFUNDABLE \$800 ANNUAL FEE FOR DEPARTMENT REVIEW OF THE LABORATORY'S APPLICATION, QUALITY ASSURANCE (QA) MANUAL, AND PERFORMANCE EVALUATION AUDIT (PE) SAMPLE RESULTS];

(2) **a valid certificate from a NELAP or DoD-ELAP accreditation body for each analytical method, analyte, and matrix for which samples under 18 AAC 75.355, 18 AAC 78.090, 18 AAC 78.235, 18 AAC 78.271, 18 AAC 78.275, or 18 AAC 78.600 - 18 AAC 78.620 will be processed by the laboratory** [SUBMIT A NOTARIZED STATEMENT SIGNED BY THE LABORATORY MANAGER, CERTIFYING THAT, FOR PURPOSES OF AS 46.03.365 - 46.03.450 AND THIS CHAPTER, THE LABORATORY WILL ADHERE TO THE METHODS LISTED IN TABLE 1 IN THE UST PROCEDURES MANUAL AND WILL INCLUDE THE STANDARD OPERATING PROCEDURES (SOP) FOR THOSE METHODS IN ITS QA MANUAL]; **and**

(3) **the limit of detection and reporting limit for each analytical method, analyte, and matrix for which samples under 18 AAC 75.355(e), 18 AAC 78.090, 18 AAC 78.235, 18 AAC 78.271, 18 AAC 78.275, 18 AAC 78.600 - 18 AAC 78.620 will be processed by the laboratory.** [UNLESS WAIVED UNDER (F) OF THIS SECTION, SUBMIT FOR

APPROVAL A QA MANUAL OR SIMILAR DOCUMENT THAT ASSURES GENERATION OF QUALITY DATA BY THE LABORATORY; THE QA MANUAL MUST CONTAIN THE METHODS REFERRED TO IN (2) OF THIS SUBSECTION AND MUST INCLUDE THE MINIMUM ELEMENTS DESCRIBED IN EPA'S GUIDANCE ON PREPARATION OF LABORATORY QUALITY ASSURANCE PLANS, REVISION NO. 1, DATED OCTOBER 9, 1992 (EPA 910/9-92-032), ADOPTED BY REFERENCE; AND]

18 AAC 78.800 (4) is repealed:

(4) repealed __/__/__.

18 AAC 78.800(c) is amended to read:

(c) **To maintain approval of the laboratory, the [A] laboratory manager must report to the department any change in certification status under a NELAP or DoD-ELAP accreditation body for each analytical method, analyte, and matrix for which the department has issued approval, not later than three business days after the change in certification occurs. Laboratory approval under this section is valid only if the NELAP or DoD-ELAP certification of the method, analyte and matrix is currently valid.** [SEEKING AN INITIAL APPROVAL OR RENEWAL OF APPROVAL UNDER THIS SECTION AND 18 AAC 78.810 SHALL DEMONSTRATE THE LABORATORY'S ABILITY TO ANALYZE SAMPLES FOR THE PARAMETERS LISTED IN TABLE 1 OF THE UST PROCEDURES MANUAL BY SUCCESSFULLY ANALYZING PE SAMPLES, USING ONE OR MORE OF THE METHODS SPECIFIED IN TABLE 1, FOR GASOLINE RANGE ORGANICS, DIESEL RANGE ORGANICS, RESIDUAL RANGE ORGANICS, AND BTEX IN SOLIDS AND

WATERS. THE LABORATORY MANAGER SHALL SUBMIT THE ANALYSIS OF THE PE SAMPLES TO THE DEPARTMENT NO EARLIER THAN 90 DAYS BEFORE THE APPLICATION IS SUBMITTED AND NO LATER THAN 30 DAYS AFTER THE APPLICATION IS SUBMITTED. IF THE PE RESULT FALLS OUTSIDE THE ACCEPTABLE RANGE, THE LABORATORY MANAGER SHALL SUBMIT TO THE DEPARTMENT, WITHIN 30 DAYS AFTER THE LABORATORY MANAGER RECEIVES NOTICE OF THE FAILURE, A CORRECTIVE ACTION REPORT THAT IDENTIFIES THE CAUSE OF FAILURE AND INCLUDES A REMEDIAL ACTION PLAN. IF THE DEPARTMENT]

18 AAC 78.800(c)(1) is repealed:

(1) repealed __/__/__;

18 AAC 78.800(c)(2) is repealed:

(2) repealed __/__/__.

18 AAC 78.800(d) is amended to read:

(d) **To renew approval of the laboratory, the laboratory manager must reapply for approval under (b) of this section not later than 30 days before certification under NELAP or DoD-ELAP expires** [IN THE ANALYSIS OF PE SAMPLES UNDER (C) OF THIS SECTION, THE LABORATORY SHALL USE THE REQUIRED METHODS LISTED IN TABLE 1 OF THE UST PROCEDURES MANUAL. THE LABORATORY MANAGER SHALL OBTAIN PE SAMPLES FROM A SUPPLIER LISTED BY THE AMERICAN

ASSOCIATION FOR LABORATORY ACCREDITATION UNLESS THE DEPARTMENT, AFTER RECEIVING A WRITTEN REQUEST FROM THE LABORATORY MANAGER, APPROVES USE OF ANOTHER SUPPLIER. THE DEPARTMENT WILL APPROVE THE USE OF ANOTHER SUPPLIER IF THE LABORATORY MANAGER DEMONSTRATES THAT A NATIONAL OR INTERNATIONAL ACCREDITATION BODY HAS ACCREDITED THE SUPPLIER, BASED ON EVALUATION OF THE SUPPLIER'S TECHNICAL QUALIFICATIONS, COMPETENCE FOR CONDUCTING SPECIFIC TEST METHODS, MEASUREMENTS, AND SERVICES IN SPECIFIED FIELDS OF CALIBRATION OR TESTING, AND AN ONSITE AUDIT. TO PASS A PE, THE ANALYSIS OF EACH SAMPLE ANALYZED MUST BE ACCURATE TO A MINIMUM CONFIDENCE INTERVAL OF 95 PERCENT].

18 AAC 78.800(e) is amended to read:

(e) **Laboratory approval will run concurrently with NELAP or DoD-ELAP approval. The expiration date of approval granted under this section for an analytical method, analyte, or matrix shall expire on the same date that the laboratory's corresponding NELAP or DoD-ELAP approval expires** [IF A CHANGE IN THE LABORATORY OPERATIONS AFFECTS THE MINIMUM ELEMENTS DESCRIBED IN THE QA MANUAL UNDER (B)(3) OF THIS SECTION, THE LABORATORY MANAGER SHALL REPORT THE CHANGE TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE CHANGE OCCURS. LABORATORY APPROVAL IS VALID ONLY IF THE QA MANUAL REFLECTS THE MINIMUM ELEMENTS CURRENTLY IN EFFECT AT THE LABORATORY].

18 AAC 78.800(f) is amended to read:

(f) **The department will maintain a list of approved and provisionally approved laboratories and will distribute the list to interested persons upon request** [IF A LABORATORY IS ACCREDITED, CERTIFIED, OR APPROVED FOR ORGANIC AND INORGANIC ANALYTICAL METHODS FOR PURPOSES OF ANOTHER CHAPTER IN THIS TITLE, THE DEPARTMENT, UPON REQUEST, WILL WAIVE THE REQUIREMENT TO SUBMIT A QA MANUAL FOR APPROVAL UNDER (B)(3) OF THIS SECTION, UNLESS THE DEPARTMENT DETERMINES THAT COMPLIANCE WITH (B)(3) IS NECESSARY TO ASSURE GENERATION OF QUALITY DATA. A LABORATORY MANAGER REQUESTING A WAIVER UNDER THIS SUBSECTION SHALL SUBMIT A WRITTEN REQUEST AND THE LABORATORY'S CURRENT EPA IDENTIFICATION NUMBER TO THE DEPARTMENT].

18 AAC 78.800(g) is repealed:

(g) repealed __/__/__.

18 AAC 78.800(h) is repealed:

(h) repealed __/__/__. (Eff. 11/3/95, Register 136; am 1/22/99, Register 149; am 6/25/99, Register 150; am __/__/__, Register __)

Authority: AS 44.46.020 AS 46.03.020 AS 46.03.365

[AS 44.46.025]

**Editor's note: Information on NELAP is available at: [12](http://www.nelac-</u></p></div>
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[institute.org/content/NELAP/](http://www.denix.osd.mil/edqw/home/). Information on DoD-ELAP is available at:

<http://www.denix.osd.mil/edqw/home/> [1. THE EPA'S GUIDANCE ON PREPARATION OF LABORATORY QUALITY ASSURANCE PLANS, REVISION NO. 1, ADOPTED BY REFERENCE IN 18 AAC 78.800, MAY BE REVIEWED AT THE DEPARTMENT'S OFFICES IN ANCHORAGE, FAIRBANKS, JUNEAU, AND SOLDOTNA, OR MAY BE OBTAINED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, 1200 SIXTH AVENUE, SEATTLE, WA 98101, PHONE: (360) 871-0748, FAX: (360) 871-8747.

2. THE AMERICAN ASSOCIATION FOR LABORATORY ACCREDITATION MAY BE CONTACTED AT 5301 BUCKEYSTOWN PIKE, SUITE 350, FREDERICK, MD 21704-8307, PHONE: (301) 644-3248.]

3. **Application materials are available on the department's website at:**

<http://dec.alaska.gov/spar/csp/index.htm> or can be requested from the Contaminated Sites

Program, phone: (907) 269-7503 [UPON REQUEST FROM THE STATE

ENVIRONMENTAL HEALTH LAB, 5251 HINKLE ROAD, ANCHORAGE, ALASKA

99507, PHONE: (907) 375-8200, FAX: (907) 929-7335]. Application materials include **a**

website for [THE NAMES AND ADDRESSES OF SUPPLIERS LISTED BY] the American

Association for Laboratory Accreditation **which maintains a** [. THE DEPARTMENT'S] list of

suppliers [IS UPDATED ON A PERIODIC BASIS AND MAY NOT REFLECT RECENT

CHANGES].

4. As of Register 179 (October 2006), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical revision to 18 AAC 75.800(b)(2). This change reflects the enactment of sec. 2, ch. 102, SLA 2006, effective August 5, 2006, which repealed AS 46.03.060 and 46.03.363.

...

18 AAC 78.810 is amended to read:

18 AAC 78.810. **Laboratory status.** Based on its review of the application **submitted under 18 AAC 78.800(b), any change in certification status reported by the laboratory manager** [THE QA MANUAL, AND THE PE RESULTS SUBMITTED] under 18 AAC 78.800(c), and subject to [CHANGE UNDER] 18 AAC 78.815, the department will [, UPON INITIAL APPLICATION OR RENEWAL,] place a laboratory in one of the following classifications:

(1) "provisionally approved," for a limited approval that allows a laboratory to operate as an approved laboratory while the laboratory's application is pending due to circumstances described in **(A)-(B)** [(A) - (C)] of this paragraph, or for one year, whichever period is less; [; FOR] **For** a laboratory with provisional approval, the laboratory manager shall ensure that all requirements for full approval are completed before provisional approval expires or the department will deny approval upon reapplication; the department will grant provisional approval to a laboratory that is not currently provisionally approved and that has not previously been denied approval, if at least one of the following circumstances exist:

(A) the department cannot process applications for approval in a timely manner; **or**

(B) the department determines that the laboratory has minor deficiencies in its **application**. [QA MANUAL; OR]

18 AAC 78.810(1)(C) is repealed:

(C) repealed __/__/__;

18 AAC 78.810(2) is amended to read:

(2) "approved," for [THE FULL OR PARTIAL APPROVAL OF] a laboratory that meets the requirements of 18 AAC 78.800; the department will send a letter of acceptance and a certificate of approval to the laboratory manager; an approval **is effective for the period for which the submitted certification through either NELAP or DoD-ELAP remains valid;**

18 AAC 78.810(2)(A) is repealed:

(A) repealed __/__/__;

18 AAC 78.810(2)(B) is repealed:

(B) repealed __/__/__;

18 AAC 78.810(2)(B) is repealed:

(C) repealed __/__/__;

18 AAC 78.810(3) is amended to read:

(3) "disapproved," for a laboratory that does not **meet the requirements of 18 AAC 78.800 and is not approved or provisionally approved.** [RECEIVE APPROVAL; THE DEPARTMENT WILL DISAPPROVE AN APPLICATION IF THE DEPARTMENT DETERMINES THAT THE LABORATORY MANAGER HAS]

18 AAC 78.810(3)(A) is repealed:

(A) repealed __/__/__;

18 AAC 78.810(3)(B) is repealed:

(B) repealed __/__/__;

18 AAC 78.810(3)(C) is repealed:

(C) repealed __/__/__;

18 AAC 78.810(3)(D) is repealed:

(D) repealed __/__/__. (Eff. 11/3/95, Register 136; am 1/22/99, Register 149; am 6/25/99, Register 150; am __/__/__, Register ____)

Authority: AS 44.46.020 AS 46.03.020 AS 46.03.365

[AS 44.46.025]

...

18 AAC 78.815(a) is amended to read:

(a) If the department **determines that a change in the status of a laboratory is warranted** [RECEIVES A WRITTEN COMPLAINT ABOUT A LABORATORY'S

PERFORMANCE], the department will[, IN ITS DISCRETION, REVIEW THAT LABORATORY'S WORK PRODUCT, SUBMITTALS TO THE DEPARTMENT, AND THE RESULTS OF ANY INVESTIGATION CONDUCTED UNDER (E) OF THIS SECTION. IF, BASED ON A REVIEW UNDER THIS SECTION, THE DEPARTMENT DETERMINES ACTION IS WARRANTED, THE DEPARTMENT WILL]

- (1) downgrade the laboratory **from approved** to provisionally approval status; or
- (2) [SUSPEND OR] revoke approval, or provisional approval, subject to 18 AAC

78.960.

18 AAC 78.815(b) is repealed:

- (b) repealed __/__/__.

18 AAC 78.815(c) is amended to read:

(c) The **department will revoke a laboratory's approved or provisionally approved status for all analytes, methods, and matrices if the laboratory manager is found to have**

[FOLLOWING ARE GROUNDS FOR SUSPENSION OR REVOCATION OF APPROVAL OR OF PROVISIONALLY APPROVED STATUS;]

(1) **failed to notify the department of a change in the laboratory's NELAP or DoD-ELAP status not later than three business days after the change** [VIOLATING OR FAILING TO MEET A REQUIREMENT APPLICABLE TO THE OPERATION OF A LABORATORY UNDER THIS CHAPTER];

(2) **deliberately misrepresented** [MISREPRESENTING] a laboratory's qualifications, capabilities, or experience;

(3) **falsified** [FALSIFYING] data or a report;

(4) **engaged** [ENGAGING] in unethical or fraudulent practices in generating analytical data;

(5) **failed to disclose required information in the application submitted under 18 AAC 78.800** [FAILING AN ONSITE INVESTIGATION UNDER (E) OF THIS SECTION]; **or**

(6) **operated the laboratory** [OPERATING] under significant deficiencies in quality assurance as **evidenced** [EVIDENCE] by the production of invalid analytical data or **was** otherwise **found** [BEING] unable to provide accurate analytical data using approved methods.

18 AAC 78.815(d) is amended to read:

(d) In addition to the grounds for [SUSPENSION OR] revocation of approval stated in (c) of this section, the department will [SUSPEND OR] revoke the [APPROVAL] **approved** or provisionally approved status of a laboratory that is principally owned, operated, or controlled by an entity that has been suspended or otherwise restricted in its laboratory operation by a federal agency or by an agency of this state or another state, if the suspension or revocation is based on grounds listed in **(c)(2) - 6** [(c)(2) - (4)] of this section or on significant deficiencies in quality assurance.

18 AAC 78.815(e) is amended to read:

(e) **The department will place an approved laboratory in provisionally approved status if the department finds that the laboratory manager has provided inaccurate information in its application for approval, unless the grounds listed in (c) of this section apply. The department may place the laboratory in approved status once accurate information is supplied** [IF AVAILABLE INFORMATION INDICATES THAT AN APPROVED OR PROVISIONALLY APPROVED LABORATORY IS FREQUENTLY SUBMITTING ERRONEOUS DATA OR IS OTHERWISE NOT PERFORMING ACCORDING TO THE REQUIREMENTS OF 18 AAC 78.800, THE DEPARTMENT WILL, IN ITS DISCRETION, CONDUCT AN ONSITE INVESTIGATION OF THE LABORATORY. THE DEPARTMENT WILL CHARGE THE LABORATORY \$73 PER HOUR FOR COSTS OF THE INVESTIGATION, INCLUDING DEVELOPMENT OF THE REPORT THAT DESCRIBES EACH AREA OF NONCOMPLIANCE].

18 AAC 78.815(f) is amended to read:

(f) The department will **conduct periodic reviews of the approved and provisionally approved laboratories on the list it maintains to verify information provided to the department concerning the status of each laboratory is accurate and current** [MAINTAIN A LIST OF APPROVED AND PROVISIONALLY APPROVED LABORATORIES AND WILL DISTRIBUTE THE LIST TO INTERESTED PERSONS UPON REQUEST].

18 AAC 78.815 is amended by adding a new subsection to read:

(g) If a laboratory’s approval is revoked under (c) of this section, then the laboratory may not re-apply for approval for at least 12 months from the date of revocation. (Eff. 1/22/99, Register 149; am __/__/__, Register __)

Authority: AS 44.46.020 AS 46.03.020 AS 46.03.365
[AS 44.46.025]

...

18 AAC 78.995(103) is repealed:

(103) repealed __/__/__;

18 AAC 78.995(104) is repealed:

(104) repealed __/__/__;

18 AAC 78.995(105) is repealed:

(105) repealed __/__/__;

18 AAC 78.995(121) is repealed:

(121) repealed __/__/__;

18 AAC 78.995 is amended by adding new paragraphs to read:

(166) “analyte” means a substance whose chemical constituents are being identified and measured;

(167) “DoD-ELAP” means Department of Defense Environmental Laboratory Accreditation Program;

(168) “matrix” means the non-analyte components of a sample;

(169) “NELAP” means the National Environmental Laboratory Accreditation Program. (Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 1/27/94, Register 129; am 6/23/94, Register 130; am 8/4/94, Register 131; am 11/3/95, Register 136; am 1/22/99, Register 149; am 4/16/2000, Register 154; am 1/30/2003, Register 165; am 7/25/2012, Register 203; am 6/17/2015, Register 214; am __/__/__, Register __)

Authority:	AS 44.46.020	AS 46.03.070	AS 46.03.740
	AS 44.46.025	AS 46.03.365	AS 46.03.758
	AS 46.03.020	AS 46.03.375	Sec. 7, ch. 96, SLA 1990
	AS 46.03.050		